



**City Commission Meeting Agenda
2 Park Drive South, Great Falls, MT
Virtual Meeting by Zoom
December 15, 2020
7:00 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_-OHCGzW1SBydJI331rVAIg

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 15, 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 before final vote on the matter; and, will be so noted in the official record of the meeting.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL / STAFF INTRODUCTIONS

AGENDA APPROVAL

CONFLICT DISCLOSURE / EX PARTE COMMUNICATIONS

PETITIONS AND COMMUNICATIONS/NEIGHBORHOOD COUNCILS/BOARDS AND COMMISSIONS

1. Miscellaneous reports and announcements.

(Public comment on any matter that is not on the agenda of the meeting and that is within the jurisdiction of the City Commission. Please keep your remarks to a maximum of 3 minutes. When at the podium, state your name and either your address or whether you are a city resident for the record.)

COMMUNITY HEALTH INITIATIVES

2. Update from City County Health Officer – Trisha Gardner.

CITY MANAGER

3. Miscellaneous reports and announcements from City Manager.

CONSENT AGENDA

The Consent Agenda is made up of routine day-to-day items that require Commission action. Items may be pulled from the Consent Agenda for separate discussion/vote by any Commissioner.

4. Minutes, December 1, 2020, City Commission Meeting.
5. Total Expenditures of \$3,393,875 for the period of October 31, 2020 through December 2, 2020, to include claims over \$25,000, in the amount of \$2,420,142.
6. Grants List.
7. Approve the Community Based Policing Agreement with the Great Falls Housing Authority effective January 1, 2021 and authorize the City Manager to sign the Agreement.
8. Approve the Civic Center Snow Removal Agreement and authorize the City Manager to sign the required document.

Action: Approve Consent Agenda as presented or remove items for separate discussion and/or vote by any Commission member.

PUBLIC HEARINGS

9. Great Falls Saddle Club Lease of City owned property located in Wadsworth Park.
Action: Conduct a public hearing and approve or deny the Addendum to the Lease Agreement extending the term of the lease for a period of five years through December 31, 2025. (Presented by Steve Herrig)

OLD BUSINESS

NEW BUSINESS

10. Exchange Agreement between City of Great Falls and Great Falls Public School District Number 1.
Action: Set or not set a public hearing on the Exchange Agreement of City owned property located at Lots 5-10 in the Tenth Addition to the Great Falls Original Townsite, Block 736 with Great Falls Public School District Number 1 owned property located at S2SWSW Sec 3 T20N R4E Mark 7B for January 5, 2021. (Presented by Steve Herrig)
11. Great Falls Baseball Club, Inc. Request for 2020 Rent Forgiveness in the amount of \$10,648.
Action: Approve or not approve the request. (Presented by Steve Herrig)
12. Great Falls Wastewater Treatment Plant Operation and Maintenance Contract Amendment and Restatement with Veolia North America Operating Services, LLC.
Action: Approve or not

approve the Amended and Restated Agreement and authorize or not authorize the City Manager to execute required documents. (Presented by Paul Skubinna)

ORDINANCES / RESOLUTIONS

13. Resolution 10370, Relating to financing certain proposed improvements of the exterior facade and roof to the City's Civic Center, Establishing compliance with reimbursement bond regulations under the Internal Revenue Code for Renovation. *Action: Adopt or deny Res. 10370. (Presented by Melissa Kinzler)*

CITY COMMISSION

14. Miscellaneous reports and announcements from the City Commission.

ADJOURNMENT

Commission meetings are televised on cable channel 190 and streamed live at <https://greatfallsmt.net>. City Commission meetings are re-aired on cable channel 190 the following Wednesday morning at 10 am, and the following Tuesday evening at 7 pm.

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Regular City Commission Meeting

Mayor Kelly presiding

CALL TO ORDER: 7:00 PM

Civic Center Gibson Room 212

PLEDGE OF ALLEGIANCE

Due to the COVID-19 health concerns, the format of the City Commission Meeting was held in a virtual video-conferencing environment.

ROLL CALL/STAFF INTRODUCTIONS: City Commission members participated electronically via Zoom Webinar: Bob Kelly, Tracy Houck, Mary Sheehy Moe, Owen Robinson and Rick Tryon. City Staff participating electronically were: City Manager Greg Doyon and Deputy City Manager Chuck Anderson; Budget Analyst Kirsten Myre; Park and Recreation Director Steve Herrig; Planning and Community Development Director Craig Raymond; and, Public Works Director Paul Skubinna. Staff present: City Attorney Sara Sexe; Police Chief Dave Bowen; and City Clerk Lisa Kunz.

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 as follows:

- 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.
- Electronically. Register via the link on the meeting's agenda to attend the virtual Zoom Webinar meeting or to participate by phone.
- The agenda packet material is available on the City's website: <https://greatfallsmt.net/meetings>. The Public may view and listen to the meeting on cable channel 190, or online at <https://greatfallsmt.net/livestream>.

AGENDA APPROVAL: There were no proposed changes to the agenda by the City Manager or City Commission. The agenda was approved as presented.

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS: None.

**PETITIONS AND COMMUNICATIONS/NEIGHBORHOOD COUNCILS/
 BOARDS AND COMMISSIONS**

1. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Commissioner Robinson announced that the City County Health Board meets the first Wednesday of every month. As the City representative on that board, he will provide updates to the

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Commission during the second Commission meeting of each month.

Mayor Kelly encouraged everyone to continue to wear masks and follow the Governor's directives as healthcare workers are incredibly taxed and the capacity at the hospital is not improving.

2. REAPPOINTMENTS TO THE REGIONAL AIRPORT AUTHORITY BOARD.

Commissioner Robinson moved, seconded by Commissioner Moe, that the City Commission reappoint Anthony Aretz and Todd Timboe to the Great Falls Regional Airport Authority Board for three-year terms through December 31, 2023.

Mayor Kelly asked if there were any comments from the public or any discussion amongst the Commissioners.

Commissioner Robinson pointed out a clerical error in the summary of the agenda report that should read: Anthony Aretz and Todd Timboe were appointed to the Airport Board for three-year terms from January 1, 2018 through December 31, 2020.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 5-0.

3. APPOINTMENTS TO THE ETHICS COMMITTEE.

City Attorney Sara Sexe reported that on June 18, 2019 the City Commission adopted Ordinance 3201 which revised the Official Code of the City of Great Falls (OCCGF) §2.21.080 by adding one alternate member to serve on the Ethics Committee in case of a member being unavailable or unable to attend a meeting.

At the recommendation of the Ethics Committee, the City Commission appointed John Hackwith on November 20, 2019 to serve as the Alternate Member. Mr. Hackwith was subsequently appointed to the Police Commission in July and has resigned from the Ethics Committee.

An agenda item to appoint a new Alternate Member was scheduled for the September 1, 2020 Commission meeting. Commissioner Moe requested the proposed agenda item be removed to allow for additional time to clarify the qualifications sufficiently and the appointment process.

The advertisement was reopened on October 6, 2020 with the following information included in the posting: *Members of the Ethics Committee must be – and must be perceived as – impartial and even-handed in the conduct of their duties. Their communications on social media and their relationships with the City or City employees should raise no questions about their ability to render impartial judgment of employees' conduct.*

Staff reached out to the two candidates and received a response from Mr. Grohs asking to still be considered for the Committee.

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Committee member Carl Rostad's term will expire on December 31, 2020 and he is not interested in reappointment. The Commission will need to appoint a member to fill this vacancy also. The City received one additional application from Ms. Robin Beatty.

The requested action is to appoint one member and one alternate member to the Ethics Committee.

Commissioner Robinson moved, seconded by Commissioner Moe, that the City Commission appoint Robin Beatty to a three-year term through December 31, 2023 and appoint Justin Grohs as an Alternate Member to the Ethics Committee for the remainder of a three-year term through December 31, 2022.

Mayor Kelly asked if there were any comments from the public or any discussion amongst the Commissioners.

Commissioner Tryon commented that Mr. Grohs works for a vendor of the City of Great Falls. He inquired whether it would be appropriate for Mr. Grohs to serve as an alternate member on the Ethics Committee.

Commissioner Moe commented that City Attorney Sexe responded to her same concern that one of the reasons for the alternate member is that a conflict of interest could occur for anyone on a particular item and that person would recuse himself or herself.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 5-0.

CITY MANAGER

4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

City Manager Greg Doyon made the following announcements:

- He has been out of the office recovering from Covid.
- To avoid crowds and social distancing the Commission meetings have been held in a virtual environment. City staff is still working through the mechanics of it all. The Gibson Room will remain open for public comment and City staff will rotate appearing from that room to assist with the public. Let him know if there is interest in shortening the agenda as it was several months ago.
- On December 4, 2020, the Civic Center Renovation project will begin by relocating some City offices. The Finance Department payment window for utility billing will move to the Will Call office in the Civic Center, or there are options for on-line payments. Finance Department clerks will be relocated. Construction could take up to 120 days to renovate the Finance Department area. During this time, the office hours will be 8:30 a.m. to 4:30 p.m.

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- Fire Chief Jeremy Jones was selected to serve on the Board of the Montana State Fire Chiefs Association.

Manager Doyon provided some background information and a status update on the Aquatics/Recreation Facility project. In summary, the project sites had challenges with wetlands and potentially bad soils. Soil samples taken at the School District owned location were not great and the bedrock was at 60 feet. This has created a foundation estimate of approximately \$2.6 million. He has asked the Office of Economic Adjustment (OEA) if the City could look at another location with better soils and is awaiting that response. OEA has reached out to Malmstrom Air Force Base to ask their thoughts. There are some large park areas that the City could easily transition and, if approved by OEA, soil samples taken to determine if they are more compatible. If OEA does not approve the request, the City will fully price out what the cost will be to do a helical system or some system that will tolerate those soils as recommended by the engineers, and look at a business plan to determine if it is possible for the project to move forward.

Commissioner Moe expressed disappointment by the lack of progress and concern about taking on a fiscal problem that will be handed down to future commissions.

Commissioner Tryon expressed disappointment and commented that he was disturbed by the entire process from the beginning.

Commissioner Robinson reported that the Census 2020 final numbers would be released in March.

CONSENT AGENDA.

5. Minutes, November 17, 2020, City Commission Meeting.
6. Total Expenditures of \$1,520,521 for the period of November 1, 2020 through November 18, 2020, to include claims over \$25,000, in the amount of \$1,461,493.
7. Contracts List.
8. Approve Final Payment for the Jaycee Park – Pickleball, Basketball, and Pavilion Improvements, in the amount of \$27,222.04 to United Materials and \$274.97 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments. **OF 1740.2**
9. Postpone the Public Hearing for the Great Falls Saddle Club Lease Agreement of City owned property located in Wadsworth Park to the December 15, 2020 Commission Meeting.

Commissioner Moe moved, seconded by Commissioner Tryon, that the City Commission approve the Consent Agenda as presented.

Mayor Kelly asked if there were any comments from the public or any discussion amongst the Commissioners. Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0.

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PUBLIC HEARINGS

10. 2024 CONSOLIDATED PLAN AND 2020 ANNUAL ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME INVESTMENT PARTNERSHIPS PROGRAM.

Mayor Kelly declared the public hearing open and asked for presentation of the staff report.

Planning and Community Development Director Craig Raymond reported that this item for Commission consideration is a request to adopt the 2024 Consolidated Plan as well as the 2020 Annual Action Plan. Every five years the City is required to adopt a new five-year plan which encompasses our over-all broad goals to serve the low to moderate-income citizens of Great Falls with our annual CDBG and HOME Investment Partnership Program allocations.

Due to Covid staff has had to adapt and revise the plans and priorities, amend the 2019 adopted Annual Action Plan, and then return their attention back to the Consolidated Plan.

Director Raymond reported that there are not many dramatic changes to the existing five-year plan. The smaller changes include:

- Transitional Housing was folded into the larger goal of Affordable Housing under the proposed Plan.
- Descriptions of Slum and Blight Removal were added under the goals of Affordable Housing and Public Facilities and Improvements.
- Based on community input, the following priorities have been identified to guide selection for Public Service agency grant awards: 1) services that target homelessness, 2) support for persons with mental, physical, and developmental disabilities, 3) supporting services that addresses alcohol and other addiction problems, 4) crime prevention services, and 5) youth and children's services.
- Supporting language was added to address facility improvements for the Housing Authority under the Housing Rehabilitation goal. This will make it possible for the Housing Authority to apply for funding.

Based on past experience, knowledge of community priorities from community partners, as well as survey results, the proposed plans are submitted for Commission consideration and adoption.

Mayor Kelly asked if the Commission members had any clarifying questions.

Commissioner Moe noted that she received answers to her questions today that she felt were helpful. She commented that the data before the Commission does not have the benefit of the things the City may have learned in this pandemic. She asked Director Raymond to address her concern regarding the point in time survey being almost two years old.

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Director Raymond responded that the City relies on some of its partners to provide statistics and data. As far as the local survey, some things were addressed in the 2019 Plan amendment with the Covid funds, and they moved forward with the data they had.

Commissioner Moe commented that there does not seem to be any particular focus on housing shortages or the difficulties that deal with racism and minorities in terms of the priorities.

Director Raymond responded that, in general, whenever low to moderate-income is addressed they are targeting a disproportionate number of minority populations. When they make efforts to support or target the low to moderate-income levels, they know minority populations will be affected on some levels; but it is difficult to know just how much of an effect the programs had on those particular outcomes.

Mayor Kelly asked if there were any public comments in support of or in opposition to the 2024 Consolidated Plan and 2020 Annual Action Plan for the CDBG and HOME Investment Partnership Programs.

Appearing electronically, **Brett Doney**, Great Falls Development Association, commented that the public input on the economic development section is very weak. He encouraged the City to take a closer look at the economic needs of its residents. He does not think the needs assessment in the Consolidated Plan adequately describes the distress many City residents have in not being able to earn enough to pay for their costs of living.

Director Raymond noted that **Shyla Patera**, North Central Independent Living Services, Inc. submitted written comments that were attached to the agenda report and included in the plan. Mr. Doney's comments were well noted and would have been more helpful had he responded to the community survey.

There being no one further to address the Commission, Mayor Kelly asked the will of the Commission.

Commissioner Moe moved, seconded by Commissioner Tryon, that the City Commission adopt the 2024 Consolidated Plan and 2020 Annual Action Plan.

Mayor Kelly asked if there was any discussion amongst the Commission members.

Commissioner Moe commented that the document illustrates some things that are important for the Commission and it is the opportunity for the Commission to shape the use of these funds. She thinks the City is seeing some things from the pandemic that have meaning, but because we are in the middle of it, we do not have time to collect data. She pointed out that one in four households do not have internet connectivity. Internet connectivity has been a game changer for how people do school and work during the pandemic. It is an important area for future commissions to keep track of. She commented that the voluminous data in the report gets lost because she does not think the dots are connected between the data in this report and the data that the School District, Cascade County Jail and Great Falls Police Department have to get a picture of what that experience is for minorities. The most significant difference to her between the 2015 numbers and

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the numbers in this report is that although there is roughly the same number of Native Americans they have fallen disproportionately into the lower income levels.

Mayor Kelly inquired about the Commission's ability to adapt this plan going forward as more data comes in from post pandemic situations.

Director Raymond responded that what staff has learned from collaborating with other entitlement communities and attending trainings is to keep the plan relatively general so that many different types of projects can be incorporated within the plan. If the plan is too specific it makes it difficult to be adaptable without doing a major amendment to the plan, which is time consuming and takes substantial effort. The plan is general and vague because staff does not know who in the community is going to take on these challenges and seek the City's help and funding. The City does not undertake projects. The City supports community partners with funding in undertaking these tasks.

There being no further comments, Mayor Kelly called for the vote.

Motion carried 5-0.

11. **REQUEST FROM JOSHUA JOHNS WITH SKYLINE HEIGHTS, LLC TO ANNEX AND ASSIGN ZONING.**
- A. **RESOLUTION 10378 TO ANNEX THE SOUTH 153.4 FEET OF THE N1/2 SW1/4 SW1/4 NW1/4 EXCEPTING THE WEST 30.0 FEET WHICH IS COUNTY ROAD IN SECTION 35, T21N, R3E, P.M.M., CASCADE COUNTY, MONTANA; THE ADJOINING RIGHT-OF-WAY OF 6TH STREET NW; THE ADJOINING RIGHT-OF-WAY OF SKYLINE DRIVE NW EXTENDED TO THE WEST RIGHT-OF-WAY LINE OF 6TH STREET NW.**
- B. **ORDINANCE 3226 TO ASSIGN PROPERTY DESCRIBED ABOVE AS R-6 MULTI-FAMILY HIGH DENSITY ZONING.**

Mayor Kelly declared the public hearing open and asked for presentation of the staff report.

Planning and Community Development Director Craig Raymond reported that this item is a public hearing for consideration of the annexation and application of zoning on approximately 2.15 acres in the Skyline neighborhood, located on the southeast corner of 6th Street NW and Skyline Drive NW, and directly adjacent to a city-owned water storage reservoir.

Owner of the subject property, Skyline Heights, LLC, filed for annexation and is requesting R-6 zoning in order to proceed with the intended plan of developing a high-density multi-family project. Director Raymond characterized the plans received to date as preliminary, but noted that so far the proposed development plan appears consistent with the underlying regulations pertaining to R-6 zoning. The formal action being taken tonight is not to approve of a specific site plan. The applicant has requested annexation and zoning of the subject property. No other permits have been filed at this time. The agenda report exhibits contain some specific plans. The owner of the property either today or subsequent owners may propose any use that is consistent with R-6 zoning.

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Based on the scale, mass and proposed use of the property, public concern from surrounding neighbors has largely been associated with traffic and fit for the neighborhood. These concerns were brought to the attention of the Planning Board at their public hearing held on October 13, 2020. Ultimately, the Planning Board did vote to recommend that the City Commission approve the annexation and R-6 zoning request. To this end, staff has submitted a traffic analysis and recommendations to the Commission for consideration of the project. Essentially, the developer will be required to improve Skyline Drive from its current completed location westward to the intersection with 6th Street NW. The owner will also be obligated to pay a proportionate share of costs associated with the improvement of 6th Street NW when that project becomes a reality. At this time, staff is still not in a position to declare when that improvement can move forward. Multiple issues need to be resolved prior to design and construction. What is known is that 6th Street NW is still under both county and city jurisdiction. There is also rights-of-way that would need to be secured in order to widen the roadway. Additionally, there has not been sufficient funding identified to pay for the project. In any case, staff continues to seek answers to these obstacles so that improvements can be constructed and new development can continue to be promoted. As is typical for annexation, zoning and development projects, the project applicant will be required to pay for and construct improvements such as water, sewer, storm water, as well as street and sidewalk infrastructure.

Applicant Joshua Johns was present and noted he was available if the Commission had any questions.

Mayor Kelly asked if the Commission members had any clarifying questions.

Commissioner Tryon noted that the apartments rent for \$850-\$1,200/month. He inquired about eligibility for Section 8 housing subsidies.

Director Raymond responded that information has not been shared with staff and is not criteria to be used in the decision making process.

Commissioner Moe inquired about location of curb and gutter.

Director Raymond responded that he sees that happening on Skyline because the entire width of the roadway is being improved along the lane.

Commissioner Robinson referred to the city/county road and inquired if and how it could become a 6th Street NW expansion or widening project inside the City limits.

Director Raymond responded that the City would make a concerted effort to join the County in a mutual project or proactively annex the remaining right-of-way. That would probably take place at the same time that additional rights-of-way would be purchased prior to construction.

Mayor Kelly asked if there were any public comments in support of or in opposition Resolution 10378 or Ordinance 3226.

Appearing electronically, **Brett Doney**, Great Falls Development Authority, spoke in support of the project. He commented that the only way to keep housing prices in check is to keep producing

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housing stock. Building more apartments is important for the economic and social well-being of the community. He also noted support of the findings of fact.

There being no one further to address the Commission, Mayor Kelly closed the public hearing and asked the will of the Commission.

Commissioner Houck moved, seconded by Commissioner Robinson, that the City Commission adopt Resolution 10378 to annex the property as legally described in the staff report including the adjoining right-of-way of Skyline Drive NW and 6th Street NW and the accompanying Findings of Fact, and approve the Improvement Agreement, all subject to the Conditions of Approval being fulfilled by the applicant.

Mayor Kelly asked if there was any discussion amongst the Commission members.

Commissioner Houck commented that she is pleased this project is coming together, and appreciative of all the pieces in the Improvement Agreement.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 5-0.

Commissioner Robinson moved, seconded by Commissioner Tryon, that the City Commission adopt Ordinance 3226 to assign R-6 Multi-Family High Density zoning to the property as legally described in the staff report and the accompanying Findings of Fact, subject to the Conditions of Approval being fulfilled by the applicant.

Mayor Kelly asked if there was any further discussion amongst the Commission members. Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0.

12. RESOLUTION 10379, AUTHORIZING THE EXPENDITURE OF APPROXIMATELY \$8,829,810 IN FUNDS FROM THE DOWNTOWN URBAN RENEWAL TAX INCREMENT FINANCING DISTRICT TOWARDS THE CIVIC CENTER FAÇADE RENOVATION PROJECT.

Mayor Kelly declared the public hearing open and asked for presentation of the staff report.

Planning and Community Development Director Craig Raymond reported that this item for consideration is a request from Planning and Community Development to conduct a public hearing and approve the expenditure of approximately \$8.8 million dollars to finance the renovation of the Civic Center Façade.

It is well documented that the Civic Center façade has been deteriorating for a number of years. Since at least 2011, City staff has been working towards developing a renovation project and securing adequate funding to finance the renovation. While the project has not formally gone out

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for public bid, it is estimated that the renovation construction cost will be approximately \$5.5 million to \$6 million dollars. Contingency, underwriting costs, and interest paid over time is estimated to bring the total cost to approximately \$8.8 million dollars. Based on current interest rates and estimated costs, the total annual debt service is estimated to be \$441,490. The estimated tax increment financing (TIF) increment left over after debt service would be approximately \$960,000 for other eligible projects.

In early 2020, the City Commission directed staff to investigate and pursue the possible use of TIF funds to be used as a guarantee in a bond sale. On October 6, 2020, the City Commission approved an amendment to the Downtown Urban Renewal Plan (DURP), making it clear that the Civic Center facility and property should be specifically considered for TIF funding allocations. Before this amendment, the only property specifically listed in the DURP is the property known as the “Rocky Mountain Building.” The plan otherwise lays out other strategies for improving the downtown urban renewal area including blight removal, pedestrian improvements, bicycle network, connectivity to amenities including the River’s Edge Trail and other projects like Wayfinding.

Although some people in the downtown community have expressed reservations or opposition to the use of TIF funds for this purpose, it is very clear that the project is consistent with statutory eligibility requirements in every aspect and it is the only method of financing this rehabilitation project without raising taxes on the community at this point in time. Furthermore, this funding strategy significantly benefits the downtown community who may be in a position to apply for TIF funds for future projects as the bonding element of this project will extend the life of the district and increase opportunities that otherwise would not be available. If approved, Resolution 10379 authorizes the City to use TIF funds from the Downtown Urban Renewal District in the amount of approximately \$8.8 million dollars.

Mayor Kelly asked if the Commission members had any clarifying questions. Hearing none, Mayor Kelly asked if there were any public comments in support of or in opposition to Resolution 10379.

Appearing electronically, **Brett Doney**, Great Falls Development Authority, spoke in support of this proposal for three reasons: (1) addresses the pressing need for the Civic Center facility; (2) lengthens the length of time for the Downtown Tax Increment Financing District; and (3) it is a way to address a community facility challenge without increasing taxes. Mr. Doney further commented that private investment needs to be supported for downtown development.

Appearing electronically, **Scott Reasoner**, City resident, commented that he is partners in two downtown businesses, owns a downtown building that has a development plan, and he resides downtown. Mr. Reasoner commented that he is not against the use of TIF funds for this project, but he urged the Commission to delay action on this use of TIF funds until the City, the community and the Commission could approve an updated use plan for the downtown TIF district as a whole. Mr. Reasoner concluded that it is placing the cart before the horse if this use is approved and the TIF district is extended by 20 years without first understanding goals and best use of the fund.

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Appearing electronically, **Shane Etwiler**, Great Falls Area Chamber of Commerce, 100 1st Avenue North, concurred with both previous speakers' comments. He shared that a major concern of downtown business owners is use of downtown TIF funds for this project. The Civic Center is an iconic feature downtown that brings in a lot of entertainment, venues and businesses that is a benefit to downtown. TIF is intended for infrastructure and economic development. He expressed concern about how this project will increase and improve development downtown for the long term.

Director Raymond commented that staff is working with members of the Downtown Development Partnership, Downtown Great Falls Association, and the Business Improvement District to come up with new elements to the plan that will be presented at an upcoming work session. In response to Mr. Reasoner, the City does have a TIF plan. The Downtown Urban Renewal Plan was recently amended by the City Commission and sets forth a vision and a plan moving forward.

There being no one further to address the Commission, Mayor Kelly closed the public hearing and asked the will of the Commission.

Commissioner Robinson moved, seconded by Commissioner Moe, that the City Commission adopt Resolution 10379, authorizing the expenditure of approximately \$8,829,810 of funds from the Downtown Urban Renewal Tax Increment Financing District towards the Civic Center Façade Renovation project.

Mayor Kelly asked if there was any discussion amongst the Commission members.

Commissioner Robinson commented that at first he had reservations because everyone in the district was taxed except for the City. What changed his mind is the amount of TIF funds that are generating every year. There will be funds for other downtown projects. It is important to recognize that the Civic Center is the center of downtown. Commissioner Robinson concluded that he is a huge advocate of downtown, and he made the motion believing it is in the best interest of the downtown.

Commissioner Moe noted prior comments were that the City should also consider dealing with the interior as long as it is dealing with the exterior. It has been put off a long time. This is a pressing safety concern and she thinks this is the best way to address it.

Mayor Kelly commented that this is an excellent opportunity for the City to use these funds to benefit the entire community without having to pass a bond issue and put the burden of the tax upon people who are already incredibly stressed.

City Manager Doyon held up a piece of façade that had fallen off the Civic Center. He commented that there is no better instrument to repair the building than to use TIF funds at this point. The TIF fund has grown in value. If not all of the TIF funding is used, there is not anything that would restrict the City Commission from allocating that unused TIF back to the taxing jurisdictions for other needs.

There being no further discussion, Mayor Kelly called for the vote.

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Motion carried 5-0.

OLD BUSINESS

NEW BUSINESS

ORDINANCES/RESOLUTIONS

13. RESOLUTIONS 10380, 10381 AND 10382 REPEALING AND REPLACING RESOLUTIONS 10264, 10265 AND 10266 FOR THE MERIWETHER CROSSING SUBDIVISION FOR THE PURPOSE OF ADJUSTING THE PROPOSED PHASES OF THE PROJECT'S ANNEXATION.

Planning and Community Development Director Craig Raymond reported that this agenda item is a request to amend an annexation approved by the City Commission in October 2018. For background, Meriwether Crossing was intended to be a mix of products including NeighborWorks Great Falls self-help building program as well as typical subdivision and market driven home construction. Due to the funding source for the NeighborWorks program, the homes must be built in the County and then immediately annexed into the City upon completion. The annexations would be filed with the County Clerk and Recorder's Office in phases as they were complete. Some of the market driven lots which were slated for sale were already recorded and some lots sold. Similarly, initial phases of the self-help homes have also been completed and annexed. There was a distinct plan on which lots were to be annexed and in what order to ensure that infrastructure and facilities would be planned and constructed in a logical and orderly fashion.

The developer, NeighborWorks Great Falls, now proposes to change the timing and order of lots to be annexed so that additional lots can be sold at this time. To accomplish this, Resolutions to Repeal and Replace prior adopted resolutions that have not been recorded are before the Commission for action. To be clear, the only elements that are changing related to the original 2018 approval is the configuration and order of the phases. The developer is not proposing an increase in lot density or changing provisions in the Improvement Agreement.

City Staff and the developer originally worked through a detailed Improvement Agreement which defines the roles and responsibilities of the developer and the City. The developer shall pay for all street, water, sewer and storm water improvements which are necessary to support this development. The City will pay for upsizing of utility lines as may be specifically requested by the City for utility continuity and future growth.

Director Raymond noted that he received a word of caution from the County Planning Director that the County is not a fan of this subdivision/annexation process that the City has used to support affordable housing in Great Falls. He expects that the City and County will enter into discussions and a Memorandum of Understanding before the City undertakes future similar projects.

Commissioner Tryon moved, seconded by Commissioner Moe, that the City Commission adopt Resolution 10380, repealing and replacing Resolution 10264 for the purpose of amending the annexation of the Meriwether Crossing Subdivision.

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Mayor Kelly asked if there were any comments from the public or any discussion amongst the Commissioners.

Appearing electronically, **Brett Doney**, Great Falls Development Authority, commented that what NeighborWorks is doing is incredibly important for the City. It is important that affordable home ownership, as well as rental housing opportunities, be provided. He encouraged the City to continue to support creative projects.

Commissioner Robinson disclosed that he recently made a significant donation to the NeighborWorks Foundation. Because there will be no financial benefit to him or his family if he votes in support of this item, he will not be recusing himself.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 5-0.

Commissioner Moe moved, seconded by Commissioner Houck, that the City Commission adopt Resolution 10381, repealing and replacing Resolution 10265 for the purpose of amending the annexation of the Meriwether Crossing Subdivision.

Mayor Kelly asked if there were any comments from the public or any discussion amongst the Commissioners.

Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0.

Commissioner Moe moved, seconded by Commissioner Robinson, that the City Commission adopt Resolution 10382, repealing and replacing Resolution 10266 for the purpose of amending the annexation of the Meriwether Crossing Subdivision.

Mayor Kelly asked if there were any comments from the public or any discussion amongst the Commissioners.

Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0.

CITY COMMISSION

14. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Commissioner Tryon commented that LR-130 restricts municipalities from making law that restricts carrying of firearms. In light of the passage of LR-130, he asked for the support of the Commission members to ask the City Attorney to review Title 9, Chapter 8 of the Official Code of the City of Great Falls and take appropriate action to keep in compliance with state law. He

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also requested support to ask the City Attorney and staff to look at the City's zoning as it relates to the recent passage of the use of recreational marijuana.

City Attorney Sara Sexe responded that both ballot issues have been on her radar. The Legislature is going to address questions regarding LR-130 and I-190 and some of those elements that may be more pragmatic that staff will have to deal with. She provided a Legal Opinion in 2017 that concealed carry in parks would be allowed. Work needs to be done with regard to that ordinance so that it is consistent with LR-130 and the statute. In the interim, she advised to wait to see what the Legislature may do with regard to both issues, and not necessarily enforce the provisions of the ordinance that may conflict with the statute.

City Manager Doyon added that he will pass along information he hears from other communities or the Montana League of Cities and Towns.

With regard to I-190, City Attorney Sexe concluded that the City has consistently indicated it could not comply with permitting of those businesses in the Great Falls area because it would conflict with federal law.

Commissioner Robinson requested that if two items are scheduled for presentation on the December 15th work session that the Maclean update be heard first.

Commissioner Moe requested written material in advance of the work session.

City Manager Doyon noted the options are to start the work session early and have a longer meeting or call a special work session. He will follow up with everyone regarding availability.

Commissioner Moe noted the passing of Ken Maddox, a teacher at East Middle School, who died from complications from Covid. Mr. Maddox taught, coached and refereed for the School District for 33 years. He is an example of the unsung work that the teachers throughout the community are doing. He is a loss to our community and will be missed.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Moe moved, seconded by Commissioner Robinson, to adjourn the regular meeting of December 1, 2020, at 9:11 p.m.**

Motion carried 5-0.

 Mayor Kelly

 City Clerk Lisa Kunz

Minutes Approved: December 15, 2020



Commission Meeting Date: December 15, 2020
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

ITEM: \$25,000 Report
 Invoices and Claims in Excess of \$25,000

PRESENTED BY: Finance Director

ACTION REQUESTED: Approval with Consent Agenda

LISTING OF ALL ACCOUNTS PAYABLE CHECKS ISSUED AVAILABLE ONLINE AT
<http://greatfallsmt.net/finance/checkregister>

TOTAL CHECKS ISSUED AND WIRE TRANSFERS MADE ARE NOTED BELOW WITH AN ITEMIZED LISTING OF ALL TRANSACTIONS GREATER THAN \$25,000:

ACCOUNTS PAYABLE CHECK RUNS FROM NEW WORLD NOV. 18, 2020 - DECEMBER 2, 2020	674,619.25
ACCOUNTS PAYABLE CHECK RUNS FROM MUNIS NOV. 18, 2020 -DECEMBER 2, 2020	2,679,384.64
MUNICIPAL COURT ACCOUNT CHECK RUN FOR OCT. 31, 2020 - NOV. 30, 2020	39,871.00
TOTAL: \$	<u><u>3,393,874.89</u></u>

SPECIAL REVENUE FUND

STREET DISTRICT

UNITED MATERIALS OF GREAT FALLS	OF 1467 LOWER N SIDE WATER MAIN REPLACEMENT (SPLIT AMONG FUNDS)	81,878.02
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GAS TAX BaRsAA

UNITED MATERIALS OF GREAT FALLS	OF 1467 LOWER N SIDE WATER MAIN REPLACEMENT (SPLIT AMONG FUNDS)	297,006.24
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HOME GRANTS

NEIGHBORWORKDS GREAT FALLS	1724 4TH AVE S HOME FUND REIMBURSEMENT	58,773.92
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DOWNTOWN TIF

GREAT FALLS BUSINESS IMPROVEMENT DISTRICT	WAYFINDING PLANNING PROJECT	25,000.00
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CAPITAL PROJECTS

GENERAL CAPITAL

KUGLIN CONSTRUCTION	OF 1709.1 HISTORIC PRESERVATION OF THE 10TH ST BRIDGE	27,403.60
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ENTERPRISE FUNDS

WATER

THE HDD COMPANY, INC.	OF 1494.6 WATER MAIN CROSSING FINAL	11,508.55
UNITED MATERIALS OF GREAT FALLS	OF 1467 LOWER N SIDE WATER MAIN REPLACEMENT (SPLIT AMONG FUNDS)	143,133.16

SEWER

TD & H ENGINEERING	OF 1758.0 FEASIBILITY STUDY FOR LIFT STATION #1	33,410.98
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STORM DRAIN

CASCADE COUNTY TREASURER	WEST GF FLODD DISTRICT STORM DRAIN ASSESSMENT	27,805.10
UNITED MATERIALS OF GREAT FALLS	OF 1467 LOWER N SIDE WATER MAIN REPLACEMENT (SPLIT AMONG FUNDS)	49,143.01
NORMONT EQUIPMENT CO	LEAF PRO W/HOOK LIFT	65,265.00

INTERNAL SERVICES FUND

HEALTH & BENEFITS

MONTANA MUNICIPLE INTERLOCAL AUTHORITY	DECEMBER 2020 EMPLOYEE INSURANCE AND DEDUCTIBLES	927,079.10
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TRUST AND AGENCY

COURT TRUST MUNICIPAL COURT

CITY OF GREAT FALLS	FINES & FORFEITURES COLLECTIONS	30,305.50
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PAYROLL CLEARING

STATE TREASURER	MONTANA TAXES	50,253.00
FIREFIGHTER RETIREMENT	FIREFIGHTER RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	50,195.10
STATEWIDE POLICE RESERVE FUND	POLICE RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	66,056.30
PUBLIC EMPLOYEE RETIREMENT	PUBLIC EMPLOYEE RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	128,553.87
US BANK	FEDERAL TAXES, FICA & MEDICARE	209,820.41
LABORERS INTERNATIONAL UNION	EMPLOYEE CONTRIBUTIONS	28,179.62
MONTANA OE - CI TRUST FUND	EMPLOYEE CONTRIBUTIONS	27,610.20

UTILITY BILLS

HIGH PLAINS LANDFILL	OCTOBER 2020 SANITATION CONTRACT	81,761.67
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CLAIMS OVER \$25000 TOTAL:

\$ 2,420,142.35

**CITY OF GREAT FALLS, MONTANA
COMMUNICATION TO THE CITY COMMISSION**

DATE: December 15, 2020

ITEM: GRANTS LIST
Itemizing grants not otherwise approved or ratified by City Commission Action
(Listed grants are available for inspection in the City Clerk’s Office.)

PRESENTED BY: Lisa Kunz, City Clerk

ACTION REQUESTED: Ratification of Grants through the Consent Agenda

MAYOR’S SIGNATURE: _____

GRANTS

	DEPARTMENT	OTHER PARTY (PERSON OR ENTITY)	PERIOD	GRANT AMOUNT REQUESTED	MATCH (Pending)	PURPOSE
A	Planning and Community Development	Department of Commerce, Community Development Division, CEV-Montana Main Street Program	FY 2021	\$15,000	\$7,247 +/- Downtown TIF \$1,725 West Bank Landing TIF \$84,184 Montana Tourism Grant \$6,500 BID \$5,000 Great Falls Montana Tourism \$6,500 DDP \$1,000 GFDA	Montana Main Street Program Application for Planning & Program Grant Funding (Wayfinding Implementation)



Commission Meeting Date: December 15, 2020

**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

Item: Community Based Policing Agreement with the Great Falls Housing Authority for 2021.

From: Great Falls Police Department

Initiated By: Captain Rob Moccasin

Presented By: Chief Dave Bowen

Action Requested: City Commission accept the terms of the agreement and authorize the City Manager to sign the agreement.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (approve/not approve) the Community Based Policing Agreement with the Great Falls Housing Authority and authorize the City Manager to sign the Agreement.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

Staff Recommendation: Staff recommends that the City Commission accept the terms of the agreement and authorize the City Manager to sign the agreement.

Summary: City Commission accept the terms of the agreement and authorize the City Manager to sign the agreement.

Background: The Great Falls Police Department and the Great Falls Housing Authority have had a partnership Community Based Policing Agreement in place since the late 1980’s. The Great Falls Housing Authority funds one dedicated officer for the purpose of enforcement and investigations in the Great Falls Housing Authority projects. This officer also facilitates the Housing youth Activity Center (HYAC) at the main housing complex. This officer handles calls during their designated shift. Before or after shift calls continue to be answered by the Patrol Officers.

With the Housing Authority office on site(s), it does alleviate a substantial number of calls that Patrol would have to respond to and resolve. Historically, call loads were high until the Housing Authority Officer was established. The Great Falls Housing Authority provides office space at the main complex for the officer.

Fiscal Impact: The City of Great Falls would receive an estimated \$119,043 annually (\$59,521.50 for 6 months per contract) to cover the officer's salary and benefits from the Great Falls Housing Authority. The contract shall commence January 1, 2021 and end June 30, 2021 with an automatic six month renewal based on the GFPPA negotiated contract wage with the City of Great Falls.

Alternatives: Discontinue the officer's presence in the Housing Authority projects and reassign.

Concurrences: The Community Based Policing Agreement has been approved by the Housing Authority Board.

Attachments/Exhibits:

GFPPA and Great Falls Housing Community Based Policing Agreement for 2021.

**GREAT FALLS POLICE DEPARTMENT
AND
GREAT FALLS HOUSING AUTHORITY
COMMUNITY BASED POLICING AGREEMENT**

This contract is entered into this 1st day of January, 2021, by and between the City of Great Falls, hereinafter referred to as "City," and the Great Falls Housing Authority.

In receipt of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The City shall provide personnel and other resources in a Community Policing role at the Great Falls Housing Authority projects. One dedicated officer, excluding contractual time/training time off, shall be provided for the purpose of enforcement and investigations in the Great Falls Housing Authority projects. If the assigned officer or a temporary replacement is not available to the GFHA for longer than 40 hours in each six month agreement period, the GFHA payment will be waived for the period of time that an officer was not available. Payment will resume when an officer becomes available to the GFHA.
2. The Great Falls Housing Authority shall pay the City \$59,521.50 which would include the Officers salary and benefits. Payment shall be made on a monthly basis in the amount of \$9,920.25.
3. The City shall keep detailed records regarding the date and time of contacts exclusive of investigating records. The Great Falls Housing Authority may inspect these records at all reasonable times and these records shall be available for photocopying at no additional fee.
4. Indemnification – The City assumes full responsibility for the officer's performance. The City shall indemnify the Great Falls Housing Authority against, and hold the Housing Authority harmless from, any liability costs, damages, claims or causes of action which may arise as a result of performance by the City of its responsibilities under the terms of this agreement; provided, however, that the City, its Officers and employees shall not assume any liability for acts of the Great Falls Housing Authority, or any of its Officers or agents subject to limitation of MCA 2-9-108.
5. **This Agreement shall commence January 1, 2021 and end June 30, 2021 with an automatic six month renewal based on the GFPPA negotiated contract wage with the City of Great Falls. The GFHA agrees to pay the salary and benefits increase, if any, retroactive to July 1, 2019 based on the GFPPA negotiated contract wage.**

In Witness Whereof, the parties hereto have caused this agreement to be executed the day and year first herein above written.

CITY OF GREAT FALLS

GREAT FALLS HOUSING AUTHORITY

Gregory T. Doyon, City Manager



Greg Sukut, Executive Director

ATTEST:



David Bowen, Chief of Police

Lisa Kunz, City Clerk

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

Sara Sexe, City Attorney



Commission Meeting Date: December 15, 2020

**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

Item: Civic Center Snow Removal Agreement

From: Craig Raymond, Planning & Community Development Director

Initiated By: Craig Raymond, Planning & Community Development Director

Presented By: Craig Raymond, Planning & Community Development Director

Action Requested: City Commission approve Civic Center Snow Removal Agreement

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (approve/not approve) the Civic Center Snow Removal Agreement and authorize the City Manager to sign the required document.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

Staff Recommendation: Staff recommends that the City Commission approve the agreement between the City and Dr. Lawn Landscape Management Inc., for snow removal services at the Civic Center

Summary: City staff published two Requests for Proposals (RFP) for a three year agreement to provide snow removal services at the Civic Center facility. One RFP was for all of the parking lot areas and the other was for all internal and street-side sidewalks. We received proposals from two local companies for each RFP published. We recommend awarding the agreement to Dr. Lawn Landscape Management as the competing respondent did not provide an appropriate price as instructed in the RFP. Outdoor Solutions provided a yearly flat rate instead of a price per event proposal. While the City may entertain this type of agreement in the future, this was not responsive to the published RFP and should be rejected as such.

This agreement provides for the removal of snow and ice at all parking areas and sidewalks in addition to the application of ice/snow melt and/or sand to areas where vehicular and pedestrian traffic will need additional traction based on conditions. The contractor will typically perform these services automatically when weather and conditions require and will also be on-call as necessary to provide services when needed for Mansfield and Convention Center events. This agreement will be in effect for three winter seasons.

Fiscal Impact: It’s difficult to predict how many and what intensity of snow events we’ll have any given year, however the agreement amounts in this agreement for snow removal in the parking lot areas represent a savings over our previous agreement that recently expired. The cost for snow removal on the sidewalks is slightly higher for smaller snow events but less expensive for removal of larger accumulations of snow.

The ice/snow melt application is sharply higher than our previous agreement (roughly double), likely due to the emphasis on application of chemical ice melt as opposed to a sand/salt product.

Alternatives: The City Commission may reject the agreement and staff can re-advertise for additional proposals.

Concurrences: The City Legal Department has reviewed the proposed agreement and recommends its approval.

Attachments/Exhibits:

Snow Removal Agreement

Exhibit A

NON-CONSTRUCTION SERVICES AGREEMENT

This **Agreement** is made and entered into by and between the **CITY OF GREAT FALLS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 5021, Great Falls, Montana 59403 (“**City**”), and **Doctor Lawn Landscape Management Inc.** (“**Contractor**”).

Recitals

- A.** The City issued a Request For Proposals for Civic Center Snow Removal- Parking Lots & Drive Aisles and Internal and Street-Side Sidewalks pursuant to the requirements of all applicable statutes, rules, regulations, and ordinances.
- B.** The City analyzed all responses to the Request For Proposals received pursuant to its standard practices and the requirements of all applicable statutes, rules, regulations, and ordinances.
- C.** At its meeting held on December 15, 2020, the City Commission awarded the bid to Contractor, pursuant to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the covenants, agreements, representations, and warranties contained herein, the parties agree as follows:

Agreement

1. Work to be Performed:

- a.** A description of the Services and Contractor’s duties is set forth in the Exhibit A, Scope of Work, which is attached hereto and incorporated herein by this reference, as well as the maps and specifications provided by the City and its agents and/or representatives.
- b.** Prior to the commencement of any work on the work contracted herein, Contractor’s representatives and City’s representatives shall hold a meeting to establish a working understanding among the parties as to the Scope of Work and duties of the Contractor. At this meeting, Contractor and City shall resolve any outstanding issues related to the Scope of Work, maps and specifications. If the parties are unable to resolve these issues and the City fails, refuses, or is unable to approve the same, no work shall commence until such issues are resolved and the City approves the related Scope of Work, maps and specifications.
- c.** Except as provided elsewhere in this Agreement, Contractor shall furnish all the labor, materials, equipment, tools, and services necessary to perform and complete the Scope of Work.

2. Time of Performance:

a. The Services Schedule is subject to the City's approval. Contractor's plan, methods of operation, materials used, and individuals and subcontractors employed (collectively "Contractor's Resources") are subject to the City's approval at all times during the term of this Agreement, and must be such as to ensure the completion of the work in compliance with the Scope of Work during the term of this Agreement. In the event the City determines the Contractor's Resources are inadequate to meet the approved Scope of Work, the City may order the Contractor to accelerate its performance to give reasonable assurances of timely service and quality results. Nothing in this section shall be interpreted to relieve the Contractor of its duties and responsibilities to plan for and complete the work in a timely manner according to the Scope of Work.

3. Compensation:

a. City shall pay to Contractor, and Contractor shall accept as full payment for the performance of this Agreement, monthly upon receipt of approved invoices in accordance with **Exhibit A**, Scope of Work, attached hereto.

b. If work not included within the original Scope of Work documents is requested by City, such additional work and the related compensation shall be agreed to in writing by both parties prior to commencement of the additional work ("Change Order") pursuant to the Change of Work Specifications set forth on **Exhibit B** attached hereto.

c. Monthly progress payments will be made only in accordance with the terms of the Scope of Work. All invoices must be submitted to the City's Representative.

4. Inspection:

a. Contractor shall, without charge, correct any work found by the City or its agents to be defective or otherwise not in compliance with the terms and conditions of this Agreement. In the event Contractor fails to correct any defective work or materials after reasonable written notice by the City to do so, the City may take such corrective action, either with its own materials and employees or by retaining any third party to do so, and deduct the cost and expense of such corrective action from the Contractor's compensation.

5. Contractor's Warranties: Contractor represents and warrants as follows:

- a. Unless otherwise specified by the terms of this Agreement, all materials supplied and used by Contractor on the Project must be of the most suitable grade for their intended uses.
- b. All workmanship and materials shall be of a kind and nature acceptable to the City.
- c. Contractor and its sureties are liable for the satisfaction and full performance of all warranties.
- d. Contractor shall prosecute the completion of the Scope of Work under the terms of this Agreement.
- e. Contractor has examined all available records and made field examinations of the site of the Project. Contractor has knowledge of the field conditions to be encountered during the Project. Contractor has knowledge of the types and character of equipment necessary for the work, the types of materials needed and the sources of such materials, and the condition of the local labor market.
- f. Contractor is responsible for the safety of the work and shall maintain all lights, guards, signs, temporary passages, or other protections necessary for that purpose at all times.
- g. All work must be performed at Contractor's risk, and Contractor shall promptly repair or replace all damage and loss at its sole cost and expense regardless of the reason or cause of the damage or loss.
- h. Contractor is responsible for any loss or damage to materials, tools, or other articles used or held for use in the completion of performance of the Project.
- i. Contractor's performance must be without damage or disruption to any other work or property of the City or of others and without interference with the operation of existing machinery or equipment.

6. Suspension:

- a. The City may, by written notice to the Contractor and at its convenience for any reason, suspend the performance of all or any portion of the work to be performed pursuant to the Scope of Work ("Notice of Suspension"). The Notice of Suspension shall set forth the time of suspension, if then known to the City. During the period of suspension, Contractor shall use its best efforts to minimize costs associated with the suspension.
- b. Upon Contractor's receipt of any Notice of Suspension, unless the notice requires otherwise, Contractor shall: (1) immediately discontinue work on the date and to

the extent specified in the Notice of Suspension; (2) place no further orders or subcontracts for materials, services, or equipment; (3) promptly make every reasonable effort to obtain suspension upon terms satisfactory to City of all orders, subcontracts, and rental agreements to the extent that they relate to the performance of the work suspended.

c. Upon receipt of written notice by the City to resume the suspended work (“Notice to Resume Work”), Contractor shall immediately resume performance of the suspended work as to the extent required in the Notice to Resume Work.

7. Termination for Contractor’s Fault:

a. If Contractor refuses or fails to timely do the work, or any part thereof, or fails to perform any of its obligations under this Agreement, or otherwise breaches any terms or conditions of this Agreement, the City may, by written notice, terminate this Agreement and the Contractor’s right to proceed with all or any part of the Scope of Work (“Termination Notice Due to Contractor’s Fault”).

b. In the event of a termination pursuant to this Section 12, Contractor shall be entitled to payment only for those services Contractor actually rendered.

c. Any termination provided for by this Section shall be in addition to any other remedies to which the City may be entitled under the law or at equity.

d. In the event of termination under this Section, Contractor shall, under no circumstances, be entitled to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature arising, or claimed to have arisen, as a result of the termination.

8. Termination for City’s Convenience:

a. Should conditions arise which, in the sole opinion and discretion of the City, make it advisable to the City to cease work pursuant to the Scope of Work, City may terminate this Agreement by written notice to Contractor (“Notice of Termination for City’s Convenience”). The termination shall be effective in the manner specified in the Notice of Termination for City’s Convenience and shall be without prejudice to any claims that the City may otherwise have against Contractor.

b. Upon receipt of the Notice of Termination for City’s Convenience, unless otherwise directed in the Notice, the Contractor shall immediately cease work pursuant to the Scope of Work, discontinue placing orders for materials, supplies, and equipment for the for same, and make every reasonable effort to cancel all existing orders or contracts upon terms satisfactory to the City.

c. In the event of a termination pursuant to this Section 13, Contractor is entitled to payment only for those services Contractor actually rendered and materials actually purchased or which Contractor has made obligations to purchase on or before the receipt of the Notice of Termination for City's Convenience, and reasonably incurred costs for demobilization of Contractor's and any subcontractor's crews.

d. The compensation described in Section 13(c) is the sole compensation due to Contractor for its performance of this Agreement. Contractor shall, under no circumstances, be entitled to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature arising, or claimed to have arisen, as a result of the termination.

9. Limitation on Contractor's Damages; Time for Asserting Claim:

a. In the event of a claim for damages by Contractor under this Agreement, Contractor's damages shall be limited to contract damages and Contractor hereby expressly waives any right to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature or kind.

b. In the event Contractor asserts a claim for damages of any kind or nature, Contractor shall provide City with written notice of its claim, the facts and circumstances surrounding and giving rise to the claim, and the total amount of damages sought by the claim, within ten (10) days of the facts and circumstances giving rise to the claim. In the event Contractor fails to provide such notice, Contractor shall waive all rights to assert such claim.

10. Representatives:

a. **City's Representative:** The City's Representative for the purpose of this Agreement shall be **Craig Raymond** or such other individual as City shall designate in writing. Whenever approval or authorization from or communication or submission to City is required by this Agreement, such communication or submission shall be directed to City's Representative and approvals or authorizations shall be issued only by such Representative; provided, however, that in exigent circumstances when City's Representative is not available, Contractor may direct its communication or submission to other designated City personnel or agents and may receive approvals or authorization from such persons.

b. **Contractor's Representative:** The Contractor's Representative for the purpose of this Agreement shall be **Jeff Fliginger** or such other individual as Contractor shall designate in writing. Whenever direction to or communication with Contractor is required by this Agreement, such direction or communication shall be directed to Contractor's Representative; provided, however, that in exigent circumstances when Contractor's Representative is not available, City may direct its direction or communication to other designated Contractor personnel or agents.

11. Permits: Contractor shall provide all notices, comply with all applicable laws, ordinances, rules, and regulations, obtain all necessary licenses from applicable governmental authorities, pay all fees and charges in connection therewith.

12. Laws and Regulations: Contractor shall comply fully with all applicable state and federal laws, regulations, and municipal ordinances 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, the Americans with Disabilities Act, and all non-discrimination, affirmative action, and utilization of minority and small business statutes and regulations.

13. Non-discrimination in Hiring: All hiring by Contractor and subcontractors of persons performing work for Contractor 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.

14. Intoxicants; DOT Drug and Alcohol Regulations: Contractor shall not permit or allow the introduction or use of any intoxicants, including alcohol or illegal drugs, while performing work pursuant to this agreement. Contractor acknowledges it is aware of and shall comply with its responsibilities and obligations under the U.S. Department of Transportation (DOT) regulations governing anti-drug and alcohol misuse prevention plans and related testing. City shall have the right to request proof of such compliance and Contractor shall be obligated to furnish such proof.

15. Labor Relations:

a. In performing the terms and conditions of this Agreement and the work on the Project, 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.

b. Pursuant to §§18-2-403 and 18-2-422, MCA, Contractor shall pay wages, benefits, and expenses as set forth on **Exhibit C**, 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 C** may subject the Contractor to the penalties set forth in §18-2-407, MCA. 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, the course of the work on the Project, and for a period of three (3) years following the date of final completion of the Project and termination of this Agreement.

d. In the event that, during the term of this Agreement and throughout the course of Contractor's performance of the Scope of Work, any labor problems or disputes of any type arise or materialize which in turn cause any work on the Project 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 on the Project shall be left to the discretion of Contractor; provided, however, that Contractor shall bear all costs of any related legal action.

e. 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 or any delays or stoppages of work associated with such problems or disputes.

16. Indebtedness and Liens: Before City may make any final payment to Contractor, Contractor shall furnish City with satisfactory proof that there are no outstanding debts or liens in connection with the Project. If the Contractor allows any indebtedness to accrue to subcontractors or others during the progress of the work, and fails to pay or discharge the same within five (5) days after demand, then City may either withhold any money due to Contractor until such indebtedness is paid or apply the same towards the discharge of the indebtedness. If any lien or claim is filed or made by any subcontractor, material supplier, or any other person, the Contractor shall immediately notify the City and shall cause the same to be discharged of record within thirty (30) days after its filing.

17. Hazard Communication: Contractor shall comply with all hazard communication requirements dictated by the Environmental Protection Agency, the Montana Department of Agriculture, OSHA, Hazard Communications Standard, 29 CFR 1910.1200, and applicable City ordinances. Contractor shall supply a chemical list, the associated material safety data sheets (MSDS), and other pertinent health exposure data for chemicals that the Contractor's, subcontractor's or the City's employees may be exposed to while working on City property during the course of providing services under the Scope of Work. One copy of this documentation must be delivered to City to the attention of the City's Representative. This documentation must be delivered before work involving these chemicals may commence.

18. Accounts and Records: During the term of this Agreement and for two (2) years following the City's final acceptance of the Project, Contractor shall maintain accounts and records related to the Project. Upon reasonable notice, City shall have the right to inspect all such accounts and records, including but not limited to, Contractor's records,

books, correspondence, instructions, drawings, specifications, field and site notes, receipts, invoices, bills, contracts, or other documents relating to the Project.

19. Indemnification; Insurance; Bonds:

a. Contractor agrees to release, defend, indemnify, and hold harmless the City, its agents, representatives, employees, and officers (collectively referred to for purposes of this Section as the City) from and against any and all claims, demands, actions, fees and costs (including attorney's fees and the costs and fees of and expert witness and consultants), losses, expenses, liabilities (including liability where activity is inherently or intrinsically dangerous) or damages of whatever kind or nature connected therewith and without limit and without regard to the cause or causes thereof or the negligence of any party or parties that may be asserted against, recovered from or suffered by the City occasioned by, growing or arising out of or resulting from or in any way related to: (i) the negligent, reckless, or intentional misconduct of the Contractor; (ii) any negligent, reckless, or intentional misconduct of any of the Contractor's agents; or (iii) the negligent, reckless, or intentional misconduct of any other third party.

b. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist. The indemnification obligations of this Section must not be construed to negate, abridge, or reduce any common-law or statutory rights of the indemnitee(s) which would otherwise exist as to such indemnitee(s).

c. Contractor's indemnity under this Section shall be without regard to and without any right to contribution from any insurance maintained by City.

d. Should any indemnitee described herein be required to bring an action against the Contractor to assert its right to defense or indemnification under this Agreement or under the Contractor's applicable insurance policies required below the indemnitee shall be entitled to recover reasonable costs and attorney fees incurred in asserting its right to indemnification or defense but only if a court of competent jurisdiction determines the Contractor was obligated to defend the claim(s) or was obligated to indemnify the indemnitee for a claim(s) or any portion(s) thereof.

e. In the event of an action filed against City resulting from the City's performance under this Agreement, the City may elect to represent itself and incur all costs and expenses of suit.

f. Contractor also waives any and all claims and recourse against the City or its officers, agents or employees, including the right of contribution for loss or damage to person or property arising from, growing out of, or in any way connected with or incident to the performance of this Agreement except responsibility for its own fraud, for willful injury to the person or property of another, or for violation of law, whether willful or negligent, according to 28-2-702, MCA.

g. These obligations shall survive termination of this Agreement and the services

performed hereunder.

h. In addition to and independent from the above, Contractor shall at Contractor's expense secure insurance coverage through an insurance company or companies duly licensed and authorized to conduct insurance business in Montana which insures the liabilities and obligations specifically assumed by the Contractor in this Section. The insurance coverage shall not contain any exclusion for liabilities specifically assumed by the Contractor in subsection (a) of this Section. The insurance shall cover and apply to all claims, demands, suits, damages, losses, and expenses that may be asserted or claimed against, recovered from, or suffered by the City without limit and without regard to the cause therefore and which is acceptable to the City and Contractor shall furnish to the City an accompanying certificate of insurance and accompanying endorsements in amounts not less than as shown on Exhibit D.

i. Contractor shall maintain those insurances as may be required by City as set forth on the attached **Exhibit D**, Required Insurance Coverage, and Contractor shall provide City with proof of such insurance coverage within ten (10) days following execution of this Agreement and at least annually thereafter during the term of the Agreement. Contractor shall notify City thirty (30) days prior to the expiration of any such required insurance coverage and shall ensure such required insurance coverage is timely renewed during the term of this Agreement so that there is no lapse in coverage during Contractor's performance of this Agreement. Contractor shall further notify City within two (2) business days of Contractor's receipt of notice that any required insurance coverage will be terminated or Contractor's decision to terminate any required insurance coverage for any reason. Each required insurance coverage must name the City and its representatives, as additional insureds using a substantially similar or identical to the Additional Insured Endorsement example as set forth in **Exhibit D**.

j. Contractor shall maintain those security guarantees set forth on the attached **Exhibit E**, Required Bonds.

20. Dispute Resolution:

a. Any claim, controversy, or dispute between the parties, their agents, employees, or representatives shall be resolved first by negotiation between senior-level personnel from each party duly authorized to execute settlement agreements. Upon mutual agreement of the parties, the parties may invite an independent, disinterested mediator to assist in the negotiated settlement discussions.

b. If the parties are unable to resolve the dispute within thirty (30) days from the date the dispute was first raised, then such dispute shall be resolved in a court of competent jurisdiction in compliance with the Applicable Law provisions of this Agreement.

21. **Survival**: Contractor's indemnification and warranty obligations shall survive the termination or expiration of this Agreement for the maximum period allowed under applicable law.
22. **Headings**: The headings used in this Agreement are for convenience only and are not to be construed as a part of the Agreement or as a limitation on the scope of the particular paragraphs to which they refer.
23. **Waiver**: A waiver by City of any default or breach by Contractor of any covenants, terms, or conditions of this Agreement does not limit City's right to enforce such covenants, terms, or conditions or to pursue City's rights in the event of any subsequent default or breach.
24. **Severability**: If any portion of this Agreement is held to be void or unenforceable, the balance thereof shall continue in effect.
25. **Applicable Law**: The parties agree that this Agreement is governed in all respects by the laws of the State of Montana and the parties expressly agree that venue will be in Cascade County, Montana, and no other venue.
26. **Binding Effect**: This Agreement is binding upon and inures to the benefit of the heirs, legal representatives, successors, and assigns of the parties.
27. **Amendments**: This Agreement may not be modified, amended, or changed in any respect except by a written document signed by all parties.
28. **No Third-Party Beneficiary**: This Agreement is for the exclusive benefit of the parties, does not constitute a third-party beneficiary agreement, and may not be relied upon or enforced by a third party.
29. **Counterparts**: This Agreement may be executed in counterparts, which together constitute one instrument.
30. **Assignment**: Contractor may not assign this Agreement in whole or in part without the prior written consent of the City. No assignment will relieve Contractor of its responsibility for the performance of the Agreement and the completion of the Scope of Work. Contractor may not assign to any third party other than Contractor's subcontractors on the Project, the right to receive monies due from City without the prior written consent of City.
31. **Authority**: Each party represents that it has full power and authority to enter into and perform this Agreement and the person signing this Agreement on behalf of each party has been properly authorized and empowered to sign this Agreement.

32. Independent Contractor: The parties agree and acknowledge that in the performance of this Agreement and the completion of the Scope of Work, 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.

33. Agreement Documents: All work shall be performed by Contractor in accordance with all of the terms and conditions of this Agreement, and all Exhibits attached hereto, which Exhibits consist of the following documents and are incorporated herein by this reference:

- Exhibit A: Scope of Work
- Exhibit B: Change of Work Specifications
- Exhibit C: Contractor’s Rates of Wages, Benefits, and Expenses
- Exhibit D: Required Insurance Coverage
- Exhibit E: Required Bonds

34. Integration: This Agreement and all Exhibits attached hereto constitute the entire agreement of the parties. Covenants or representations not contained therein or made a part thereof by reference, are not binding upon the parties. There are no understandings between the parties other than as set forth in this Agreement. All communications, either verbal or written, made prior to the date of this Agreement are hereby abrogated and withdrawn unless specifically made a part of this Agreement by reference.

IN WITNESS WHEREOF, Contractor and City have caused this Agreement to be executed and intend to be legally bound thereby as of the date set forth below.

CITY OF GREAT FALLS, MONTANA

CONTRACTOR:

By: _____
Print Name: Gregory T. Doyon
Print Title: City Manager
Date:

By: _____
Print Name:
Print Title:
Date:

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF THE CITY)

*** APPROVED AS TO FORM:**

By: _____
Sara R. Sexe, City Attorney

* By law, the City Attorney may only advise or approve contract or legal document language on behalf of the City of Great Falls, and not on behalf of other parties. Review and approval of this document was conducted solely from the legal perspective, and for the benefit, of the City of Great Falls. Other parties should not rely on this approval and should seek review and approval by their own respective counsel.

Exhibit A

Scope of Work

Exhibit B

Change of Work Specifications

A. City may, at any time or from time to time, order changes, additions, deletions, or revisions to the work on the Project by submitting a written Change Order to Contractor. Upon receipt of any Change Order, Contractor shall comply with the terms of the changed work as reflected in the Change Order.

B. City and Contractor shall negotiate in good faith for an agreement as to any increase or decrease in the Contractor's compensation that results from any Change Order. The increased or decreased Contractor's compensation shall be set forth in the Change Order and both the City and the Contractor shall sign the Change Order as an indication of their respective acceptance of the changes and modifications to the Agreement. In the event the City and Contractor are unable to agree upon the increase or decrease in Contractor's compensation resulting from any Change Order, such increase or decrease shall be determined as follows:

1. increases to Contractor's compensation shall be calculated as follows and shall be evidenced by Contractor's submission to the City of its actual supporting documentation including time slips/cards, invoices, and receipts:

a. by an agreed upon lump sum

Or,

2. decreases to Contractor's compensation shall be determined by the City's good faith estimate. If Contractor disagrees with such good faith estimate, Contractor can avail itself of the Dispute Resolution provisions set forth in the Agreement.

C. Except for minor modifications in the work not involving an increase of costs or Contractor's compensation and not inconsistent with the purposes of the work required by the Agreement, and except in an emergency situation which endangers life or property, no change to the work requirements shall be made unless pursuant to a written Change Order duly executed.

D. Contractor shall not be entitled to any increase in the Contractor's compensation or the extension of any deadlines set forth in Construction Schedule with respect to any work performed by Contractor that is not required by the terms and conditions of the Agreement and is not contained in a duly executed Change Order.

Exhibit C

Contractor's Rates of Wages, Benefits, and Expenses

For purposes of prevailing wage requirements, this Project is considered as . The applicable Montana or Federal Prevailing Wage Rates for this type of project, as included in these Contract Documents, are incorporated herein by this reference.

Exhibit D

Required Insurance Coverage

Contractor shall purchase and maintain insurance coverage as set forth below. The insurance policy, except Workers’ Compensation, must name the City, (including its elected or appointed officers, officials, employees, or volunteers), as an additional insured and be written on a “primary—noncontributory basis, and on an occurrence, not a claims made basis.” Contractor will provide the City with applicable additional insured endorsement documentation substantially similar or identical to the example set forth below. Each coverage shall be obtained from an insurance company that is duly licensed and authorized to transact insurance business and write insurance within the state of Montana, with a minimum of “A.M. Best Rating” of A-, VI, as will protect the Contractor, the various acts of subcontractors, the City and its officers, employees, agents, and representatives from claims for bodily injury and/or property damage which may arise from operations and completed operations under this Agreement. All insurance coverage shall remain in effect throughout the life of this Agreement and for the warranty period. All insurance policies, except Workers’ Compensation, must contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least thirty (30) days prior written notice has been given to Contractor, City, and all other additional insureds to whom a certificate of insurance has been issued. Insurance coverages shall be in a form acceptable to the City.

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

- | | | |
|----|---|---|
| 1. | Commercial General Liability
(bodily injury and property damage) | \$1,500,000 per occurrence
\$3,000,000 aggregate |
| 2. | Products and Completed Operations | \$3,000,000 |
| 3. | Automobile Liability | \$1,500,000 combined single
limit |
| 4. | Workers’ Compensation | Not less than statutory limits |
| 5. | Employers’ Liability | \$1,500,000 |
| 8. | Owner’s and Contractor’s Protective Liability
(not required if General Aggregate has
Project or Location selection) | \$1,000,000 per occurrence

\$3,000,000 aggregate |
| 9. | Contractual Liability Insurance
(covering indemnity obligations) | \$1,000,000 per occurrence
\$3,000,000 aggregate |

Additional coverage may be required in the event of the following:

crane operating services: add On-Hook Coverage

transportation services: add \$1,000,000 Transit Coverage

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 coverage requirements as set forth above.

*** If a request is made to waive certain insurance requirements, insert the insurance item # and corresponding description from the list above:** .

Legal reviewer initials: **Approved** **Denied**

Additional Insured Endorsement Example:

POLICY NUMBER: COMMERCIAL GENERAL LIABILITY
CG 20 26 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – DESIGNATED
PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- A. In the performance of your ongoing operations; or
- B. In connection with your premises owned by or rented to you.

Exhibit E

Required Bonds

Contractor shall make, execute, purchase, maintain and deliver to City performance and payment bonds in an amount at least equal to the Contractor’s compensation under this Agreement, conditioned that the Contractor shall faithfully perform of all of Contractor’s obligations under this Agreement and pay all laborers, mechanics, subcontractors, material suppliers and all persons who supply the Contractor or Contractor’s subcontractors with provisions, provender, 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:

- 1. Performance Bond Equal to Contractor’s compensation amount



November 23, 2020

2020 EXHIBIT A - Parking Lot and Sidewalk Snow Removal and De-Ice

Contract No. - 11716

Civic Center
 City of Great Falls, Montana
 Craig Raymond
 #2 Park Drive S
 Great Falls, MT 59401

This is an agreement between Doctor Lawn Landscape Management, P.O. Box 2926, Great Falls, MT 59403, and City of Great Falls, Montana ("Client"), Attn: Craig Raymond, #2 River Dr S, Great Falls, MT 59401.

Please review the service descriptions listed below followed by the contract summary and billing schedule, if applicable. Sign the last page and return either by mail or email to begin services. **Services will not be scheduled without a signed agreement.**

SNOW PLOWING 1" - 2.99"

Snow plowing services will begin at a depth of 1” of accumulation. If conditions allow, we will have your location cleared before opening. Due to the many timing variables and characteristics of each storm, Doctor Lawn cannot guarantee that your property will be clean of any snow accumulation by this time, although we will do our best to provide a high level of service in a timely manner.

SNOW PLOWING 3" - 4.99"

Snow plowing of parking lot and driveways of snow accumulations from 3" - 4.99". If conditions allow, we will have your location cleared before opening. Due to the many timing variables and characteristics of each storm, Doctor Lawn cannot guarantee that your property will be clean of any snow accumulation by this time, although we will do our best to provide a high level of service in a timely manner.

SNOW PLOWING 5" - 6.99"

Snow plowing of parking lot and driveways of snow accumulations from 5" - 6.99". If conditions allow, we will have your location cleared before opening. Due to the many timing variables and characteristics of each storm, Doctor Lawn cannot guarantee that your property will be clean of any snow accumulation by this time, although we will do our best to provide a high level of service in a timely manner.

SNOW PLOWING 7" - 9.99"

Snow plowing of parking lot and driveways of snow accumulations from 7" - 9.99". If conditions allow, we will have your location cleared before opening. Due to the many timing variables and characteristics of each storm, Doctor Lawn cannot guarantee that your property will be clean of

any snow accumulation by this time, although we will do our best to provide a high level of service in a timely manner.

SNOW PLOWING 10" - 11.99"

Snow plowing of accumulations between 10"-11.99". If conditions allow, we will have your location cleared before opening. Due to the many timing variables and characteristics of each storm, Doctor Lawn cannot guarantee that your property will be clean of any snow accumulation by this time, although we will do our best to provide a high level of service in a timely manner. Snow events that accumulate over 12" of snow at the time of removal may be charged extra on a T&M basis. Seasonal snow plowing does not include moving or hauling snow piles off of the property.

SHOVEL SIDEWALKS UP TO 2.99"

Snow shoveling services will commence upon the first accumulation of snow or ice on walkways. If conditions allow, we will have your walkways shoveled before opening. Due to the many timing variables and characteristics of each storm, Doctor Lawn cannot guarantee that your walkways will be clean of any snow accumulation by this time, although we will do our best to provide a high level of service in a timely manner. Depending on your site specifications, Doctor Lawn will come back as necessary during your business hours to keep walkways clear and safe.

SHOVEL SIDEWALKS 3" - 4.99"

Snow shoveling of sidewalks of snow accumulations from 3" - 4.99". If conditions allow, we will have your walkways shoveled before opening. Due to the many timing variables and characteristics of each storm, Doctor Lawn cannot guarantee that your walkways will be clean of any snow accumulation by this time, although we will do our best to provide a high level of service in a timely manner. Depending on your site specifications, Doctor Lawn will come back as necessary during your business hours to keep walkways clear and safe.

SHOVEL SIDEWALKS 5" - 6.99"

Snow shoveling of sidewalks of snow accumulations from 5" - 6.99". If conditions allow, we will have your walkways shoveled before opening. Due to the many timing variables and characteristics of each storm, Doctor Lawn cannot guarantee that your walkways will be clean of any snow accumulation by this time, although we will do our best to provide a high level of service in a timely manner. Depending on your site specifications, Doctor Lawn will come back as necessary during your business hours to keep walkways clear and safe.

SHOVEL SIDEWALKS 7" - 9.99"

Snow shoveling of sidewalks of snow accumulations from 7" – 9.99". If conditions allow, we will have your walkways shoveled before opening. Due to the many timing variables and characteristics of each storm, Doctor Lawn cannot guarantee that your walkways will be clean of any snow accumulation by this time, although we will do our best to provide a high level of

service in a timely manner. Depending on your site specifications, Doctor Lawn will come back as necessary during your business hours to keep walkways clear and safe.

SHOVEL SIDEWALKS 10" - 11.99"

Snow shoveling of sidewalks of snow accumulations from 10" – 11.99". If conditions allow, we will have your walkways shoveled before opening. Due to the many timing variables and characteristics of each storm, Doctor Lawn cannot guarantee that your walkways will be clean of any snow accumulation by this time, although we will do our best to provide a high level of service in a timely manner. Depending on your site specifications, Doctor Lawn will come back as necessary during your business hours to keep walkways clear and safe. Snow events that accumulate over 12" of snow at the time of removal will be charged on a T&M basis.

PARKING LOT DE-ICE TREATMENT

De-ice materials shall be applied to the specified areas to break down snow and ice after plowing or during an ice or snow event. MSDS information will be provided upon request.

SIDEWALK DE-ICE TREATMENT

Environmentally friendly sidewalk salts shall be applied to specified areas of the walkways after shoveling, or whenever any icy conditions exist. MSDS information will be provided upon request.

SNOW PILE REMOVAL

Snow piles will be removed at the request of the client. This service will be charged on a Time and Material basis. Equipment rates per hour are as follows: Front End Loader- \$150, Semi and Side Dump Trailer \$200, Plow truck for clean-up \$125

2020 CONTRACT SUMMARY

SEASONAL SERVICES	OCCURS	COST EACH	TOTAL COST
SNOW PLOWING 1" - 2.99"	Seasonal	\$389.92	\$389.92
SNOW PLOWING 3" - 4.99"	Seasonal	\$524.84	\$524.84
SNOW PLOWING 5" - 6.99"	Seasonal	\$652.26	\$652.26
SNOW PLOWING 7" - 9.99"	Seasonal	\$869.69	\$869.69
SNOW PLOWING 10" - 11.99"	Seasonal	\$997.11	\$997.11
SHOVEL SIDEWALKS UP TO 2.99"	Seasonal	\$271.38	\$271.38
SHOVEL SIDEWALKS 3" - 4.99"	Seasonal	\$339.24	\$339.24
SHOVEL SIDEWALKS 5" - 6.99"	Seasonal	\$424.03	\$424.03
SHOVEL SIDEWALKS 7" - 9.99"	Seasonal	\$530.03	\$530.03
SHOVEL SIDEWALKS 10" - 11.99"	Seasonal	\$662.55	\$662.55
PARKING LOT DE-ICE TREATMENT	Seasonal	\$257.84	\$257.84
SIDEWALK DE-ICE TREATMENT	Seasonal	\$175.00	\$175.00
Snow Pile Removal	Seasonal	\$0.00	\$0.00

Doctor Lawn Landscape Management, Inc., herein referred to as contractor, will provide the services listed on the attached Contract Summary sheet in the manner described in the attached Landscape Management Contract. In consideration for the services provided, as set forth in the attached Landscape Management Contract, all of which is incorporated herein by reference. Client agrees to pay the amounts specified for such services on the attached Contract Summary sheet, which is herein referred to by reference, subject to the following terms and conditions:

- The Contractor will bill in accordance with the billing schedule provided and attached.
- The contractor will provide the owner with its policies of insurance for Workmen's Compensation, Property Damage, and Bodily Injury when requested.
- The contractor agrees that all pesticide services contracted will be performed under the direction of a licensed pesticide applicator only.
- In the event that additional services are requested, which are not specifically listed in the attached Contract Summary sheet, or on an approved work order, an hourly rate of \$75 per man hour plus any applicable equipment, parts, dump fees etc. will be charged to the owner as a service call. \$75 will be the minimum charge for a service call.
- Payment terms are net 15 days. Budget bill invoices will be sent out the first of every service month. A 3% per month late charge will be assessed on all invoices 30 days or more past due. If the account is still past due after 60 days, contractor reserves the right to suspend service until the account is brought current. If service is suspended then started again, there will be no discount or non-charge for services not performed during this period. Non budget bill customers may receive an additional charge after service is started again for extra hours to get the property back to specification.
- Any work performed, except mowing, shall be considered approved and acceptable for payment unless the contractor is notified within seven (7) days from the date of the invoice on which is listed said unsatisfactory work. Unsatisfactory mowing must be reported within 24 hours. The contractor reserves the right to correct any unsatisfactory work. Any corrective action needed will be handled through the designated representative.
- All work shall be performed to the highest standard of horticultural excellence possible and shall be in accordance with accepted standard practices. All work shall be in accordance with all applicable laws, codes, ordinances, and regulations of all local, state, and federal government agencies.
- The contractor agrees to furnish all necessary labor, tools, and equipment to complete work as outlined.
- A fuel surcharge may be applied to services in the event of a dramatic spike in fuel prices.
- Contractor will provide owner or manager with signed contract and detail of work.

· Termination Clause. In the event of a breach, the contractor or the owner hereby reserves the right to terminate this contract with a 30 day written notice. The budget billing procedure used for the convenience of our clients, and is not representative of the value of the work performed at any given time. Cancellation may occur upon 30 day written notice by the owner as addressed above, and will be consummated with payment by the owner for any services rendered at the time of termination.

· Contractor agrees to hold owner harmless for any damages caused by negligence of the contractor’s employees. Damages will only be repaired or reimbursed upon notification of damage(s) to contractors account manager and inspection by account manager or representative. Notification must be given within 48 hours of said damage. Under no circumstances will the contractor be liable for special or consequential damages suffered by the owner. Owner agrees to hold contractor harmless against any damages caused by the actions of the owner.

· Contractor and owner agree that all communications will be with one designated representative, and that contractor will respond to any contacts within 24 hours.

· Contractor must be notified in writing or by phone at least forty-eight hours in advance of any activities on the site that would interfere with weekly services. In the event that a crew is dispatched to the site, and is unable to complete the work scheduled due to the owner’s activities, the owner will be charged for the complete service regardless of amount of work actually completed.

By _____
Jeffrey V. Fliginger

By _____

Date _____
November 23, 2020

Date _____

**DOCTOR LAWN LANDSCAPE
MANAGEMENT**

CITY OF GREAT FALLS, MONTANA



Commission Meeting Date: December 15, 2020

**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

Item: Wadsworth Park – Great Falls Saddle Club.
From: Park & Recreation
Initiated By: Steve Herrig, Park & Recreation Director
Presented By: Steve Herrig, Park & Recreation Director
Action Requested: Conduct a Public Hearing for Great Falls Saddle Club Lease of City owned property located in Wadsworth Park.

Public Hearing:

1. Mayor conducts public hearing, pursuant to OCCGF 1.2.050 and Title 17, Chapter 16, Article 6.
 2. Mayor closes public hearing and asks the will of the Commission.
-

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (approve/deny) an Addendum to Wadsworth Park Saddle Club Agreement extending the term of the lease of City owned property located in Wadsworth Park for a period of five years.”

2. Mayor requests a second to the motion, Commission discussion, and calls for the vote.
-

Staff Recommendation: Staff recommends the City Commission conduct a public hearing and approve the lease of a portion of City land located in Wadsworth Park with the Great Falls Saddle Club.

Summary: The proposed lease with the Great Falls Saddle Club would be a five-year extension to their previously approved January 5, 2016 expiring December 31, 2020. Both the City and the Lessee have the option to terminate the lease with sixty (60) days written notice. The leased parkland is portion of property, lying and being in the County of Cascade, State of Montana, particularly described as follows: Tract of land beginning at the SW corner of SE1/4NE1/4 of Section 18; TWP 20N, R4E M.P.M.; thence N 89 ° 42’ E 130.10 ft. to the true point of beginnings; thence North 400.0 ft., thence S 89 ° 42’ W 500.0 ft. to the true point of beginning. The Lessee will be responsible for an annual fee and day-to-day maintenance.

Background: As required by Title 3, Chapter 4, OCCGF, before final consideration by the City Commission of the sale, trade or lease of City property, the City Commission shall hold a public hearing

thereon and allow at least fifteen (15) days' notice of the time and place of such hearing to be published in a paper of general circulation in the City. The five year lease includes an annual fee of \$375.

On December 1, 1998, the City Commission approved Resolution 8973, Wadsworth Park Master Plan. It was recommended at that time that "all existing leases continue in Wadsworth Park, renewable on a year to year basis, until the City is ready to begin actual physical implementation of the Master Plan." Currently there is no funding available for capital improvements in Wadsworth Park. The Great Falls Saddle Club has leased a portion of Wadsworth Park since 1971.

Fiscal Impact: The Great Falls Saddle Club agrees to pay the City the sum of Three Hundred and Seventy-Five (\$375) on or before January 1 of each year. If the lease is renewed, the City shall have the right to negotiate a lease rental rate for any additional years.

Alternatives: An alternative would be to not lease a portion of Wadsworth Park to the Great Falls Saddle Club.

Attachments/Exhibits: 2016 Great Falls Saddle Club Lease Agreement
2020 Addendum to Wadsworth Park Saddle Club Agreement

LEASE AGREEMENT

This Agreement, made and entered into this ____5th____ day of ____January____, 2016, by and between the CITY OF GREAT FALLS, a municipal corporation, P.O. Box 5021, Great Falls, Montana 59403-5021, hereinafter called "City" and Great Falls Saddle Club, a Montana Non-Profit Corporation P.O. Box 2963, Great Falls, Montana 59403 hereinafter called "Lessee."

WHEREAS, Lessee desires to enter into a lease of City property known as Wadsworth Park, hereinafter called "Property" for the purpose of providing equestrian activities to residents and visitors to the City of Great Falls, a public purpose, and;

WHEREAS, the City deems it to be in the public interest and serving a public purpose to lease the Property under the conditions as hereinafter set forth, and;

WHEREAS, the Lessee is an organization existing for the purpose of promoting community interest in equestrian activities and desires to secure a portion of said Property for the use of its members and the public, and;

WHEREAS, the parties do hereby covenant and agree as follows:

WITNESSETH:

The City, for and in consideration of the lease amounts to be paid and the agreement to be performed by lessee, does hereby lease, and let unto the Lessee a portion of Property, lying and being in the County of Cascade, State of Montana, particularly described as follows: Tract of land beginning at the SW corner of SE1/4NE1/4 of Section 18, TWP 20N, R4E M.P.M.; thence N 89° 42' E 130.10 ft to the true point of beginning; thence North 400.0 feet, thence S 89° 42' W 500.0 ft to the true point of beginning.

TERM OF LEASE

The term of the lease will be for five (5) years effective January 1, 2016 and expiring December 31, 2020. Upon completion of the initial term of the agreement, the City, at its sole discretion, may terminate the lease, or if requested by Lessee thirty (30) days prior to expiration, may agree to an extension of this agreement, with any conditions and covenants of this agreement, including but not limited to the rental amount, to be negotiated.

Notwithstanding the above term of lease, this lease is terminated if the Lessee's use of the Property ceases to be for a public purpose, in such event, the use of the Property immediately reverts to the City of Great Falls. Further, the agreement may be terminated prior to the expiration of the above term of lease by either party giving sixty (60) days written notice to the City, or Lessee. In the event of termination either prior to , or upon expiration of the term of this lease, Lessee shall have the right to remove any movable structures, improvements or equipment constructed or installed and maintained by Lessee on the property.

RENTAL

In consideration therefore, the Lessee agrees to pay to the City the sum of Three Hundred Seventy Five Dollars (\$375.00) on or before January 1 of each year. If the lease is renewed, the City shall have the right to negotiate a lease rental rate for any additional years.

ACCEPTANCE OF CONDITION

Lessee acknowledges familiarity with the condition of said Property states that no representation, statement or warranty, expressed or implied, has been made by or on behalf of the City as to such condition. In no event shall the City be liable for any defect in such Property or for any limitation on its use. The taking of possession of the Property shall be conclusive evidence that Lessee accepts the same “as is” and that the Property was in good condition at the time possession took place. Lessee agrees to accept the Property in the condition in which it exists at the date of taking possession, without representation or warranty, express or implied, in fact or by law, by the City, and without recourse to the City as to the nature, condition or unsuitability thereof, or as to the uses to which the premises may be put.

COVENANTS OF THE LESSEE

The Lessee hereby covenants and agrees that the Lessee will:

1. Use and occupy said Property in a careful and proper manner and not commit any waste therein;
2. Not use or occupy said Property for any unlawful purpose, and will conform to and obey all present and future laws, ordinances, and all rules and regulations of all governmental authorities or agencies, respecting the use and occupation of the premises;
3. Not use the Property for any purpose other than as stated herein, without written consent of the Park and Recreation Director or the Director’s designee;
4. Pay all bills, taxes, assessments, debts and obligations incurred by Lessee as a result of operations under this Agreement;
5. Not use or occupy said Property, or permit the same to be used or occupied, for any purpose deemed hazardous;
6. Not permit alcoholic beverages to be sold on the premises during the term of the agreement, unless prior approval is granted by the City, and in such case all required permits, licenses or other authorizations are obtained;
7. Not make any signage, alterations, changes, remodeling or capital improvements to the Property, other than livestock facilities, lighting, electrical or water improvements and installation of equipment, , without prior written permission signed by the Park and Recreation Director or the Director’s designee, and in addition thereto, shall make such approved changes at Lessee’s cost, in compliance with the law and by obtaining all permits required for such work under City ordinance. Approval for such proposed work shall not be unreasonably withheld. Any such alterations or additions shall be the sole responsibility of the Lessee, inclusive of any and all financial, material, or labor considerations and will become the property of the City upon termination of this or any subsequent lease;

8. Permit the City to enter upon the said premises at all reasonable times to examine the condition of same;
9. Ensure that routine maintenance, trash removal, and cleaning is effectively accomplished at its cost;
10. Be responsible for all damage to property, public or private, that may be caused by Lessee's operations in the performance of this agreement; and
11. Leave Property at the expiration or prior to termination of this lease and any extension thereof in as good condition as received, except for reasonable wear and tear.

REPAIRS AND MAINTENANCE

Lessee Maintenance of Leased Premises. Except as provided below, Lessee shall, throughout the term of this Lease Agreement, and at its own cost and without any expense to Lessor, keep and maintain the leased premises, including the building and improvements, and all appurtenances thereto, in good condition and repair by conducting ordinary day-to-day maintenance and repair, including but not limited to, timely removal of rubbish and trash. Lessee shall maintain the Property in a functional condition, inspect premises on a regular basis to determine any hazardous conditions which may exist, and take immediate action to correct such conditions if they exist.

Maintenance by City. City shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the leased premises or any improvements thereon. Notwithstanding the above, City shall not be responsible for repairs or maintenance resulting from the negligence of Lessee, its employees, agents, or invitees, which shall be the sole responsibility of Lessee.

Entry by City for Maintenance. Should Lessee at any time fail, neglect or refuse to fulfill this obligation to repair and maintain after receiving written notice of such default and a minimum of 30 days to correct such default, City may, but need not, enter the leased premises and make such repairs or alternations as in its opinion it may deem necessary, and may charge the costs of the same to Lessee to be paid upon the first day of the following month in addition to the rental, and should said costs not be so paid, this Lease Agreement shall be considered in default.

SUBLETTING, USE AND ASSIGNMENT

Lessee is authorized to allow third persons or organizations to temporarily use or rent the leased premises for periods of no more than five consecutive days, without the prior written permission of City. For any longer time periods, Lessee shall not have the right to assign this Lease Agreement or sublet the premises, or any part thereof, without the prior written permission of City.

Any assignment, use or sublease, temporary or otherwise approved, shall be subject to all the provisions of this Lease Agreement, and not affect the rental payable to City in any manner whatsoever.

With any assignment, use or sublease, Lessee shall continue to be bound by all the terms, conditions and covenants of this Lease Agreement. Permission given by City to an assignment or sublease shall not be deemed to be permission given to any subsequent assignment or sublease. Other than as stated herein, any assignment or sublease made without the prior written permission of City shall be void, and shall, at the option of City, terminate this Lease Agreement.

MUTUAL COVENANTS:

It is mutually agreed by and between the City and Lessee that:

1. If the Lessee pays the rental as herein provided, and keeps, observes and performs all of the other covenants of this lease, the Lessee may, peaceably and quietly, have, hold and enjoy the said premises for the term aforesaid;
2. This lease and all the covenants and provisions herein contained shall inure to the benefit of and be binding upon the successors and assigns of the parties and the public hereto; provided, however, that no assignment by, from, through or under the Lessee in violation of any of the provisions hereof shall vest in the assigns any right, title or interest whatsoever;
3. The City shall not be liable to any creditor of Lessee or any claimant against the estate or property of Lessee for any debt, loss, contract or other obligation of Lessee. The relationship between the City and Lessee is solely that of landlord and tenant, and shall not be construed or deemed to be a partnership or joint venture.
4. City's interest in and to said leased premises shall not be subject to or permitted to become subject to any lien or claims from or arising out of the use and occupation of the leased premises by Lessee. If and in the event such liens or claims arise or occur, Lessee shall promptly and forthwith cause the same to be released or discharged to the extent that the interest of the City is encumbered thereby.

INSURANCE REQUIREMENTS

During the term of the Lease and its extensions the Lessee agrees to carry Liability insurance for personal injury and property damage, in at least the following amounts: \$1,000,000 per occurrence; \$2,000,000 annual aggregate.

The insurance policy or policies must be issued by a company licensed to do business in the State of Montana and having at least an "A" rating in the current A.M. Best's Manual. All such policies will be written on an occurrence basis. The policy must include the City as a named insured and primary with no right of subrogation against the City. The Lessee shall furnish to the City on or before possession and thereafter on or before January 1st of each year, the certificate of insurance including a copy of the Additional Insured Endorsement, which shall be in a form acceptable to City. Claims-made policies are not acceptable and do not constitute compliance with the Lessee's obligation under this paragraph.

Lessee and its agents, employees or representatives are not subject to the terms and provisions of the City's personnel policies handbook and may not be considered City employees for workers' compensation or any other purpose. Lessee is not authorized to represent the City or otherwise bind the City in any dealings between Lessee and any third parties.

Lessee shall comply with applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Lessee shall maintain workers' compensation coverage as required except for applicable statutory exemptions, exceptions or exclusions. Lessee shall furnish City with copies showing one of the following: **(1)** proof of registration as a registered contractor under Title 39, Chapter 9, MCA; **(2)** a binder for workers' compensation coverage as necessary by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or **(3)** proof of exemption from workers' compensation granted by law for independent contractors.

Should the Lessee fail to maintain these coverages or to provide such certificate(s) or make other arrangements as required by this Lease, this failure constitutes a breach of this Lease.

INDEMNIFICATION

The Lessee agrees to defend, indemnify, and hold the City harmless against claims, demands, suits, damages, losses, and expenses connected therewith that may be asserted or claimed against, recovered from or suffered by the City by reason of any injury or loss, including but not limited to, personal injury, including bodily injury or death, property damage, occasioned by, growing out of, or in any way arising or resulting from Lessee's use of the premises, including use by its agents, assigns, sublessees, renters, employees and others using the Property. The City shall not be liable to Lessee or any third party for any damage or injury (including death) to persons or property resulting from any defect in the leased premises or the improvements thereon, whether such defects are the result of improper construction, lack of maintenance or repair, improper maintenance or repair or other cause whatsoever.

NONDISCRIMINATION

Lessee agrees that in the use of this Property Lessee will not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin, or any other classification protected under the law.

DEFAULT AND TERMINATION

If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, the other party, at its option, may terminate this Agreement and be released from all obligations if the default is not cured within ten (10) days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement.

ENFORCEMENT

In the event either party resorts to judicial proceedings to enforce any rights under this Lease or to obtain relief for the breach of any covenant hereof, the party ultimately prevailing in such proceedings shall be entitled to recover from the defaulting party the costs of such proceedings, including reasonable attorneys' (including city attorneys') fees and costs.

INVALIDITY

The invalidity or ineffectiveness, for any reason, of any portion of this Lease Agreement shall in no way affect the validity or enforceability of the remaining portion thereof and any invalid or unenforceable provisions shall be deemed severed from the remainder of the Lease Agreement.

WAIVER

The waiver by the City of, or the failure of the City to take action with respect to, any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition, or subsequent breach of same, or any other term, covenant or condition herein contained.

EFFECT OF LESSEE'S HOLDING OVER

Any holding over after the expiration of the term of this Lease Agreement with the consent of the City shall be construed to be a tenancy from month to month, at the same monthly rental as required pursuant to the terms of this Lease Agreement, and shall otherwise be on the terms and conditions herein specified so far as applicable.

BINDING EFFECT

It is mutually understood and agreed that each and every provision of this Lease Agreement shall bind and inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties hereto. Masculine pronouns shall be construed as feminine or neuter pronouns and singular pronouns and verbs shall be construed as plural in any place in which the context may require such construction.

NOTICE

Any notice required to be given under this lease shall be in writing and may be served on either of the parties by mailing same in a sealed, postpaid envelope addressed to the Park and Recreation Director, 1700 River Drive North, Great Falls, Montana, and to the Lessee at address above stated, and by depositing such notice in any United States Post Office or letter receptacle, and which notice shall be deemed to have been made upon the date of mailing.

ENTIRE AGREEMENT

There are no conditions to the lease, either subsequent or precedent, except as set forth herein. This Lease constitutes the entire agreement between the parties and no representations or warranties have been made by the City to the Lessee save those contained herein.

APPLICABILITY

This Lease and any extensions hereof shall be governed and construed in accordance with the laws of the State of Montana.

CITY OF GREAT FALLS, Lessor

Gregory T. Doyon, City Manager

ATTEST:

(SEAL OF THE CITY)

Lisa Kunz, City Clerk

APPROVED FOR LEGAL CONTENT*:

Sara R. Sexe, City Attorney

*By law, the City Attorney may only advise or approve contract or legal document language on behalf of the City of Great Falls, and not on behalf of other parties. Review and approval of this document was conducted solely from the legal perspective, and for the benefit, of the City of Great Falls. Other parties should not rely on this approval and should seek review and approval by their own respective counsel.

Great Falls Saddle Club, Lessee

By: _____
(signature)

(printed name)

Its: _____ (Title or Office)

**ADDENDUM TO WADSWORTH PARK
SADDLE CLUB AGREEMENT**

THIS AGREEMENT, made and entered into this ____ day of _____ 20____, by and between the City of Great Falls, Montana, a municipal corporation, hereinafter referred to as "City", Great Falls Saddle Club, a Montana Non-Profit Corporation P.O. Box 2963, Great Falls, Montana 59403 hereinafter referred to as "Lessee".

WHEREAS, the lessee has provided equestrian activities to residents and visitors of Great Falls since 1971; and

WHEREAS, a five (5) year extension is mutually beneficial;

NOW THEREFORE, the parties mutually agree as follows:

1. The City, at its sole discretion, grants a five (5) year extension of the Great Falls Saddle Club Agreement on a non-exclusive basis. In consideration therefore the Great Falls Saddle Club shall pay the City on or before January 1 of each year the following rental:

2021 - \$375
2022 - \$375
2023 - \$375
2024 - \$375
2025 - \$375

2. For this purpose, User shall provide City with proof of User’s Commercial General Liability insurance issued for personal injury and property damage in amounts not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Each coverage shall be obtained from an insurance company that is duly licensed and authorized to transact insurance business and write insurance within the state of Montana, with a minimum of “A.M. Best Rating” of A-, VI, as will protect the User, the City and its officers, employees, agents, and representatives from claims for bodily injury and/or property damage which may arise from the Use under this Agreement. The City shall be included or named as an additional or named insured on the Commercial General Liability policy. Additional Insured Endorsement must be provided as evidence that the City is an additional insured on the insurance policy. The insurance must be in a form suitable to City.

Insurance requirements will be provided annually to the Park and Recreation Department annually on or before January 31.

3. All other conditions and covenants of the Great Falls Saddle Club Agreement approved by the City Commission on January 5, 2016, remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed

by the persons duly authorized thereto the day and year first hereinabove written.

CITY OF GREAT FALLS

APPROVED FOR LEGAL CONTENT

Gregory T. Doyon, City Manager

Sara R. Sexe, City Attorney

* By law, the City Attorney may only advise or approve contract or legal document language on behalf of the City of Great Falls, and not on behalf of other parties. Review and approval of this document was conducted solely from the legal perspective, and for the benefit, of the City of Great Falls. Other parties should not rely on this approval and should seek review and approval by their own respective counsel

ATTEST:

(Seal of the City)

Lisa Kunz, City Clerk

Great Falls Saddle Club

Kris Hedstrom



Commission Meeting Date: December 15, 2020

**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

Item: Setting a public hearing on Exchange Agreement Between City of Great Falls and Great Falls Public School District Number 1.

From: Park and Recreation

Initiated By: Steve Herrig, Park and Recreation Director

Presented By: Steve Herrig, Park and Recreation Director

Action Requested: Set a public hearing for the Exchange Agreement Between the City of Great Falls and Great Falls Public School District Number 1 for January 5, 2021.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (set/not set) a public hearing for January 5, 2021 on the Exchange Agreement of City owned property located at Lots 5-10 in the Tenth Addition to the Great Falls Original Townsite, Block 736 with Great Falls Public School District Number 1 owned property located at S2SWSW Sec 3 T20N R4E Mark 7B.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

Staff Recommendation: Staff recommends that the City Commission set a public hearing for January 5, 2021 on the Exchange Agreement of property owned by the City located at Lots 5-10 in the Tenth Addition to the Great Falls Original Townsite, Block 736 with property owned by the Great Falls Public School District Number 1 located at S2SWSW Sec 3 T20N R4E Mark 7B.

Summary: The City of Great Falls and the Great Falls Public Schools are interested in a land trade that will be beneficial to both organizations. The City is authorized, pursuant to Sections 3.04.010 through 3.04.050 of the OCCGF, to exchange the City property for the District Property. City property includes Lots 5-10 in the Tenth Addition to the Great Falls Original Townsite, Block 736. The District property is located at S2SWSW Sec 3 T20N R4E Mark 7B.

Background: The District will swap a 10 acre parcel of land adjacent to the Seibel Soccer Park referred to as the Loy land, for City property that includes 6 lots of Kranz Park. Both properties have been valued to be like kind with equal or greater value of approximately \$150,000. The City and the School District accept such valuation and consideration.

On September 14, 2020, the Board of Trustees for the School District approved the property trade of the Loy land and the portion of Kranz Park with the City of Great Falls. The land trade agreement was contingent upon approval of the City Commission. The District would use the portion of Kranz Park for additional parking spaces at Great Falls High School. The School District's land is a potential site of the new Recreation Center made possible by a partnership with the City of Great Falls and the Department of Defense/Malmstrom Air Force Base through a Defense Community Infrastructure Program (DCIP) grant. If the site is ultimately not used for the Recreation facility, the City would utilize the property for other purposes.

Under the Agreement terms, the City and District agree to prorate taxes, special improvement assessments for the current tax year, permit fees, water and sewer charges, irrigation assessments, maintenance fees, and any other pre-paid charges concerning the respective properties, as are applicable as of the date of closing. The School District agrees that the City's Property shall be conveyed with the City retaining a right of reversion should such parcel ever cease to be used for public purposes, according to Section 3.04.050(A)(4) of the OCCGF. In the event that reversion to the City occurs, the District would be compensated the amount equal to the appraised value of the District Property at the time of reversion. The appraisal shall value the Property as if it were undeveloped and shall not include improvements to the Property in the appraised value. In the event of a reversion, the City and the District will equally share in the costs of the appraisal.

Fiscal Impact: Each party's Real Property that is subject to this Agreement has been valued to be like kind with equal or greater value of approximately \$150,000. The City and District will be required to pay for closing costs, including title insurance for the respective properties.

Alternatives: Not set a public hearing for January 5, 2021 and setting for a different date and time. A public hearing is required by the Official Code of the City of Great Falls (OCCGF):

3.4.080 - Sale, trade, grant, donate or lease to governmental entities.
The City may sell, trade, grant, donate, or lease for any period of time any real or personal property to a governmental entity by negotiation without an appraisal or advertising for bids. If, by grant or donation, the real or personal property is retained for a direct or perpetual public benefit or use. Requirements, as specified in Sections [3.4.010](#), [3.4.020](#), and [3.4.030](#) herein, remain applicable to this section.

If a public hearing is not scheduled then the Commission would be essentially denying the exchange of City owned property located at Lots 5-10 in the Tenth Addition to the Great Falls Original Townsite, Block 736 with Great Falls Public School District Number 1 owned property located at S2SWSW Sec 3 T20N R4E Mark 7B, and locate an alternative site for the new Recreation Center, upon OEA approval.

Concurrences: City of Great Falls staff, Great Falls Public School District Number 1 staff, and the Park and Recreation Advisory Board support the approval of the Exchange Agreement.

Attachments/Exhibits: Exchange Agreement

EXCHANGE AGREEMENT

This Exchange Agreement (Agreement) is entered into by and between the City of Great Falls, a municipal corporation organized and existing under the laws of the State of Montana, of P.O. Box 5021, Great Falls, Montana 59403 (City), and Great Falls Public School District Number 1 and A, 1100 4th Street South, Great Falls, Montana, 59405 (District), and provides as follows:

RECITALS

1. The City is the owner of certain real property (City Property) in the City of Great Falls, which is described as follows:

Lots 5-10 in the Tenth Addition to the Great Falls Original Townsite,
Block 736.

REF: Book 75, pages 283-284,

Generally depicted on Exhibit A, which is attached to and incorporated
into this Agreement.

2. The District is the owner of certain real property (District Property), which is described as follows:

S2SWSW Sec 3 T20N R4E Mark 7B

REF: Reel 42, Doc. 771,

Generally depicted on Exhibit B, which is attached to and incorporated
into this Agreement.

3. The City desires to obtain from the District, the District Property and the District desires to obtain from the City, the City Property.
4. The City is authorized pursuant to Sections 3.04.010 through 3.04.050 of the Official Code of the City of Great Falls (OCCGF) to exchange the City Property for the District Property and is agreeable to such exchange, subject to the terms and conditions of this Agreement.
5. The District has declared its property obsolete, undesirable, or unsuitable for the school purposes of the district, available to be sold and is thus authorized to exchange the District Property for the City's Property and is agreeable to such exchange, subject to the terms and conditions of this Agreement.

AGREEMENT

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

1. Exchange.

- a. Upon the closing date set out in Section 3(a) of this Agreement, the City agrees to convey to District all of the City's interest in the City Property, together with easements and other appurtenances thereto.
- b. Upon the closing date set out in Section 3(a) of this Agreement, District agrees to convey to the City all of the District's interest in the District Property, together with all easements and other appurtenances thereto.

2. Consideration. Each party's Real Property that is subject to this Agreement has been valued to be like kind with equal or greater value of approximately \$150,000. Each party accepts such valuation and consideration.

3. Title Contingency. The parties' respective obligations to exchange are contingent upon their review and approval of a preliminary title commitment concerning the property which each party is to acquire under this Agreement. If either party's review of the preliminary title commitment for the property which it is to acquire discloses any condition that is unacceptable to such party, not including an interest or easement to be reserved under this Agreement or any encumbrances or liens to be discharged through the closing of the transaction anticipated herein, the objecting party shall give written notice of said condition to the other party on or before 30 days from the date the objecting party receives the preliminary title commitment. If a party fails to provide such notice to the other by such date, then this contingency shall be deemed waived by the party failing to give notice. Upon receipt of written notice of an unacceptable condition, the receiving party shall have 15 days to advise the objecting party in writing whether it will agree to remedy the noted condition. If the receiving party elects to remedy the objection, the transaction shall proceed to closing, however the receiving party shall have an additional 90 days from the specified closing date to affect the remedy, if necessary. If the receiving party elects not to remedy the objection, the parties' obligations to exchange shall be terminated and this Agreement will have no further force or effect.

4. Closing.

- a. *Date and Place of Closing.* The closing shall take place no later than 45 days following the execution of this Agreement by all parties at Chicago Title, 101 River Drive N., Great Falls, Montana 59401 (the Closing Agent). The parties shall deposit with the Closing Agent all monies and executed documents as necessary to complete the transaction as anticipated by this Agreement.
- b. *Closing Costs.* The parties agree to pay an equal share of all charges of the Closing Agent related to this Agreement. Each party shall pay the recording charges for the deed

to the property it is to receive, and for the costs of their respective real estate agents, attorneys, inspectors, or other representatives. Other closing costs shall be paid as otherwise set forth in this Agreement.

5. Prorations. The City and District agree to prorate taxes, special improvement assessments for the current tax year, permit fees, water and sewer charges, irrigation assessments, maintenance fees, and any other pre-paid charges concerning the respective properties, as are applicable, as of the date of closing. If the current year's taxes are not known, District and the City agree that the previous year's tax assessment or an estimated amount can be used to base the pro-ration.
6. Conveyance. Each party shall convey the Property each is to convey under this Agreement by Warranty Deed, free of all liens and encumbrances except those described in the title insurance commitment as approved by the other party, and as follows:
 - a. *Reversion*. District acknowledges and agrees that the City's Property shall be conveyed, with the City retaining a right of reversion should such parcel ever cease to be used for public purposes, according to Section 3.04.050 (A)(4) of the OCCGF.
 - b. *Consideration upon Reversion*. In the event that reversion to the City occurs under part 6.a. above, and only in that event, the City acknowledges and agrees that the District shall be compensated the amount equal to the appraised value of the District Property, at the time of the reversion. Said appraisal shall value the Property as if it were undeveloped, and shall not include improvements to the Property in the appraised value. In the event of reversion, and only in that event, the City and the District agree to equally share in all the costs of the appraisal.
7. Title Insurance. Each party shall purchase for the benefit of the other party an American Land Title Association (ALTA) Standard Coverage Owners Title Insurance Policy (as evidenced by a standard form ALTA title insurance commitment) in an amount equal to the value of the property it will convey to the other.
8. Possession and Risk of Loss. Each party shall deliver possession and occupancy of the property it is to convey to the other party upon the closing date, after all exchange documents are delivered. All loss or damage to any of the property, subject of this Agreement, by any cause is assumed by the respective owners of the property through the time of closing, unless otherwise specified.
9. Environmental Laws. The term "Environmental Laws" shall be defined as any statute, regulation, ordinance or policy issued by any governmental authority, whether federal, state, county or local, that pertains to the environment or to public health, including but not limited to PCB leaks. Subject to the limitations of Mont. Code Ann. §2-9-108, each party agrees to indemnify, defend and hold the other harmless from and against any and all claims, including demands, damages, liabilities and costs, actions, orders, expenses, settlements, fines, penalties, attorneys' fees, expert witnesses and consultants, and other litigation expenses arising out of a breach or violation of any Environmental Law in any way connected with, each party's use and or occupation of its Real Property prior to closing. This indemnification

shall survive the end of this Agreement and shall inure to the benefit of each party, its representatives, successors, agents and assigns.

10. Disclosures

- a. *Megan's Law*. In accordance with Title 46, Chapter 23, Part 5 of the Montana Code Annotated certain individuals are required to register their address with local law enforcement agencies as part of Montana's Sexual or Violent Offender Registration Act. Information may be obtained on these registrations by contacting the local county sheriff's office, the Montana Department of Justice in Helena, Montana, and probation officers assigned to the area.
- b. *Noxious Weeds*. Each party represents to the other that noxious weeds exist or may exist on the property that is the subject of this Agreement. Each party further notifies the other that it is unlawful for any person to permit any noxious weed to propagate or go to seed on the person's land, except that any person who adheres to the noxious weed management program of the person's weed management district or who has entered into and is in compliance with a noxious weed management agreement is considered in compliance with the law.
- c. *Water Right Ownership Update Disclosure*. By Montana law, failure of the parties at closing or transfer of real property to pay the required fee to the Montana Department of Natural Resources and Conservation for updating water right ownership may result in the transferee of the property being subject to a penalty. Additionally, in the case of water rights being exempted, severed, or divided, the failure of the parties to comply with § 85-2-424, MCA, could result in a penalty against the transferee and rejection of the deed for recording.

11. Entire Agreement and Modifications. This Agreement supersedes all prior agreements, contracts, and understandings between the parties. It may not be modified or terminated orally. No modification, termination, or attempted waiver shall be valid unless in writing signed by the party against whom the same is sought to be enforced.

12. Time. Time is of the essence in this Agreement and all clauses herein. Provided, that in the event an act is required to occur upon a Saturday, Sunday, or Legal Holiday, that said act may be performed on the next business day.

13. Assignment. This Agreement is binding upon the parties, their respective representatives, agents, successors, and assigns.

14. Remedies.

- a. *District's Remedies*. If the City refuses or neglects to consummate the transaction within the time period provided in this Agreement, District may demand that the City

specifically perform the City's obligations under this Agreement, or demand monetary damages from the City for the City's failure to perform the terms of this Agreement.

b. *City's Remedies.* If District refuses or neglects to consummate the transaction within the time period provided in this Agreement, the City may demand that District specifically perform District's obligations under this Agreement, or demand that District pay monetary damages for District's failure to perform the terms of this Agreement.

15. Controlling Law. This Agreement shall be interpreted under the laws of the State of Montana.

16. Interpretation. This Agreement has been reviewed by both parties, each of whom has had the opportunity to consult with independent counsel regarding it and has done so to the extent that such party desired. No stricter construction or interpretation of the terms hereof shall be applied against either party as the drafter hereof.

17. Electronic and Counterparts. The parties agree that an electronic copy, which contains the parties' respective signatures, shall be considered an original. Further, this Agreement may be executed in counterparts, each of which when taken together shall constitute a fully executed Agreement.

DATED this ____ day of _____, 2020.

CITY OF GREAT FALLS, MONTANA

By _____
Gregory T. Doyon, City Manager

ATTEST:

(Seal of the City)

Lisa Kunz, City Clerk

APPROVED AS TO FORM:

By _____

Sara R. Sexe, City Attorney

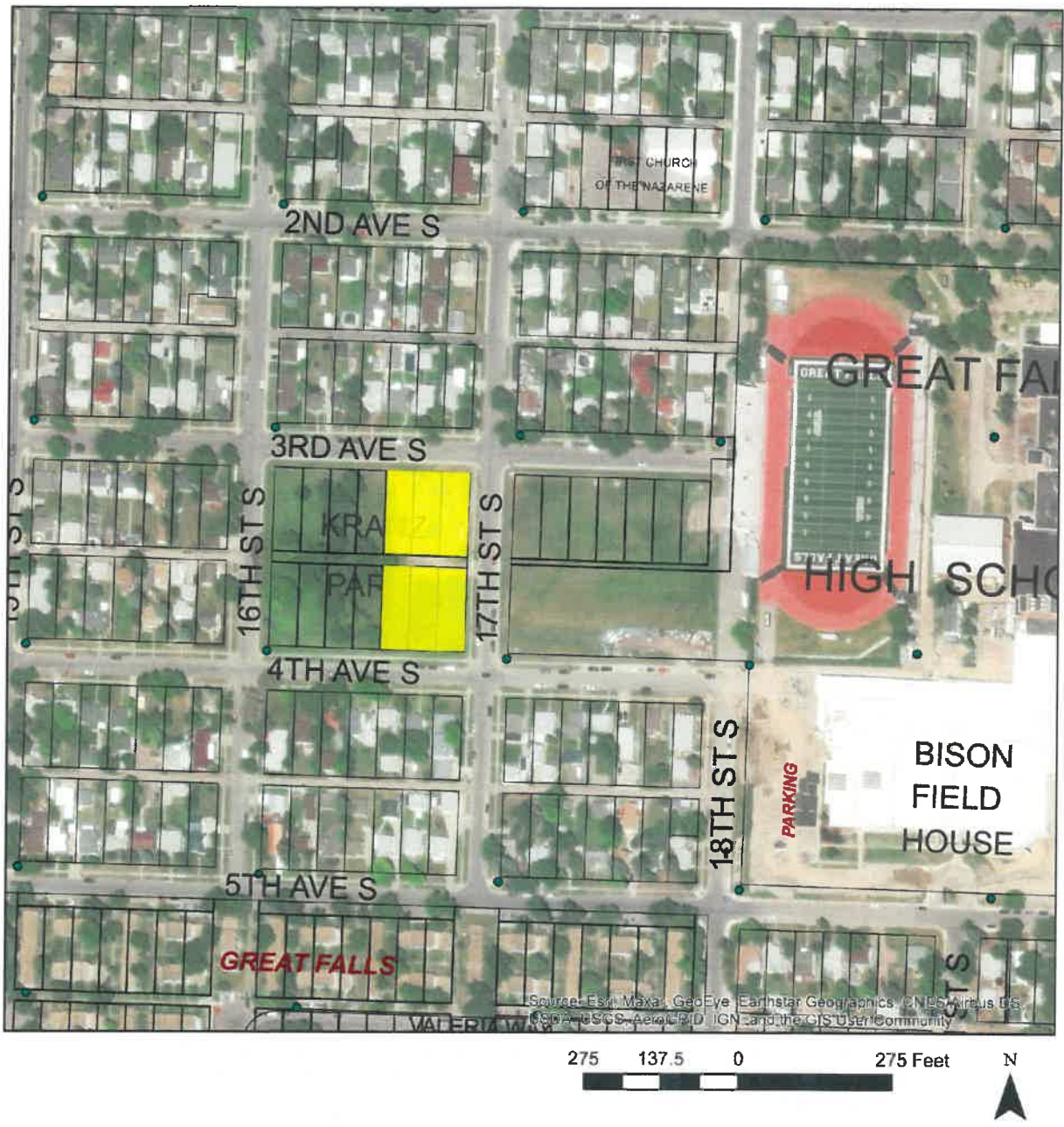
GREAT FALLS PUBLIC SCHOOLS, District No. 1

By Brian Patrick
Print Name Brian Patrick
Print Title Director of Business Operations

APPROVED AS TO FORM:

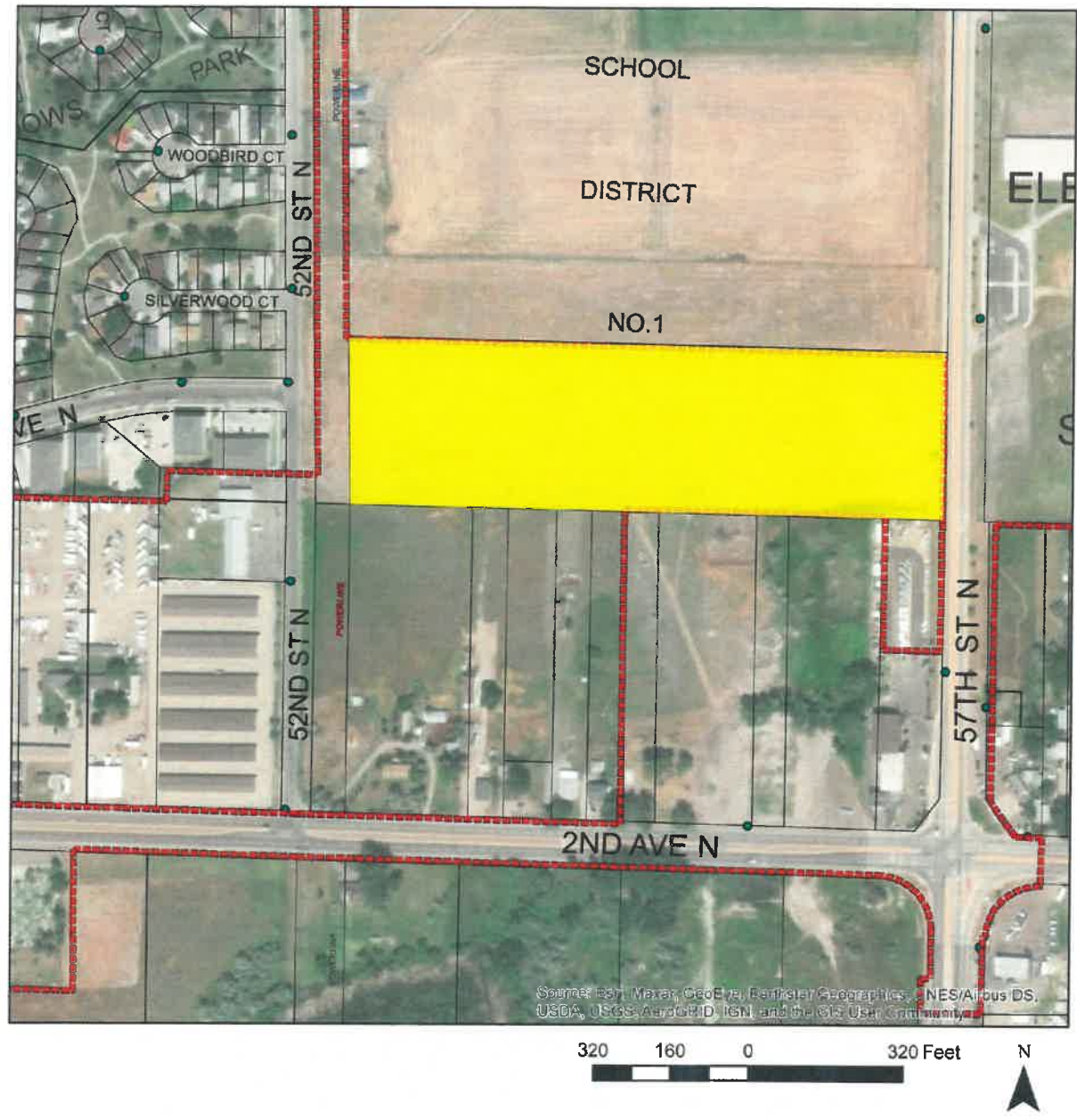
By Jean E. Faure
~~Jean E. Faure, City Attorney~~ Attorney for GFPS

EXHIBIT "A"



 City Real Property

EXHIBIT "B"



 District Real Property



Commission Meeting Date: December 15, 2020

**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

Item: Great Falls Baseball Club, Inc. Request for 2020 Rent Forgiveness in the amount of \$10,648.00.

From: Park and Recreation

Initiated By: Steve Herrig, Park and Recreation Director

Presented By: Steve Herrig, Park and Recreation Director

Action Requested: Approve 2020 Centene Stadium Rent Forgiveness Request of \$10,648.00 to the Great Falls Baseball Club, Inc.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (approve/not approve) the Great Falls Baseball Club Inc.’s request for forgiveness of the Centene Stadium 2020 rent in the amount of \$10,648.00.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

Staff Recommendation: Staff recommends that the City Commission approve the 2020 Centene Stadium Rent request forgiveness in the amount of \$10,648.00 to the Great Falls Baseball Club, Inc.

Summary: The Great Falls Baseball Club, Inc. has faced a financial hardship during the 2020 fiscal year due to COVID-19 related issues and restrictions. In an effort to keep current and future operations going, the Great Falls Baseball Club, Inc. is requesting the City of Great Falls forgive the 2020 rent for Centene Stadium in the amount of \$10,648.00.

Background: On April 6, 1999 the City of Great Falls and the Great Falls Baseball Club Inc. entered into a fifty (50) year lease agreement of Centene Stadium. The lease agreement requires an annual rent be paid to the City of Great Falls on or before November 1. The lease is on fixed rent stepped increase, thus, increasing the annual rent ten percent (10%) every five years. The current rent for 2020 is \$10,648.00. From 1999-2019 the Great Falls Baseball Club Inc. has been able to make their annual scheduled rent payment.

The Great Falls Baseball Club Inc. and Centene Stadium is the home of the Great Falls Voyagers minor league baseball team. In addition to hosting legion baseball games the Great Falls Baseball Club Inc. hosts several community and fundraising events. The Club employs grounds staff, administration staff and seasonal staff.

Due to COVID-19 related issues and restrictions in place, the Great Falls Baseball Club was unable to operate at normal capacity, seeing a decline of over 90% in revenues. Although the stadium had several COVID-19 restrictions in place, the Great Falls Baseball Club Inc. offered numerous low cost events to the community in an effort to have continual use of the stadium and staff employment throughout the summer.

Fiscal Impact: The General Fund will have a reduction of the expected revenue of \$10, 648.00 for FY 2021.

Alternatives: To not approve the 2020 Centene Stadium Rent Forgiveness request in the amount of \$10,648.00 for the Great Falls Baseball Club, Inc. and require them to pay their 2020 rent in full. A second alternative would be to negotiate a partial payment for the 2020 rent with the Great Falls Baseball Club, Inc.

Concurrences: City Manager, Greg Doyon and Park and Recreation Director, Steve Herrig support the approval of the 2020 Centene Stadium Rent Forgiveness request.

Attachments/Exhibits: Request letter submitted from the President of the Great Falls Baseball Club Inc., Scott Reasoner



Great Falls Baseball Club, Inc.
Member of the Pioneer League of Professional Baseball

Dear Mr. Doyon & The City of Great Falls,

This is a letter following up on a meeting between The Great Falls Baseball Club, Mr. Doyon and Mr. Herrig in regards to rent forgiveness for the 2020 fiscal year. Due to COVID-19 and restrictions in place the Voyagers were unable to operate anywhere near a normal capacity. With those restrictions the Great Falls Baseball Club saw revenues decline by over 90%. Per our meeting in early summer it was discussed that Great Falls would follow the lead of Billings and Missoula and not charge rent for use of Centene Stadium for the year 2020. This savings is a great help in keeping the continued operation of the community asset that is The Voyagers.

During the 2020 season, despite the inability to have baseball and extremely limited capacity, the Voyagers did host a number of events, allowing a safe place for fundraisers, community gatherings and legion baseball games. Centene Stadium maintained a full grounds staff for the 2020 summer in order to assist in the playing of over 40 legion games this past summer. Due to the financial hardship Covid-19 also caused on the local legion baseball programs, the use of the stadium was extremely discounted from our city contract. The Voyagers also hosted multiple fundraisers for groups such as Family Promise and Ducks Unlimited.

In addition to the above events the Voyagers hosted over thirty other low cost community events such as movie nights, a kickball league, a corn hole tournament and more. These events were designed to keep the stadium in use over the summer while also providing an opportunity for some employment, however limited, to a number of long time season staff. The Voyagers know the importance of the summer jobs we provide. While we could not operate at a normal capacity we knew we had to provide as much work as possible to those employees who truly rely on the ballpark each and every summer for additional income.

The Great Falls Voyagers could not be more appreciative of our long partnership with The City of Great Falls and the cities willingness to work together through all things to keep professional baseball in our community. We do not take a gesture such as rent forgiveness lightly and will always strive to be a place of civic pride and a gathering place for our citizens each and every summer. If you have any questions or if there are more details needed please do not hesitate to let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "SJR", written over a light blue background.

Scott Reasoner

President Great Falls Baseball Club



Commission Meeting Date: December 15, 2020

**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

Item: Operation and Maintenance Contract – Amendment and Restatement: Great Falls Wastewater Treatment Plant, OF 1010

From: Public Works Department

Initiated By: Public Works Department

Presented By: Paul Skubinna, Public Work Director

Action Requested: Approve Contract Amendment and Restatement for Operation and Maintenance of Wastewater Treatment Plant

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (approve/not approve) the Amended and Restated Agreement for Operation and Maintenance of Wastewater Treatment Plant with Veolia Water North America Operating Services, LLC, and authorize the City Manager to execute the Agreement.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

Staff Recommendation: Staff recommends approval of the amended and restated contract.

Summary: The City of Great Falls has contracted operation and maintenance of its wastewater treatment plant (Plant) since 1977. The City has never operated its own Plant as it is currently configured. The City’s current operation and maintenance contract expires on December 31, 2020. This long-standing private\public partnership has been a mutually beneficial relationship for the City and Veolia that has kept cost down for the City’s rate payers while remaining profitable for Veolia.

The proposed amended and restated terms of this contract include the following changes:

1. More clearly defines cost savings and sharing and how the Incentive Target Price (ITP) is defined.
2. Provides a longer ten (10) year term for the contract.
3. Restructures cost savings and over-run for the routine Repair and Maintenance (R&M) category of service as a 50:50 share, consistent with the rest of the contract.
4. Acknowledges and provides additional special consideration for potential rapid Health Insurance Cost Increases.
5. Eliminates the ineffective and inefficient Electricity Reduction Incentive Program.

6. Eliminates the 19% Overhead Mark-up compounded by a 15.75% Profit Mark-up on routine R&M service and replaces it with a 15% Profit Mark-up.
7. Eliminates 15% Overhead Mark-up compounded by a 10% Profit Mark-up on Small Capital Improvement Project services and replaces it with a 15% Profit Mark-up.
8. Eliminates the 19% Overhead Mark-up compounded by a 15.75% Profit Mark-up on Operation and Maintenance services and replaces it with a 14% Overhead Mark-up added to a 15% Profit Mark-up.
9. Eliminates the 19% Overhead Mark-up compounded by a 15.75% Profit Mark-up on Contingency Repair and Maintenance (Contingency) services and replaces it with a case-by-case project specific negotiated Profit and Overhead Mark-up.
10. Increases the dollar threshold between routine R&M services\projects and Contingency services\projects from \$5,000 to \$25,000 to match recent fiscal and procurement policies adopted by the Commission.
11. Provides a one-time, year one adjustment of the ITP in the routine R&M services category to reflect the change in increase in dollar threshold discussed in item 10. The increase is based on actual projects scheduled.
12. Adds language for more formalized reporting related to Veolia's plant equipment asset management program, to help focus decision making on sewer rates and Capital Improvement planning and budgeting.
13. Updates to the Limitation of Liability Language along with required liability insurance amounts to more accurately reflect current Plant value and associated risks.

Background: Since 1977, this contract was reissued in 1979, 1982, 1986, was competed and re-awarded to Veolia in 1992, and subsequently amended reissued and\or extended in 1995, 2000, 2005 and 2015. This long-standing private public partnership has been mutually beneficial to the City and Veolia.

Since its inception, this contract has been structured as an Incentive Target Price (ITP) contract. The ITP is established for each year as being the actual expenses from the previous year, compounded by an inflation factor known as the Consumer Price Index – Universal (CPI-U) or 5%, whichever is less. At the end of each contract year, actual expenses are reconciled with the ITP. Cost saving and cost overruns of the ITP are shared between the City and Veolia. This model allows the City maintain its aging facility, while inherently motivating both the City and Veolia to keep costs from unnecessarily escalating.

Significant Impacts:

During the time since 1977, City residents have enjoyed some of the lowest sewer rates in Montana. Currently, Great Falls has the lowest aggregate utilities rate and the second lowest residential and commercial sewer rate of the seven major cities. This is due, in part, to the City's longstanding partnership between the City and Veolia.

As part of the analysis for this proposed action, staff evaluated various factors and metrics. As a metric of cost escalation and value, staff compared the actual cost increases under this contract, 299%, to aggregate inflation rate since 1977, ~350%. From this analysis it is evident this contract model has been successful at keeping the cost escalation below the inflation rate and lower for the ratepayer. Conversely, other cities have experienced larger rate increase that exceed the inflation rate and often approach the maximum recommended rate based on industry standards.

To evaluate whether the City could competitively assume operation and maintenance of the plant, staff prepared an estimate of what the City's cost would have been to operate the Plant in 2019 and compared it to the actual costs incurred by Veolia. The City's operational costs were estimated to be higher than Veolia's; however, considering the mark-up allowed in the current version of the contract, the cost of assuming control of the plant and continuing with Veolia's services were equal, within the margin of uncertainty of the estimated City costs. However, when the projected savings resulting from adjustments in profit and overhead within the proposed contract are factored into the analysis, it appears the City cannot competitively assume control of operation and maintenance at this time.

During the 2015 contract renewal, amongst other factors, the City analyzed the pros and cons of operational, compliance and other factors associated with remaining with Veolia's services versus the City assuming control of the plant. The pros of continuing with Veolia's services outweighed the cons and uncertainty of assuming control of the Plant the City has never operated. Staff has re-examined the 2015 analysis and concluded those factors of uncertainty associated with assuming operation of the Plant still exist today. Therefore, coupled with the proposed restructuring of Overhead and Profit mark-up in this propose renegotiated contract, staff concluded the City could not competitively assume control of operation and maintenance of the plant at this time based on these factors.

With Veolia managing Operations and Maintenance of the wastewater plant the City has also enjoyed the benefit of this larger organization's national and international expertise in the field of wastewater treatment, and process control, enhancement and efficiency. Veolia has helping the City conceive, implement and start-up numerous large and small process upgrades and advancements through the years. As such, the City has enjoyed a long standing record of compliance with environmental and other regulations, while minimizing operational costs and improving energy efficiency.

Wastewater treatment also includes heavy industrial equipment and processes that present numerous biological, mechanical and environmental hazards. Veolia provides the City a well-trained, unionized and certified work force with a culture focused on safety. Neither the City nor Veolia has had a single organized labor grievance in the last ten years of operations at the Plant. Veolia has implemented a record breaking and award winning safety program with only one lost time accident in the last 16 years of operation, along with a long-standing compliance record with OSHA in Great Falls.

Workload Impacts: Approving the proposed contract amendment and restated terms will have nominal workload impacts on City staff. The City currently contracts operation and maintenance of the Plant to Veolia; therefore, no workload change would take place if approved.

If the Commission chose not to approve this contract amendment, the City and Veolia would then be immediately required to begin a rapid operational transition process. Staff anticipate that a successful transition in the limited time-period available would take thousands of staff hours and significant capital outlay to purchase technology and management systems and equipment currently deployed at the plant that is Veolia's proprietary property. Additionally, the City would need to immediately hire, at minimum, 14 full time employees (FTE) that are certified wastewater operators and managers of people with specialized and highly technical skills and knowledgebase. This would pose a significant challenge for the City. The City has experienced difficulty with similar types of recruitment in other segments within Public Works Department.

Evaluation and Selection Process: As described above, the City has conducted an evaluation of numerous metrics, to ensure it is receiving a fair and equitable price for the services provided. Also, City staff and Veolia representatives have engaged in a rigorous negotiation process to arrive at the proposed amended

in terms of the contract resulting in significant projected cost savings from the current status quo, as described below.

Fiscal Impact: As described by items 6-9 in the Summary section, the proposed amended and restated terms represent a significant restructuring of Overhead and Profit Mark-up charges in the proposed contract. These negotiated changes are estimated to save the City \$237,860 in year one of the contract and represents a projected \$2.4M saving over the next 10 year contract cycle. These proposed changes represent both the City's and Veolia's commitment to this long standing partnership going forward. The total compensation to Veolia over the coming 10-year contract cycle is estimated to be ~\$35M.

Alternatives: As described above, if the City Commission voted to not amend and restate the contract, the effect will:

- 1) Introduce a significant impact on workload and staffing,
- 2) Likely not result in cost saving for the City compared to the current arrangement with Veolia or the proposed amended and restated terms of the contract, and
- 3) Introduce a significant amount of uncertainty in the City's ability to seamlessly continue our compliance and safety record at our Plant, as well as, one of the lowest sewer user rates in the state.

Concurrences: Staff's recommendation to approve the proposed contract amendment and restated terms includes the City Manager's Office and City Legal Department. Veolia North America Operating Services, LLC, also concurs with staff's recommendation to amend and restate this agreement as proposed.

Attachments/Exhibits:

"Amended and Restated Agreement for Operation and Maintenance of Wastewater Treatment Plant"

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

This Amended and Restated Agreement for Operating and Maintenance of Wastewater Treatment Plant (this “Agreement”) is made and entered into this [___] day of [_____] 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 CONTRACTOR entered into that certain Contract Amendment and Extension Agreement dated August 18, 2015 for the operation and maintenance of the CITY’s Wastewater Treatment Plant (the as amended, the “Original Contract”);

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

WHEREAS, the parties desire to clarify certain provisions and 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 this 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 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 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.

“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, 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 January 1, 2021 and end December 31, 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 ten (10) Terms beginning and ending as follows:

- Term 1 – January 1, 2021 through December 31, 2021
- Term 2 – January 1, 2022 through December 31, 2022
- Term 3 – January 1, 2023 through December 31, 2023
- Term 4 – January 1, 2024 through December 31, 2024
- Term 5 – January 1, 2025 through December 31, 2025
- Term 6 – January 1, 2026 through December 31, 2026
- 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

The ITP for Terms 1-10 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. The documented cost will be calculated as follows: $\text{Cost} + (\text{Cost} * \text{Overhead Markup}) + (\text{Cost} * \text{Profit Markup}) + \text{Utilities}$.

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 subject to sharing of cost savings or cost overruns on a 50:50 basis except for Term 1. Any cost savings, if any, in Term 1 will be returned to the City in full, and any cost overruns, if any, in Term 1 will be returned to the CONTRACTOR in full.
- 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;
- 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). In the event that the Base Fee would have increased by more than the CPI or 5%, whichever is less, for reasons beyond the reasonable control of CONTRACTOR, then CONTRACTOR shall be permitted to request an increase in the Base Fee, which the CITY shall consider in good faith. CONTRACTOR's request for Base Fee increase shall include verifiable documentation of the costs incurred, and a written explanation as to why the expenses were beyond reasonable control for the CITY's consideration.

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

- 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.
- 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 plus expenditures for contingency funding that were >\$5000 and < \$25,000 for the period 1/1/2020 to 12/31/2020, 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 Term 1 shall be 100% refunded to the CITY at the end of Term 1 in conjunction with the ITP calculation. Any cost overruns for Term 1 shall be 100% refunded to the CONTRACTOR. All cost savings or cost overruns in Repair & Maintenance from the preceding ITP year for Terms 2-10 of the contract shall be shared on a 50:50 basis between the CONTRACTOR and 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. For purposes of the Incentive Target Price calculation, Repair and Maintenance shall be subject to a Profit mark-up as set forth below.
- F. Overhead mark-up – The Overhead mark-up shall be fourteen percent (14%).
- G. Profit mark-up – The Profit mark-up shall be fifteen percent (15%).
- 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.

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 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 ten (10%) percent, whichever is less, from one year to the next ("Health Care Adjustment"). The actual total from January, 2020 to December 31, 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 2-10 will be limited by the aforementioned Medical Care CPI-U for the immediately preceding Term, or 10%, whichever is less.

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	_____
Other Direct Costs	_____
Total Direct Costs	_____
Overhead mark-up (14% of Total Direct Costs)	_____
Sub-Total Cost	_____
Repair & Maintenance (* 1.15)	_____
Profit mark-up (15% of Total Direct Costs)	_____
Total Direct Costs (Overhead + R&M + Profit totals)	_____
Utilities	
-Electricity	_____
-Natural Gas	_____
-Other	_____
Total Utilities	_____
Minor Capital	_____
Total Contract Price	_____
Monthly Payment to CONTRACTOR	_____

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 a Profit mark-up for its direct expenses associated with Contingency Funding. For any project that requires outside assistance, a negotiated overhead fee will be agreed upon prior to proceeding with such project; provided that CONTRACTOR shall have no obligation to complete any project when it and the CITY cannot reach agreement on such overhead fee. 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. 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 final Term (or prorated portion thereof) and a reconciliation of such amount with the amounts actually paid by the CITY, which reconciliation shall provide 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. 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 the current MPDES Permit No. MT-0021920, 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. 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 material 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	800 RIVER DRIVE NORTH
2	611 RIVER DRIVE NORTH
3	11 1 ST AVE. NORTH
4	23 RIVER DRIVE SOUTH
5	1705 39 TH ST. SOUTH
6	4616 13 TH AVENUE SOUTH
7	3500 15 TH AVENUE SOUTH
9	5100 1 ST AVENUE SOUTH
10	4600 7 TH AVENUE NORTH
12	503 RIVER DRIVE SOUTH
14	512 6 TH STREET SW
15	810 10 TH AVENUE SW
16	1326 5 TH ST NW
17	4199 GIANT SPRINGS ROAD
18	1716 3 RD AVENUE SW

- 19 1601 2ND AVENUE SW
- 20 833 13TH STREET SW
- 21 2001 14TH ST SW
- 22 2801 TERMINAL DRIVE
- 23 3114 SOUTH LOWER RIVER ROAD
- 24 704 JUNIPER AVENUE
- 25 2619 COYOTE LANE
- 26 5401 2nd AVENUE NORTH
- 27 4122 NORTH STAR BLVD
- 28 1715 WHISPERING RIDGE DRIVE
- 29 3503 2ND STREET NE
- 30 122 BLACK EAGLE ROAD
- 31 4403 9th STREET NE
- 32 3314 LOWER RIVER ROAD
- 33 36 43rd AVENUE NE

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 and Capital Improvement Responsibilities:

A. A maintenance program for the Facilities shall be employed 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.

CONTRACTOR shall prepare a summary Annual Report to describe the maintenance standing and significant occurrences of the relevant year. Each Annual Report 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 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 \$150,000 per Term for each of the 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. 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% 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.

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 material 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 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. 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 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 14% and Profit mark-up of 15%. 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, 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 in the following amounts is required:

- 1. Commercial General Liability*
 - \$4,000,000 per occurrence
 - \$8,000,000 general aggregate
 - \$8,000,000 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 coverage requirements as set forth above.

19. RENEWAL

- 1) Subject to 19.2, the term of the contract may be extended by the CITY in accordance with MCA 7-5-4301(2)(b)(ii).
- 2) If CITY desires to renew or extend this Agreement, it shall give written notice to CONTRACTOR ninety (90) days prior to the termination date, which renewal or extension shall require the written consent of CONTRACTOR. 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, so that the CITY may agree on which conditional terms are acceptable to the CITY.

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.
- 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 services and deliverables 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 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.

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: _____

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 2020

Attachment B
Montana Prevailing Wage Rates for Heavy Construction Services 2020

MONTANA
PREVAILING WAGE RATES FOR NONCONSTRUCTION SERVICES 2020

Effective: January 2, 2020

Steve Bullock, Governor
State of Montana

Galen Hollenbaugh, Commissioner
Department of Labor & Industry

To obtain copies of prevailing wage rate schedules, or for information relating to public works projects and payment of prevailing wage rates, visit ERD at www.mtwagehourbopa.com or contact:

Employment Relations Division
Montana Department of Labor and Industry
P. O. Box 201503
Helena, MT 59620-1503
Phone 406-444-6543

The department welcomes questions, comments, and suggestions from the public. In addition, we'll do our best to provide information in an accessible format, upon request, in compliance with the Americans with Disabilities Act.

MONTANA PREVAILING WAGE REQUIREMENTS

The Commissioner of the Department of Labor and Industry, in accordance with Sections 18-2-401 and 18-2-402 of the Montana Code Annotated (MCA), has determined the standard prevailing rate of wages for the occupations listed in this publication.

The wages specified herein control the prevailing rate of wages for the purposes of Section 18-2-401, et seq., MCA. It is required each employer pay (as a minimum) the rate of wages, including fringe benefits, travel allowance, zone pay and per diem applicable to the district in which the work is being performed as provided in the attached wage determinations.

All Montana Prevailing Wage Rates are available on the Internet at www.mtwagehourbopa.com or by contacting the department at (406) 444-6543.

In addition, this publication provides general information concerning compliance with Montana's Prevailing Wage Law and the payment of prevailing wages. For detailed compliance information relating to public works contracts and payment of prevailing wage rates, please consult the regulations on the internet at www.mtwagehourbopa.com or contact the department at (406) 444-6543.

GALEN HOLLENBAUGH
Commissioner
Department of Labor and Industry
State of Montana

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Food Service and Cooking	17
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A. Date of Publication January 2, 2020

B. Definition of Nonconstruction Services Occupations

Section 18-2-401(9)(a)-(9)(l), MCA defines "nonconstruction services" as "...work performed by an individual, not including management, office, or clerical work, for:

- (a) the maintenance of publicly owned buildings and facilities, including public highways, roads, streets, and alleys;
- (b) custodial or security services for publicly owned buildings and facilities;
- (c) grounds maintenance for publicly owned property;
- (d) the operation of public drinking water supply, waste collection, and waste disposal systems;
- (e) law enforcement, including janitors and prison guards;
- (f) fire protection;
- (g) public or school transportation driving;
- (h) nursing, nurse's aid services, and medical laboratory technician services;
- (i) material and mail handling;
- (j) food service and cooking;
- (k) motor vehicle and construction equipment repair and servicing; and
- (l) appliance and office machine repair and servicing."

C. Definition of Public Works Contract

Section 18-2-401(11)(a), MCA defines "public works contract" as "...a contract for construction services let by the state, county, municipality, school district, or political subdivision or for nonconstruction services let by the state, county, municipality, or political subdivision in which the total cost of the contract is in excess of \$25,000..."

D. Prevailing Wage Schedule

This publication covers only Nonconstruction Service occupations and rates. These rates will remain in effect until superseded by a more current publication. Current prevailing wage rate schedules for Heavy, Highway, and Building Construction occupations can be found on the Internet at www.mtwagehourbopa.com or by contacting the department at (406) 444-6543.

E. Rates to Use for Projects

ARM, 24.17.127(1)(c), states "The wage rates applicable to a particular public works project are those in effect at the time the bid specifications are advertised."

F. Wage Rate Adjustments for Multiyear Contracts

Section 18-2-417, MCA states:

"(1) Any public works contract that by the terms of the original contract calls for more than 30 months to fully perform must include a provision to adjust, as provided in subsection (2), the standard prevailing rate of wages to be paid to the workers performing the contract.

(2) The standard prevailing rate of wages paid to workers under a contract subject to this section must be adjusted 12 months after the date of the award of the public works contract. The amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract.

(3) Any increase in the standard rate of prevailing wages for workers under this section is the sole responsibility of the contractor and any subcontractors and not the contracting agency."

G. Fringe Benefits

Section 18-2-412, MCA states:

"(1) To fulfill the obligation...a contractor or subcontractor may:

(a) pay the amount of fringe benefits and the basic hourly rate of pay that is part of the standard prevailing rate of wages directly to the worker or employee in cash;

(b) make an irrevocable contribution to a trustee or a third person pursuant to a fringe benefit fund, plan, or program that meets the requirements of the Employee Retirement Income Security Act of 1974 or that is a bona fide program approved by the U. S. department of labor; or

(c) make payments using any combination of methods set forth in subsections (1)(a) and (1)(b) so that the aggregate of payments and contributions is not less than the standard prevailing rate of wages, including fringe benefits and travel allowances, applicable to the district for the particular type of work being performed.

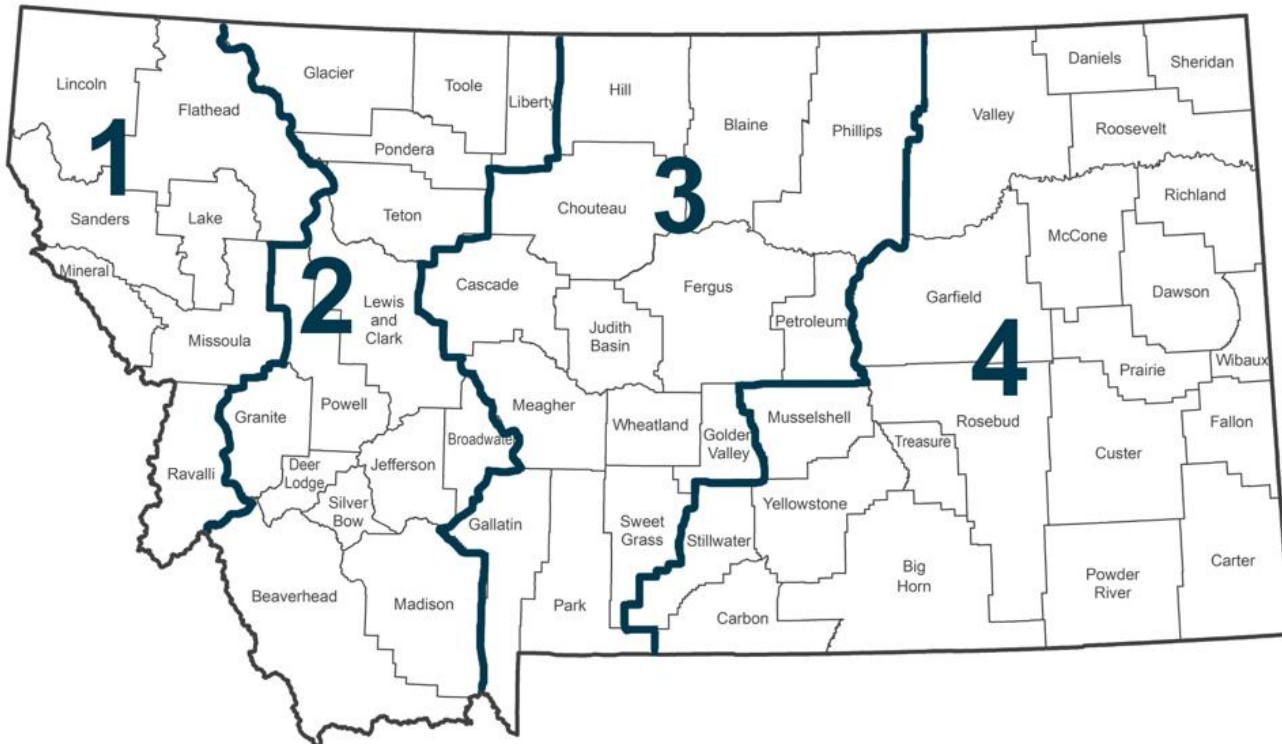
(2) The fringe benefit fund, plan, or program described in subsection (1)(b) must provide benefits to workers or employees for health care, pensions on retirement or death, life insurance, disability and sickness insurance, or bona fide programs that meet the requirements of the Employee Retirement Income Security Act of 1974 or that are approved by the U. S. department of labor."

Fringe benefits are paid for all hours worked (straight time and overtime hours). However, fringe benefits are not to be considered a part of the hourly rate of pay for calculating overtime, unless there is a collectively bargained agreement in effect that specifies otherwise.

H. Prevailing Wage Districts

Montana counties are aggregated into 4 districts for the purpose of prevailing wage. The prevailing wage districts are composed of the following counties:

Montana Prevailing Wage Districts



I. Dispatch City

ARM, 24.17.103(11), defines dispatch city as “...the courthouse in the city from the following list which is closest to the center of the job: Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, and Missoula.” A dispatch city shall be considered the point of origin only for jobs within the counties identified in that district (as shown below):

- District 1 – Kalispell and Missoula:** includes Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders;
- District 2 – Butte and Helena:** includes Beaverhead, Broadwater, Deer Lodge, Glacier, Granite, Jefferson, Lewis and Clark, Liberty, Madison, Pondera, Powell, Silver Bow, Teton, and Toole;
- District 3 – Bozeman and Great Falls:** includes Blaine, Cascade, Chouteau, Fergus, Gallatin, Golden Valley, Hill, Judith Basin, Meagher, Park, Petroleum, Phillips, Sweet Grass, and Wheatland;
- District 4 – Billings:** includes Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone, Musselshell, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Treasure, Valley, Wibaux, and Yellowstone.

J. Zone Pay

Zone pay is not travel pay. ARM, 24.17.103(24), defines zone pay as “...an amount added to the base pay; the combined sum then becomes the new base wage rate to be paid for all hours worked on the project. Zone pay must be determined by measuring the road miles one way over the shortest practical maintained route from the dispatch city to the center of the job.” See section I above for a list of dispatch cities.

K. Computing Travel Benefits

ARM, 24.17.103(22), states “ ‘Travel pay,’ also referred to as ‘travel allowance,’ is and must be paid for travel both to and from the job site, except those with special provisions listed under the classification. The rate is determined by measuring the road miles one direction over the shortest practical maintained route from the dispatch city or the employee’s home, whichever is closer, to the center of the job.” See section I above for a list of dispatch cities.

L. Per Diem

ARM, 24.17.103(18), states “ ‘Per diem’ typically covers costs associated with board and lodging expenses. Per diem is paid when an employee is required to work at a location outside the daily commuting distance and is required to stay at that location overnight or longer.”

M. Apprentices

Wage rates for apprentices registered in approved federal or state apprenticeship programs are contained in those programs. Additionally, section 18-2-416(2), MCA states “...The full amount of any applicable fringe benefits must be paid to the apprentice while the apprentice is working on the public works contract.” Apprentices not registered in approved federal or state apprenticeship programs will be paid the appropriate journey level prevailing wage rate when working on a public works contract.

N. Posting Notice of Prevailing Wages

Section 18-2-406, MCA provides that contractors, subcontractors and employers who are “...performing work or providing construction services under public works contracts, as provided in this part, shall post in a prominent and accessible site on the project or staging area, not later than the first day of work and continuing for the entire duration of the project, a legible statement of all wages and fringe benefits to be paid to the employees.”

O. Employment Preference

Sections 18-2-403 and 18-2-409, MCA requires contractors to give preference to the employment of bona fide Montana residents in the performance of work on public works contracts.

P. Occupations Definitions

You can find definitions for these occupations on the following Bureau of Labor Statistics website:
http://www.bls.gov/oes/current/oes_stru.htm

Q. Nonconstruction Services Occupations**MAINTENANCE OF PUBLICLY OWNED BUILDINGS AND FACILITIES**

ELEVATOR REPAIRERS
 MAINTENANCE AND REPAIR WORKERS
 STATIONARY ENGINEERS AND BOILER OPERATORS

CUSTODIAL OR SECURITY SERVICES FOR PUBLICLY OWNED BUILDINGS AND FACILITIES

ENVIRONMENTAL SERVICES WORKERS
 JANITORS AND CLEANERS
 PARKING ENFORCEMENT WORKERS
 PARKING LOT ATTENDANTS
 SECURITY AND FIRE ALARM SYSTEMS REPAIRERS
 SECURITY GUARDS

GROUNDS MAINTENANCE FOR PUBLICLY OWNED PROPERTY

FALLERS
 FOREST AND CONSERVATION TECHNICIANS
 FOREST AND CONSERVATION WORKERS
 FOREST EQUIPMENT OPERATORS
 LANDSCAPING AND GROUNDSKEEPING WORKERS
 MATERIAL MOVING WORKERS, (ALL OTHER)
 MEDIUM TRUCK DRIVERS
 PEST CONTROL WORKERS
 PESTICIDE HANDLERS, SPRAYERS, AND APPLICATORS, (VEGETATION)
 TREE TRIMMERS AND PRUNERS, (RIGHT AWAY)

**OPERATION OF PUBLIC DRINKING WATER SUPPLY,
WASTE COLLECTION, AND WASTE DISPOSAL SYSTEMS**

HEAVY AND TRACTOR TRAILER TRUCK DRIVERS
LANDFILL ATTENDANTS
LANDFILL EQUIPMENT OPERATORS
RECYCLING AND RECLAMATION WORKERS
REFUSE AND RECYCLABLE MATERIALS COLLECTORS
WATER AND WASTEWATER TREATMENT PLANT AND SYSTEM OPERATORS

LAW ENFORCEMENT, INCLUDING CORRECTION AND DETENTION OFFICERS

CORRECTION AND DETENTION OFFICERS
POLICE, FIRE, AND AMBULANCE DISPATCHERS
PROBATION OFFICERS AND CORRECTIONAL TREATMENT SPECIALISTS

FIRE PROTECTION

FIRE EXTINGUISHER REPAIRERS
FOREST FIREFIGHTERS

PUBLIC OR SCHOOL TRANSPORTATION DRIVING

BUS DRIVERS, (SCHOOL OR SPECIAL CLIENT)
BUS DRIVERS, (TRANSIST AND INTERCITY)
LIGHT TRUCK OR DELIVERY SERVICES DRIVERS, (INCLUDES VAN DRIVERS)

NURSING, NURSE'S AID SERVICES, AND MEDICAL LABORATORY TECHNICIAN SERVICES

BREATH ALCOHOL TECHNICIANS
CLINICAL LABORATORY TECHNICIANS AND TECHNOLOGISTS
EMERGENCY MEDICAL TECHNICIANS AND PARAMEDICS
HOME HEALTH AIDES
LICENSED PRACTICAL NURSES
NURSING ASSISTANTS
NURSE PRACTITIONERS
PERSONAL CARE AIDES
PHYSICIANS ASSISTANTS
REGISTERED NURSES

MATERIAL AND MAIL HANDLING

FREIGHT, STOCK, AND MATERIAL HANDLERS

FOOD SERVICE AND COOKING

COOKS, (INSTITUTION AND CAFETERIA)
FOOD PREPARATION AND SERVING RELATED WORKERS

MOTOR VEHICLE AND CONSTRUCTION EQUIPMENT REPAIR AND SERVICING

AUTOMOTIVE MASTER MECHANICS
BUS AND TRUCK MECHANICS AND DIESEL ENGINE SPECIALISTS
CONSTRUCTION EQUIPMENT MECHANICS

APPLIANCE AND OFFICE MACHINE REPAIR AND SERVICING

APPLIANCE MECHANICS
COMPUTER, AUTOMATED TELLER, AND OFFICE MACHINE REPAIRERS
COMPUTER USER SUPPORT SPECIALISTS

WAGE RATES

MAINTENANCE OF PUBLICLY OWNED BUILDINGS AND FACILITIES

ELEVATOR REPAIRERS

	Wage	Benefit
District 1	\$54.09	\$34.12
District 2	\$54.09	\$34.12
District 3	\$54.09	\$34.12
District 4	\$54.09	\$34.12

Travel:

All Districts

0-15 mi. free zone

>15-25 mi. \$43.25/day

>25-35 mi. \$86.49/day

>35 mi. \$84.90/day or cost of receipts for hotel and meals, whichever is greater.

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MAINTENANCE AND REPAIR WORKERS

	Wage	Benefit
District 1	\$17.58	\$ 5.26
District 2	\$18.33	\$ 7.51
District 3	\$18.42	\$ 9.71
District 4	\$19.92	\$ 7.28

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STATIONARY ENGINEERS AND BOILER OPERATORS

	Wage	Benefit
District 1	\$24.90	\$ 7.41
District 2	\$19.90	\$11.38
District 3	\$18.67	\$12.35
District 4	\$18.83	\$12.31

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CUSTODIAL OR SECURITY SERVICES FOR PUBLICLY OWNED BUILDINGS AND FACILITIES

ENVIRONMENTAL SERVICES WORKERS

	Wage	Benefit
District 1	\$11.19	\$4.12
District 2	\$12.28	\$4.12
District 3	\$12.79	\$4.90
District 4	\$13.18	\$3.65

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JANITORS AND CLEANERS

	Wage	Benefit
District 1	\$12.37	\$3.08
District 2	\$13.54	\$4.34
District 3	\$15.54	\$7.33
District 4	\$14.03	\$5.68

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PARKING ENFORCEMENT WORKERS

No Rate Established

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PARKING LOT ATTENDANTS

No Rate Established

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SECURITY AND FIRE ALARM SYSTEMS REPAIRERS

No Rate Established

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SECURITY GUARDS

	Wage	Benefit
District 1	\$10.00	\$1.00
District 2	\$10.40	\$1.49
District 3	\$10.00	\$1.49
District 4	\$13.00	\$1.49

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GROUNDS MAINTENANCE FOR PUBLICLY OWNED PROPERTY**FALLERS**

No Rate Established

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FOREST AND CONSERVATION TECHNICIANS**No Rate Established**[↑ Back to Table of Contents](#)**FOREST AND CONSERVATION WORKERS**

	Wage	Benefit
District 1	\$15.59	\$0.00
District 2	\$15.77	\$0.00
District 3	\$15.95	\$0.00
District 4	\$15.77	\$0.00

[↑ Back to Table of Contents](#)**FOREST EQUIPMENT OPERATORS**

	Wage	Benefit
District 1	\$15.53	\$0.00
District 2	\$15.53	\$0.00
District 3	\$15.53	\$0.00
District 4	\$15.53	\$0.00

[↑ Back to Table of Contents](#)**LANDSCAPING AND GROUNDSKEEPING WORKERS**

	Wage	Benefit
District 1	\$15.75	\$3.18
District 2	\$13.47	\$5.13
District 3	\$15.26	\$6.58
District 4	\$15.42	\$6.22

Duties Include:

Shovel snow from walks, driveways, or parking lots and spread salt in those areas. Grounds maintenance of cemeteries.

[↑ Back to Table of Contents](#)**MATERIAL MOVING WORKERS, (ALL OTHER)**

	Wage	Benefit
District 1	\$21.57	\$ 7.48
District 2	\$22.96	\$10.88
District 3	\$18.00	\$ 7.89
District 4	\$23.83	\$ 9.80

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MEDIUM TRUCK DRIVERS

	Wage	Benefit
District 1	\$17.87	\$0.00
District 2	\$17.64	\$0.00
District 3	\$17.87	\$0.00
District 4	\$17.87	\$0.00

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PEST CONTROL WORKERS

	Wage	Benefit
District 1	\$16.81	\$0.00
District 2	\$16.81	\$0.00
District 3	\$17.18	\$0.00
District 4	\$17.18	\$0.00

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PESTICIDE HANDLERS, SPRAYERS, AND APPLICATORS, (VEGETATION)

	Wage	Benefit
District 1	\$19.50	\$8.30
District 2	\$14.95	\$5.70
District 3	\$13.67	\$4.82
District 4	\$17.93	\$6.27

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TREE TRIMMERS AND PRUNERS, (RIGHT AWAY)

	Wage	Benefit
District 1	\$19.35	\$7.46
District 2	\$17.91	\$7.46
District 3	\$22.74	\$8.97
District 4	\$26.85	\$9.23

Travel:**All Districts**

0-25 mi. - free zone

>25-50 mi. - \$20.00/day

>50 mi. - \$70.00/day

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OPERATION OF PUBLIC DRINKING WATER SUPPLY, WASTE COLLECTION, AND WASTE DISPOSAL SYSTEMS

HEAVY AND TRACTOR-TRAILER TRUCK DRIVERS

	Wage	Benefit
District 1	\$22.27	\$ 7.54
District 2	\$20.49	\$ 7.53
District 3	\$18.35	\$ 7.19
District 4	\$18.35	\$ 7.19

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LANDFILL ATTENDANTS

	Wage	Benefit
District 1	\$17.76	\$9.00
District 2	\$17.22	\$8.67
District 3	\$17.22	\$8.67
District 4	\$17.22	\$8.67

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LANDFILL EQUIPMENT OPERATORS

	Wage	Benefit
District 1	\$22.10	\$7.64
District 2	\$21.42	\$8.30
District 3	\$20.12	\$8.22
District 4	\$19.40	\$7.66

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RECYCLING AND RECLAMATION WORKERS

No Rate Established

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REFUSE AND RECYCLABLE MATERIALS COLLECTORS

	Wage	Benefit
District 1	\$21.88	\$ 7.11
District 2	\$23.00	\$13.10
District 3	\$21.05	\$ 6.14
District 4	\$21.23	\$ 7.03

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WATER AND WASTEWATER TREATMENT PLANT AND SYSTEM OPERATORS

	Wage	Benefit
District 1	\$22.23	\$10.21
District 2	\$24.19	\$ 7.79
District 3	\$22.65	\$ 9.32
District 4	\$23.81	\$ 8.85

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LAW ENFORCEMENT, INCLUDING CORRECTION AND DETENTION OFFICERS**CORRECTION AND DETENTION OFFICERS**

	Wage	Benefit
District 1	\$22.61	\$ 8.94
District 2	\$19.17	\$12.95
District 3	\$17.12	\$ 8.59
District 4	\$20.19	\$12.14

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POLICE, FIRE, AND AMBULANCE DISPATCHERS

	Wage	Benefit
District 1	\$20.41	\$ 7.28
District 2	\$18.91	\$10.27
District 3	\$15.73	\$ 5.73
District 4	\$22.67	\$ 7.82

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PROBATION OFFICERS AND CORRECTIONAL TREATMENT SPECIALISTS

	Wage	Benefit
District 1	\$23.30	\$13.71
District 2	\$22.39	\$13.53
District 3	\$22.74	\$13.55
District 4	\$22.22	\$13.62

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FIRE PROTECTION**FIRE EXTINGUISHER REPAIRERS**

No Rate Established

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FOREST FIREFIGHTERS

	Wage	Benefit
District 1	\$17.07	\$3.40
District 2	\$12.00	\$3.87
District 3	\$25.00	\$5.70
District 4	\$24.05	\$5.35

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PUBLIC OR SCHOOL TRANSPORTATION DRIVING**BUS DRIVERS, (SCHOOL OR SPECIAL CLIENT)**

	Wage	Benefit
District 1	\$15.71	\$3.57
District 2	\$15.44	\$4.05
District 3	\$17.11	\$4.83
District 4	\$18.00	\$3.64

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BUS DRIVERS, (TRANSIT AND INTERCITY)

	Wage	Benefit
District 1	\$16.65	\$7.06
District 2	\$18.17	\$5.65
District 3	\$16.96	\$6.63
District 4	\$20.66	\$7.44

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LIGHT TRUCK OR DELIVERY SERVICES DRIVERS, (INCLUDES VAN DRIVERS)

	Wage	Benefit
District 1	\$12.00	\$2.74
District 2	\$11.54	\$3.40
District 3	\$14.99	\$3.72
District 4	\$13.20	\$3.68

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NURSING, NURSE'S AID SERVICES, AND MEDICAL LABORATORY TECHNICIAN SERVICES**BREATH ALCOHOL TECHNICIANS**

No Rate Established

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CLINICAL LABORATORY TECHNICAINS AND TECHNOLOGISTS

	Wage	Benefit
District 1	\$31.79	\$ 8.45
District 2	\$32.58	\$..6.96
District 3	\$29.32	\$ 6.12
District 4	\$31.03	\$ 7.84

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EMERGENCY MEDICAL TECHNICIANS AND PARAMEDICS

	Wage	Benefit
District 1	\$15.83	\$3.52
District 2	\$17.40	\$4.69
District 3	\$18.85	\$6.67
District 4	\$17.45	\$5.20

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HOME HEALTH AIDES

	Wage	Benefit
District 1	\$11.09	\$2.95
District 2	\$11.78	\$0.30
District 3	\$11.67	\$1.75
District 4	\$11.41	\$0.30

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LICENSED PRACTICAL NURSES

	Wage	Benefit
District 1	\$22.52	\$5.23
District 2	\$21.70	\$6.89
District 3	\$21.19	\$5.67
District 4	\$23.51	\$6.39

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NURSING ASSISTANTS

	Wage	Benefit
District 1	\$13.10	\$2.56
District 2	\$14.01	\$5.94
District 3	\$13.71	\$3.57
District 4	\$14.53	\$4.09

Occupations Include:
Certified Nursing Assistants, Hospital Aides, Infirmary Attendants

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NURSE PRACTITIONERS

	Wage	Benefit
District 1	\$50.69	\$11.68
District 2	\$48.78	\$ 8.22
District 3	\$51.46	\$ 8.14
District 4	\$55.64	\$13.80

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PERSONAL CARE AIDES

	Wage	Benefit
District 1	\$11.09	\$2.95
District 2	\$11.78	\$0.30
District 3	\$11.67	\$1.75
District 4	\$11.41	\$0.30

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PHYSICIANS ASSISTANTS

	Wage	Benefit
District 1	\$49.76	\$13.09
District 2	\$52.73	\$10.38
District 3	\$57.04	\$10.24
District 4	\$55.18	\$12.21

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REGISTERED NURSES

	Wage	Benefit
District 1	\$30.31	\$6.83
District 2	\$33.13	\$8.31
District 3	\$28.97	\$6.17
District 4	\$33.95	\$8.80

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MATERIAL AND MAIL HANDLING**FREIGHT, STOCK, AND MATERIAL HANDLERS**

	Wage	Benefit
District 1	\$13.94	\$0.00
District 2	\$14.14	\$0.00
District 3	\$14.14	\$0.00
District 4	\$14.14	\$0.00

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FOOD SERVICE AND COOKING

COOKS, (INSTITUTION AND CAFETERIA)

	Wage	Benefit
District 1	\$14.08	\$3.77
District 2	\$14.35	\$4.36
District 3	\$12.93	\$4.29
District 4	\$14.73	\$4.60

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FOOD PREPARATION AND SERVING RELATED WORKERS

	Wage	Benefit
District 1	\$11.02	\$2.06
District 2	\$11.55	\$3.20
District 3	\$11.03	\$4.24
District 4	\$12.10	\$3.19

Occupations Include:

Dietary Aides, Counter Attendants, and Dining Room Attendants.

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MOTOR VEHICLE AND CONSTRUCTION EQUIPMENT REPAIR AND SERVICING

AUTOMOTIVE MASTER MECHANICS

	Wage	Benefit
District 1	\$21.42	\$2.33
District 2	\$20.64	\$4.44
District 3	\$22.68	\$4.60
District 4	\$23.94	\$4.97

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BUS AND TRUCK MECHANICS AND DIESEL ENGINE SPECIALISTS

	Wage	Benefit
District 1	\$20.29	\$2.38
District 2	\$23.99	\$5.45
District 3	\$23.60	\$5.46
District 4	\$22.63	\$4.73

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CONSTRUCTION EQUIPMENT MECHANICS

	Wage	Benefit
District 1	\$24.92	\$8.41
District 2	\$22.51	\$8.85
District 3	\$23.38	\$9.27
District 4	\$24.00	\$8.82

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APPLIANCE AND OFFICE MACHINE REPAIR AND SERVICING**APPLIANCE MECHANICS**

	Wage	Benefit
District 1	\$13.91	\$0.00
District 2	\$13.91	\$0.00
District 3	\$13.91	\$0.00
District 4	\$13.91	\$0.00

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COMPUTER, AUTOMATED TELLER, AND OFFICE MACHINE REPAIRERS

No Rate Established

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COMPUTER USER SUPPORT SPECIALISTS

	Wage	Benefit
District 1	\$24.58	\$5.87
District 2	\$23.46	\$7.99
District 3	\$24.42	\$9.73
District 4	\$27.00	\$9.77

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MONTANA PREVAILING WAGE RATES FOR HEAVY CONSTRUCTION SERVICES 2020

Effective: January 2, 2020

**Steve Bullock, Governor
State of Montana**

**Galen Hollenbaugh, Commissioner
Department of Labor and Industry**

To obtain copies of prevailing wage rate schedules, or for information relating to public works projects and payment of prevailing wage rates, visit ERD at www.mtwagehourbopa.com or contact:

Employment Relations Division
Montana Department of Labor and Industry
P. O. Box 201503
Helena, MT 59620-1503
Phone 406-444-6543

The department welcomes questions, comments, and suggestions from the public. In addition, we'll do our best to provide information in an accessible format, upon request, in compliance with the Americans with Disabilities Act.

MONTANA PREVAILING WAGE REQUIREMENTS

The Commissioner of the Department of Labor and Industry, in accordance with Sections 18-2-401 and 18-2-402 of the Montana Code Annotated (MCA), has determined the standard prevailing rate of wages for the occupations listed in this publication.

The wages specified herein control the prevailing rate of wages for the purposes of Section 18-2-401, et seq., MCA. It is required each employer pay (as a minimum) the rate of wages, including fringe benefits, travel allowance, zone pay and per diem applicable to the district in which the work is being performed as provided in the attached wage determinations.

All Montana Prevailing Wage Rates are available on the internet at www.mtwagehourbopa.com or by contacting the department at (406) 444-6543.

In addition, this publication provides general information concerning compliance with Montana's Prevailing Wage Law and the payment of prevailing wages. For detailed compliance information relating to public works contracts and payment of prevailing wage rates, please consult the regulations on the internet at www.mtwagehourbopa.com or contact the department at (406) 444-6543.

GALEN HOLLENBAUGH
Commissioner
Department of Labor and Industry
State of Montana

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A. Date of Publication January 2, 2020**B. Definition of Heavy Construction**

The Administrative Rules of Montana (ARM), 24.17.501(4) – (4)(a), states “*Heavy construction projects include, but are not limited to, those projects that are not properly classified as either ‘building construction’, or ‘highway construction.’*”

Heavy construction projects include, but are not limited to, antenna towers, bridges (major bridges designed for commercial navigation), breakwaters, caissons (other than building or highway), canals, channels, channel cut-offs, chemical complexes or facilities (other than buildings), cofferdams, coke ovens, dams, demolition (not incidental to construction), dikes, docks, drainage projects, dredging projects, electrification projects (outdoor), fish hatcheries, flood control projects, industrial incinerators (other than building), irrigation projects, jetties, kilns, land drainage (not incidental to other construction), land leveling (not incidental to other construction), land reclamation, levees, locks and waterways, oil refineries (other than buildings), pipe lines, ponds, pumping stations (prefabricated drop-in units – not buildings), railroad construction, reservoirs, revetments, sewage collection and disposal lines, sewers (sanitary, storm, etc.), shoreline maintenance, ski tows, storage tanks, swimming pools (outdoor), subways (other than buildings), tipples, tunnels, unsheltered piers and wharves, viaducts (other than highway), water mains, waterway construction, water supply lines (not incidental to building), water and sewage treatment plants (other than buildings) and wells.”

C. Definition of Public Works Contract

Section 18-2-401(11)(a), MCA defines “public works contract” as “...*a contract for construction services let by the state, county, municipality, school district, or political subdivision or for nonconstruction services let by the state, county, municipality, or political subdivision in which the total cost of the contract is in excess of \$25,000...*”.

D. Prevailing Wage Schedule

This publication covers only Heavy Construction occupations and rates in the specific localities mentioned herein. These rates will remain in effect until superseded by a more current publication. Current prevailing wage rate schedules for Building Construction, Highway Construction and Nonconstruction Services occupations can be found on the internet at www.mtwagehourbopa.com or by contacting the department at (406) 444-6543.

E. Rates to Use for Projects

ARM, 24.17.127(1)(c), states “*The wage rates applicable to a particular public works project are those in effect at the time the bid specifications are advertised.*”

F. Wage Rate Adjustments for Multiyear Contracts

Section 18-2-417, MCA states:

“(1) Any public works contract that by the terms of the original contract calls for more than 30 months to fully perform must include a provision to adjust, as provided in subsection (2), the standard prevailing rate of wages to be paid to the workers performing the contract.

(2) The standard prevailing rate of wages paid to workers under a contract subject to this section must be adjusted 12 months after the date of the award of the public works contract. The amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract.

(3) Any increase in the standard rate of prevailing wages for workers under this section is the sole responsibility of the contractor and any subcontractors and not the contracting agency.”

G. Fringe Benefits

Section 18-2-412, MCA states:

“(1) To fulfill the obligation...a contractor or subcontractor may:

(a) pay the amount of fringe benefits and the basic hourly rate of pay that is part of the standard prevailing rate of wages directly to the worker or employee in cash;

(b) make an irrevocable contribution to a trustee or a third person pursuant to a fringe benefit fund, plan, or program that meets the requirements of the Employee Retirement Income Security Act of 1974 or that is a bona fide program approved by the U. S. department of labor; or

(c) make payments using any combination of methods set forth in subsections (1)(a) and (1)(b) so that the aggregate of payments and contributions is not less than the standard prevailing rate of wages, including fringe benefits and travel allowances, applicable to the district for the particular type of work being performed.

(2) The fringe benefit fund, plan, or program described in subsection (1)(b) must provide benefits to workers or employees for health care, pensions on retirement or death, life insurance, disability and sickness insurance, or bona fide programs that meet the requirements of the Employee Retirement Income Security Act of 1974 or that are approved by the U. S. department of labor.”

Fringe benefits are paid for all hours worked (straight time and overtime hours). However, fringe benefits are not to be considered a part of the hourly rate of pay for calculating overtime, unless there is a collectively bargained agreement in effect that specifies otherwise.

H. Dispatch City

ARM, 24.17.103(11), defines dispatch city as *“...the courthouse in the city from the following list which is closest to the center of the job: Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, and Missoula.”*

I. Zone Pay

Zone pay is not travel pay. ARM, 24.17.103(24), defines zone pay as *“...an amount added to the base pay; the combined sum then becomes the new base wage rate to be paid for all hours worked on the project. Zone pay must be determined by measuring the road miles one way over the shortest practical maintained route from the dispatch city to the center of the job.”* See section H above for a list of dispatch cities.

J. Computing Travel Benefits

ARM, 24.17.103(22), states *“ ‘Travel pay,’ also referred to as ‘travel allowance,’ is and must be paid for travel both to and from the job site, except those with special provisions listed under the classification. The rate is determined by measuring the road miles one direction over the shortest practical maintained route from the dispatch city or the employee's home, whichever is closer, to the center of the job.”* See section H above for a list of dispatch cities.

K. Per Diem

ARM, 24.17.103(18), states *“ ‘Per diem’ typically covers costs associated with board and lodging expenses. Per diem is paid when an employee is required to work at a location outside the daily commuting distance and is required to stay at that location overnight or longer.”*

L. Apprentices

Wage rates for apprentices registered in approved federal or state apprenticeship programs are contained in those programs. Additionally, Section 18-2-416(2), MCA states, *“...The full amount of any applicable fringe benefits must be paid to the apprentice while the apprentice is working on the public works contract.”* Apprentices not registered in approved federal or state apprenticeship programs will be paid the appropriate journey level prevailing wage rate when working on a public works contract.

M. Posting Notice of Prevailing Wages

Section 18-2-406, MCA, provides that contractors, subcontractors, and employers who are "...performing work or providing construction services under public works contracts, as provided in this part, shall post in a prominent and accessible site on the project or staging area, not later than the first day of work and continuing for the entire duration of the project, a legible statement of all wages and fringe benefits to be paid to the employees."

N. Employment Preference

Sections 18-2-403 and 18-2-409, MCA require contractors to give preference to the employment of bona fide Montana residents in the performance of work on public works contracts.

O. Projects of a Mixed Nature

Section 18-2-408, MCA states:

"(1) The contracting agency shall determine, based on the preponderance of labor hours to be worked, whether the public works construction services project is classified as a highway construction project, a heavy construction project, or a building construction project.

(2) Once the project has been classified, employees in each trade classification who are working on that project must be paid at the rate for that project classification"

P. Occupations Definitions

You can find definitions for these occupations on the following Bureau of Labor Statistics website:

http://www.bls.gov/oes/current/oes_stru.htm

Q. Welder Rates

Welders receive the rate prescribed for the craft performing an operation to which welding is incidental.

R. Foreman Rates

Rates are no longer set for foremen. However, if a foreman performs journey level work, the foreman must be paid at least the journey level rate.

WAGE RATES

BOILERMAKERS

Wage	Benefit
\$33.17	\$30.88

Duties Include:

Construct, assemble, maintain, and repair stationary steam boilers, boiler house auxiliaries, process vessels, pressure vessels and penstocks. Bulk storage tanks and bolted steel tanks.

Travel:

All Districts

0-120 mi. free zone

>120 mi. federal mileage rate/mi.

Special Provision:

Travel is paid only at the beginning and end of the job.

Per Diem:

All Districts

0-70 mi. free zone

>70-120 mi. \$65.00/day

>120 mi. \$80.00/day

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BRICK, BLOCK, AND STONE MASONS

Wage	Benefit
\$33.68	\$14.89

Travel:

0-20 mi. free zone

>20-35 mi. \$30.00/day

>35-55 mi. \$35.00/day

>55 mi. \$65.00/day

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CARPENTERS

Wage	Benefit
\$31.00	\$13.57

Zone Pay:

0-30 mi. free zone

>30-60 mi. base pay + \$4.00/hr.

>60 mi. base pay + \$6.00/hr.

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CEMENT MASONS AND CONCRETE FINISHERS

Wage	Benefit
\$22.85	\$12.64

Duties Include:

Smooth and finish surfaces of poured concrete, such as floors, walks, sidewalks, or curbs. Align forms for sidewalks, curbs, or gutters.

Zone Pay:

0-30 mi. free zone
 >30-60 mi. base pay + \$2.95/hr.
 >60 mi. base pay + \$4.75/hr.

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CONSTRUCTION EQUIPMENT OPERATORS GROUP 1

Wage	Benefit
\$27.91	\$13.55

This group includes but is not limited to:

Air Compressor; Auto Fine Grader; Belt Finishing; Boring Machine (Small); Cement Silo; Crane, A-Frame Truck Crane; Crusher Conveyor; DW-10, 15, and 20 Tractor Roller; Farm Tractor; Forklift; Form Grader; Front-End Loader, under 1 cu. yd; Oiler, Heavy Duty Drills; Herman Nelson Heater; Mucking Machine; Oiler, All Except Cranes/Shovels; Pumpman.

Zone Pay:

0-30 mi. free zone
 >30-60 mi. base pay + \$3.50/hr.
 >60 mi. base pay + \$5.50/hr.

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CONSTRUCTION EQUIPMENT OPERATORS GROUP 2

Wage	Benefit
\$28.70	\$13.55

This group includes but is not limited to:

Air Doctor; Backhoe\Excavator\Shovel, up to and incl. 3 cu. yds; Bit Grinder; Bituminous Paving Travel Plant; Boring Machine, Large; Broom, Self-Propelled; Concrete Travel Batcher; Concrete Float & Spreader; Concrete Bucket Dispatcher; Concrete Finish Machine; Concrete Conveyor; Distributor; Dozer, Rubber-Tired, Push, & Side Boom; Elevating Grader\Gradall; Field Equipment Serviceman; Front-End Loader, 1 cu. yd up to and incl. 5 cu. yds; Grade Setter; Heavy Duty Drills, All Types; Hoist\Tugger, All; Hydralift Forklifts & Similar; Industrial Locomotive; Motor Patrol (except finish); Mountain Skidder; Oiler, Cranes\Shovels; Pavement Breaker, EMSCO; Power Saw, Self-Propelled; Pugmill; Pumpcrete\Grout Machine; Punch Truck; Roller, other than Asphalt; Roller, Sheepsfoot (Self-Propelled); Roller, 25 tons and over; Ross Carrier; Rotomill, under 6 ft; Trenching Machine; Washing /Screening Plant

Zone Pay:

0-30 mi. free zone
 >30-60 mi. base pay + \$3.50/hr.
 >60 mi. base pay + \$5.50/hr.

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CONSTRUCTION EQUIPMENT OPERATORS GROUP 3

Wage	Benefit
\$29.45	\$13.55

Zone Pay:
 0-30 mi. free zone
 >30-60 mi. base pay + \$3.50/hr.
 >60 mi. base pay + \$5.50/hr.

This group includes but is not limited to:

Asphalt Paving Machine; Asphalt Screed;
 Backhoe\Excavator\Shovel, over 3 cu. yds; Cableway
 Highline; Concrete Batch Plant; Concrete Curing
 Machine; Concrete Pump; Cranes, Creter; Cranes,
 Electric Overhead; Cranes, 24 tons and under; Curb
 Machine\Slip Form Paver; Finish Dozer; Front-End
 Loader, over 5 cu. yds; Mechanic\Welder; Pioneer
 Dozer; Roller Asphalt (Breakdown & Finish); Rotomill,
 over 6 ft; Scraper, Single, Twin, or Pulling Belly-Dump;
 YO-YO Cat.

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CONSTRUCTION EQUIPMENT OPERATORS GROUP 4

Wage	Benefit
\$30.45	\$13.55

Zone Pay:
 0-30 mi. free zone
 >30-60 mi. base pay + \$3.50/hr.
 >60 mi. base pay + \$5.50/hr.

This group includes but is not limited to:

Asphalt\Hot Plant Operator; Cranes, 25 tons up to and
 incl. 44 tons; Crusher Operator; Finish Motor Patrol;
 Finish Scraper.

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CONSTRUCTION EQUIPMENT OPERATORS GROUP 5

Wage	Benefit
\$31.45	\$13.55

Zone Pay:
 0-30 mi. free zone
 >30-60 mi. base pay + \$3.50/hr.
 >60 mi. base pay + \$5.50/hr.

This group includes but is not limited to:

Cranes, 45 tons up to and incl. 74 tons.

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CONSTRUCTION EQUIPMENT OPERATORS GROUP 6

Wage	Benefit
\$32.45	\$13.55

Zone Pay:
 0-30 mi. free zone
 >30-60 mi. base pay + \$3.50/hr.
 >60 mi. base pay + \$5.50/hr.

This group includes but is not limited to:

Cranes, 75 tons up to and incl. 149 tons; Cranes,
 Whirley (All).

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CONSTRUCTION EQUIPMENT OPERATORS GROUP 7

Wage	Benefit
\$33.45	\$13.55

Zone Pay:
 0-30 mi. free zone
 >30-60 mi. base pay + \$3.50/hr.
 >60 mi. base pay + \$5.50/hr.

This group includes but is not limited to:

Cranes, 150 tons up to and incl. 250 tons; Cranes, over 250 tons—add \$1.00 for every 100 tons over 250 tons; Crane, Tower (All); Crane Stiff-Leg or Derrick; Helicopter Hoist.

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CONSTRUCTION LABORERS GROUP 1/FLAG PERSON FOR TRAFFIC CONTROL

Wage	Benefit
\$23.08	\$10.94

Zone Pay:
 0-30 mi. free zone
 >30-60 mi. base pay + \$3.05/hr.
 >60 mi. base pay + \$4.85/hr.

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CONSTRUCTION LABORERS GROUP 2

Wage	Benefit
\$25.90	\$10.94

Zone Pay:
 0-30 mi. free zone
 >30-60 mi. base pay + \$3.05/hr.
 >60 mi. base pay + \$4.85/hr.

This group includes but is not limited to:

General Labor; Asbestos Removal; Burning Bar; Bucket Man; Carpenter Tender; Caisson Worker; Cement Mason Tender; Cement Handler (dry); Chuck Tender; Choker Setter; Concrete Worker; Curb Machine-lay Down; Crusher and Batch Worker; Heater Tender; Fence Erector; Landscape Laborer; Landscaper; Lawn Sprinkler Installer; Pipe Wrapper; Pot Tender; Powderman Tender; Rail and Truck Loaders and Unloaders; Riprapper; Sign Erection; Guardrail and Jersey Rail; Spike Driver; Stake Jumper; Signalman; Tail Hoseman; Tool Checker and Houseman and Traffic Control Worker.

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CONSTRUCTION LABORERS GROUP 3

Wage	Benefit
\$26.04	\$10.94

This group includes but is not limited to:

Concrete Vibrator; Dumpman (Grademan); Equipment Handler; Geotextile and Liners; High-Pressure Nozzleman; Jackhammer (Pavement Breaker) Non-Riding Rollers; Pipelayer; Posthole Digger (Power); Power Driven Wheelbarrow; Rigger; Sandblaster; Sod Cutter-Power and Tamper.

Zone Pay:

0-30 mi. free zone
 >30-60 mi. base pay + \$3.05/hr.
 >60 mi. base pay + \$4.85/hr.

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CONSTRUCTION LABORERS GROUP 4

Wage	Benefit
\$26.76	\$10.94

This group includes but is not limited to:

Hod Carrier***; Water Well Laborer; Blaster; Wagon Driller; Asphalt Raker; Cutting Torch; Grade Setter; High-Scaler; Power Saws (Faller & Concrete); Powderman; Rock & Core Drill; Track or Truck Mounted Wagon Drill and Welder incl. Air Arc

Zone Pay:

0-30 mi. free zone
 >30-60 mi. base pay + \$3.05/hr.
 >60 mi. base pay + \$4.85/hr.

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DIVERS

	Wage	Benefit
Stand-By	\$41.23	\$16.88
Diving	\$82.46	\$16.88

Depth Pay (Surface Diving)

0-20 ft.	free zone
>20-100 ft.	\$2.00 per ft.
>100-150 ft.	\$3.00 per ft.
>150-220 ft.	\$4.00 per ft.
>220 ft.	\$5.00 per ft.

Diving In Enclosures

0-25 ft.	free zone
>25-300 ft.	\$1.00 per ft.

Zone Pay:

0-30 mi. free zone
 >30-60 mi. base pay + \$4.00/hr.
 >60 mi. base pay + \$6.00/hr.

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DIVER TENDERS

Wage	Benefit
\$40.23	\$16.88

The tender shall receive 2 hours at the straight time pay rate per shift for dressing and/or undressing a Diver when work is done under hyperbaric conditions.

Zone Pay:

0-30 mi. free zone
 >30-60 mi. base pay + \$4.00/hr.
 >60 mi. base pay + \$6.00/hr.

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DRYWALL APPLICATORS

Wage	Benefit
\$31.00	\$13.57

Zone Pay:

0-30 mi. free zone
 >30-60 mi. base pay + \$4.00/hr.
 >60 mi. base pay + \$6.00/hr.

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ELECTRICIANS

Wage	Benefit
\$34.08	\$14.56

Travel:**District 4**

No mileage due when traveling in employer's vehicle.

The following travel allowance is applicable when traveling in employee's vehicle:

0-18 mi. free zone
 >18-60 mi. federal mileage rate/mi.
 >60 mi. \$75.00/day

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HEATING AND AIR CONDITIONING

Wage	Benefit
\$30.09	\$18.83

Duties Include:

Testing and balancing, commissioning and retro-commissioning of all air-handling equipment and duct work.

Travel:

0-50 mi. free zone
 >50 mi.
 ▪ \$0.25/mi. in employer vehicle.
 ▪ \$0.65/mi. in employee vehicle.

Per Diem:

\$70/day

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INSULATION WORKERS - MECHANICAL (HEAT AND FROST)

Wage	Benefit
\$37.77	\$19.87

Duties Include:

Insulate pipes, ductwork or other mechanical systems.

Travel:

- 0-30 mi. free zone
- >30-40 mi. \$25.00/day
- >40-50 mi. \$35.00/day
- >50-60 mi. \$45.00/day
- >60 mi. \$60.00/day plus
 - \$0.56/mi. if transportation is not provided.
 - \$0.20/mi. if in company vehicle.
- >60 mi. \$90.00/day on jobs requiring an overnight stay plus
 - \$0.56/mi. if transportation is not provided.
 - \$0.20/mi. if in company vehicle.

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IRONWORKERS - STRUCTURAL STEEL AND REBAR PLACERS

Wage	Benefit
\$28.00	\$26.40

Duties Include:

Structural steel erection; assemble prefabricated metal buildings; cut, bend, tie, and place rebar; energy producing windmill type towers; metal bleacher seating; handrail fabrication and ornamental steel.

Travel:

- 0-45 mi. free zone
- >45-60 mi. \$45.00/day
- >60-100 mi. \$70.00/day
- >100 mi. \$90.00/day

Special Provision:

When the employer provides transportation, travel will not be paid. However, when an employee is required to travel over 70 miles one way, the employee may elect to receive the travel pay in lieu of the transportation.

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LINE CONSTRUCTION – EQUIPMENT OPERATORS

Wage	Benefit
\$35.04	\$16.45

Duties Include:

All work on substations

Travel:

- No Free Zone
- \$60.00/day

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LINE CONSTRUCTION – GROUNDMAN

Wage	Benefit
\$27.36	\$15.60

Duties Include:

All work on substations

Travel:

- No Free Zone
- \$60.00/day

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LINE CONSTRUCTION – LINEMAN

Wage	Benefit
\$45.74	\$17.60

Travel:
No Free Zone
\$60.00/day

Duties Include:
All work on substations

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MILLWRIGHTS

Wage	Benefit
\$34.00	\$13.57

Zone Pay:
0-30 mi. free zone
>30-60 mi. base pay + \$4.00/hr.
>60 mi. base pay + \$6.00/hr.

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PAINTERS

Wage	Benefit
\$25.00	\$0.00

Travel:
No travel or per diem established.

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PILE BUCKS

Wage	Benefit
\$31.00	\$13.57

Zone Pay:
0-30 mi. free zone
>30-60 mi. base pay + \$4.00/hr.
>60 mi. base pay + \$6.00/hr.

Duties Include:
Set up crane; set up hammer; weld tips on piles; set leads; insure piles are driven straight with the use of level or plum bob. Give direction to crane operator as to speed, and direction of swing. Cut piles to grade.

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PLUMBERS, PIPEFITTERS, AND STEAMFITTERS

Wage	Benefit
\$36.46	\$18.71

Duties Include:

Assemble, install, alter, and repair pipe-lines or pipe systems that carry water, steam, air, other liquids or gases. Testing of piping systems, commissioning and retro-commissioning. Workers in this occupation may also install heating and cooling equipment and mechanical control systems.

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Travel:

0-70 free zone
>70 mi.

- On jobs when employees do not work consecutive days: \$0.55/mi. if employer doesn't provide transportation. Not to exceed two trips.
- On jobs when employees work any number of consecutive days: \$100.00/day.

SHEET METAL WORKERS

Wage	Benefit
\$30.09	\$18.83

Duties Include:

Testing and balancing, commissioning and retro-commissioning of all air-handling equipment and duct work. Manufacture, fabrication, assembling, installation, dismantling, and alteration of all HVAC systems, air veyer systems, and exhaust systems. All lagging over insulation and all duct lining. Metal roofing.

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Travel:

0-50 mi. free zone
>50 mi.

- \$0.25/mi. in employer vehicle
- \$0.65/mi. in employee vehicle

Per Diem:

\$70.00/day

SOLAR PHOTOVOLTAIC INSTALLERS

Wage	Benefit
\$34.08	\$14.91

Travel:

No mileage due when traveling in employer's vehicle.

The following travel allowance is applicable when traveling in employee's vehicle:

- 0-18 mi. free zone
- >18-60 mi. federal mileage rate/mi.
- >60 mi. \$75.00/day

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TRUCK DRIVERS

Pilot Car Driver
No Rate Established

	Wage	Benefit
Truck Driver	\$31.28	\$9.37

Group 2:
Combination Truck and Concrete Mixer and Transit Mixer; Dry Batch Trucks; Distributor Driver; Dumpman; Dump Trucks and similar equipment; Dumpster; Flat Trucks; Lumber Carriers; Lowboys; Pickup; Powder Truck Driver; Power Boom; Serviceman; Service Truck/Fuel Truck/Tireperson; Truck Mechanic; Trucks with Power Equipment; Warehouseman, Partsman, Cardex and Warehouse Expeditor; Water Trucks.

Zone Pay:
All Districts
0-30 mi. free zone
>30-60 mi. base pay + \$3.05/hr.
>60 mi. base pay + \$.485/hr.

Special Provision:
Zone pay only applies to the Truck Driver classification. No zone pay was established for Pilot Car Driver.



Commission Meeting Date: December 15, 2020

**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

Item: Resolution 10370, Resolution relating to financing certain proposed improvements; establishing compliance with reimbursement bond regulations under the Internal Revenue Code.

From: Melissa Kinzler, Finance Director

Initiated By: Financing of costs associated with renovation of the exterior façade and roof of the City’s Civic Center

Presented By: Melissa Kinzler, Finance Director

Action Requested: City Commission adopt Resolution 10370.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 10370.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

Staff Recommendation: Staff recommends the City Commission adopt Resolution 10370.

Summary: Resolution 10370 is a reimbursement resolution for costs associated with renovation of the exterior façade and roof of the City’s Civic Center. This resolution will allow reimbursement by bond proceeds for costs that have occurred prior to the bond issuance.

Background: Staff had presented to the City Commission at the December 1, 2020 City Commission meeting a resolution authorizing the expenditure of funds from the Downtown Urban Renewal Tax Increment Financing District toward the Civic Center Façade Renovation Project. The City Commission held a public hearing and adopted Resolution 10379, authorizing approximately \$8,829,810 (includes interest on the debt) of funds from the Downtown Urban Renewal Tax Increment Financing toward the project.

The resolution authorizing the issuance and fixing terms and condition for the estimated \$6,000,000 of improvements will be presented at a future date.

Fiscal Impact: Adoption of this resolution will allow the City to be reimbursed for costs of improvements for the exterior façade and roof the City’s Civic Center once the bonds have been issued.

Alternatives: If this resolution is rejected, improvements for the renovation of the exterior façade and roof of the City's Civic Center would not be reimbursed. The City of Great Falls would need to cover the costs directly.

Concurrences: The Planning & Community Development Department, Legal Department, City Manager's office and Finance Department, with Dorsey and Whitney, LLP have worked together on this resolution.

Attachments/Exhibits: Resolution 10370

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Great Falls, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 10370, entitled: "RESOLUTION RELATING TO FINANCING CERTAIN PROPOSED IMPROVEMENTS; ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Commission of the City at a regular meeting on December 15, 2020 and that the meeting was duly held by the City Commission and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Commission Members voted in favor thereof: _____; voted against the same: _____; abstained from voting thereon: _____; or were absent: _____.

WITNESS my hand officially this 15th day of December, 2020.

(SEAL)

City Clerk

RESOLUTION NO. 10370

RESOLUTION RELATING TO FINANCING OF CERTAIN
PROPOSED IMPROVEMENTS; ESTABLISHING COMPLIANCE
WITH REIMBURSEMENT BOND REGULATIONS UNDER THE
INTERNAL REVENUE CODE

BE IT RESOLVED by the City Commission of the City of Great Falls, Montana (the “City”), as follows:

Section 1. Recitals.

1.01 The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the “Regulations”) require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that bonds be issued and the reimbursement allocation be made from the proceeds of such bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

1.02 The City desires to comply with requirements of the Regulations with respect to certain projects hereinafter identified.

Section 2. Official Intent Declaration.

2.01 The City proposes to undertake certain projects, which projects and the estimated costs thereof are generally described on Exhibit A hereto, which is hereby incorporated herein and made a part hereof (collectively, the “Project”).

2.02 Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds (as hereinafter defined), (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Project have heretofore been paid by the City and no expenditures will be paid by the City until after the date of this Resolution.

2.03 The City reasonably expects to reimburse some or all of the expenditures made for costs of the Project out of proceeds of bonds in an estimated maximum aggregate principal amount of \$6,000,000 (the “Bonds”) after the date of payment of all or a portion of the costs of the Project. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the

Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

Section 3. Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

Section 4. Reimbursement Allocations. The City Fiscal Services Director shall be responsible for making the "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Project. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the Bonds or the Project and shall specifically identify the actual original expenditure being reimbursed.

Passed and adopted by the City Commission of the City of Great Falls, Montana, on this 15th day of December, 2020.

Bob Kelly, Mayor

Attest:

Lisa Kunz, City Clerk

APPROVED FOR LEGAL CONTENT:

Sara R. Sexe, City Attorney

EXHIBIT A

<u>Description of Project</u>	<u>Estimated Cost</u>
Renovation of the exterior façade and roof of the City's Civic Center	\$6,000,000