



**Planning Advisory Board/Zoning Commission
January 26, 2021 3:00 P.M. Agenda
2 Park Drive South, Great Falls, MT
Gibson Room, Civic Center**

UPDATES CONCERNING PROCESS OF MEETINGS Due to the COVID-19 health concerns, the format of the Planning Advisory Board/Zoning Commission meeting will be held in a virtual video-conferencing environment. In order to honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), the City of Great Falls and Planning Advisory Board/Zoning Commission are making every effort to meet the requirements of open meeting laws:

- Planning Advisory Board/Zoning Commission members and City staff will attend the meeting via a remote location, using a virtual meeting method.
- 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 government access channel City-190, cable channel 190; or online at <https://greatfallsmt.net/livestream>.
- Public comment will be taken during the meeting. Public participation is welcome in the following ways:
 - Attend in person. Refrain from attending in person if you are not feeling well. The City will require social distancing at the meeting, and may limit the number of persons in the Gibson Room according to applicable health guidelines.
 - Provide public comments via email. Comments may be sent via email before 12:00 PM on Tuesday, January 26, 2021, to: jnygard@greatfallsmt.net. Include the agenda item or agenda item number in the subject line, and include the name and address of the commenter. Written communication received by that time will be shared with the Planning Advisory Board/Zoning 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-in. The public may call in during specific public comment periods at 406-761-4786. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to customary time limits. This is a pilot service to test the feasibility of expanded public participation by phone. We ask for your patience in the event there are technical difficulties.

OPENING MEETING

1. Call to Order - 3:00 P.M.
2. Roll Call - Board Introductions

**Dave Bertelsen
Kelly Buschmeyer
Tory Mills
Chuck Pankratz
Samantha Shinaberger
Laura Vukasin**

3. Election of Officers
4. Recognition of Staff
5. Approval of Meeting Minutes - December 22, 2020

BOARD ACTIONS REQUIRING PUBLIC HEARING

6. Conditional Use Permit for a “Worship facility” land use upon the property addressed as 511 Central Avenue and legally described as Lot 12-13, Block 316, Great Falls Original Townsite, Section 12, Township 20N, Range 3E, PMM, Cascade County, MT.

BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

7. Section 5303 Federal Transit Administration Funding Contract with the Montana Department of Transportation and the Great Falls Transit District.
8. Recommendation that Tory Mills serve another three year term as a Planning Advisory Board/Zoning Commission Board member

COMMUNICATIONS

Request from Great Falls International Airport for Tax Increment Funds (TIF)

Application received for a Conditional Use Permit (CUP) for a Type II Contractor Yard at 214 7th Avenue South

PUBLIC COMMENT

Public Comment on any matter and that is within the jurisdiction of the Planning Advisory Board/Zoning Commission. Please keep your remarks to a maximum of five (5) minutes. Speak into the microphone, and state your name and address for the record.

ADJOURNMENT

(Please exit the chambers as quickly as possible. Chamber doors will be closed 5 minutes after adjournment of the meeting.)

Assistive listening devices are available for the hard of hearing, please arrive a few minutes early for set up, or contact the City Clerk’s Office in advance at 455-8451. Wi-Fi is available during the meetings for viewing of the online meeting documents.

Planning Advisory Board/Zoning Commission meetings are televised on cable channel 190 and streamed live at <https://greatfallsmt.net>. Meetings are re-aired on cable channel 190 the following Thursday at 7 p.m.

**MINUTES OF THE MEETING
GREAT FALLS PLANNING ADVISORY BOARD/ZONING COMMISSION
December 22, 2020**

CALL TO ORDER

The regular meeting of the Great Falls Planning Advisory Board/Zoning Commission was called to order by Chair Peter Fontana at 3:00 p.m. The meeting was held via Zoom in the Gibson Room, at the Civic Center.

ROLL CALL & ATTENDANCE

Due to the COVID-19 health concerns, the format of the Planning Advisory Board/Zoning Commission meeting is being conducted in a virtual video-conferencing environment. In order to honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), public participation is welcomed and encouraged as follows:

- Attend in person. Refrain from attending in person if you are not feeling well. The City will require social distancing at the meeting, and may limit the number of persons in the Gibson Room according to applicable health guidelines.
- Provide public comments via email. Comments may be sent via email before 12:00 PM on Tuesday, December 22, 2020 to: jnygard@greatfallsmt.net. Include the agenda item or agenda item number in the subject line, and include the name and address of the commenter. Written communication received by that time will be shared with the Planning Advisory Board/Zoning 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.
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Planning Board Members present electronically via Zoom:

Peter Fontana, Chair
Charles Pankratz, Vice Chair
Kelly Buschmeyer
Dave Bertelsen joined at 3:12 P.M.
Tory Mills
Laura Vukasin

Planning Board Members absent:

Samantha Shinaberger

Planning Staff Members present:

Craig Raymond, Director Planning and Community Development
Lonnie Hill, Planner I
Jamie Nygard, Sr. Admin Assistant

Other Staff present:

Joe Cik, Assistant City Attorney

Mr. Raymond affirmed a quorum of the Board was present.

MINUTES

Chair Peter Fontana asked if there were any comments or corrections to the minutes of the meeting held on November 10, 2020. Seeing none, Ms. Vukasin moved to approve the minutes. Mr. Pankratz seconded, and all being in favor, the minutes were approved.

BOARD ACTIONS NOT REQUIRING A PUBLIC HEARING

Non-Administrative Plat to Aggregate Lots 1-10 and Lots 24-26 of Block 1, Lincoln Heights Addition to Great Falls

Lonnie Hill, Planner I, presented to the board. He stated that the applicant, Montana Commerce, LLC, is proposing to aggregate Lots 1-10 and Lots 24-26 of Block 1 of the Lincoln Heights Addition to Great Falls. The request was submitted concurrently with a building permit to construct a new car wash facility located at 2500 10th Avenue South. City staff directed the applicant to aggregate the lots in order for the car wash building and associated vacuum area to comply with City building setback requirements. Mr. Hill stated that currently the plat is made up of 25 foot wide lots. On the southern half of the alley, a few lots will be aggregated to capture the storm water facility associated with the project. The proposed aggregation that is being presented will also be presented to the City Commission for consideration.

Mr. Hill presented an Aerial Map, a Zoning Map, Site Plan and Site Photos to the Board. He stated that all of the lots are zoned C-2, which is General Commercial. Mr. Hill presented the findings of fact and stated that because it is for more than five lots being put together, the board must consider the subdivision findings of fact. He stated that because the lots are wholly surrounded by urban development there is no impact on agricultural facilities, wildlife or habitat. He also stated that the lots are currently serviced by City services including fire and police as well as utilities. Storm water has been addressed and it will be a large improvement for the whole area.

Mr. Hill stated that staff recommends approval of the aggregation of Lots 1-10 and 24-26 of Block 1, Lincoln Heights Addition to Great Falls. He stated that the Board could recommend denial of the Non-administrative plat but must provide separate Findings of Fact/Basis of Decision for the denial. Mr. Hill stated that the applicant's consultant, Joe Murphy with Big Sky Civil and Environmental, was available to answer any questions.

BOARD DISCUSSION AND ACTION

Chair Fontana asked Mr. Hill what a non-administrative plat was. Mr. Hill responded that an administrative plat can be approved by city staff, but because this is aggregating more than five lots, it does need to go through the Planning Advisory Board and City Commission.

MOTION: That the Planning Advisory Board recommend the City Commission approve the amended plat aggregating the various parcels as legally described in the Staff Report, and the accompanying Findings of Fact/Basis of Decision, subject to the Conditions of Approval being fulfilled by the applicant.

Made by: Mr. Pankratz
Second: Mr. Mills

VOTE: All in favor, the motion carried

Chair Fontana asked what the next steps were and Mr. Raymond responded that it would go to City Commission for approval.

COMMUNICATIONS

None.

PUBLIC COMMENT

Vice Chair Pankratz thanked Chair Fontana for his leadership over the past six years and his expertise that he provided and consistency in being present and available to the public and other board members. He also thanked him for his recruitment efforts to keep good board members and recruit new ones.

ADJOURNMENT

There being no further business, Chair Fontana adjourned the meeting at 3:15 p.m.

CHAIRMAN

SECRETARY



Meeting Date: January 26, 2021

CITY OF GREAT FALLS
PLANNING ADVISORY BOARD / ZONING COMMISSION AGENDA REPORT

- Item:** Conditional Use Permit for a “Worship facility” land use upon the property addressed as 511 Central Avenue and legally described as Lot 12-13, Block 316, Great Falls Original Townsite, Section 12, Township 20N, Range 3E, PMM, Cascade County, MT.
- Initiated By:** Abram Baca, The Potter’s House Great Falls, LLC
- Presented By:** Brad Eatherly, Planner II, Planning and Community Development
- Action Requested:** Recommendation to the City Commission.

Public Hearing:

1. Chairman of the Commission conducts public hearing, pursuant to The Official Code of the City of Great Falls (OCCGF) § 1.2.050 and Title 17, Chapter 16, Article 6.
2. Chairman of the Commission closes public hearing and asks the will of the Commission.

Suggested Motion:

1. Commission Member moves:

“I move that the Zoning Commission recommend the City Commission (approve/deny) the Conditional Use Permit as legally described in the Staff Report, and the accompanying Findings of Fact, subject to the Conditions of Approval being fulfilled by the applicants.”

2. Chairman calls for a second, Commission discussion, and calls for the vote.

Background:

The applicant, Abram Baca, lead Pastor of The Potter’s House, has submitted an application to request a Conditional Use Permit to allow for a Worship Facility land use upon the property addressed as 511 Central Avenue and legally described as Lots 12 and 13, Block 316, Great Falls Original Townsite, Section 12, T20N, R3E, PMM, Cascade County, MT. The subject property is zoned C-4 Central Business Core, wherein a Worship Facility land use is permitted upon receiving approval of a Conditional Use Permit and fulfillment of any required conditions.

The subject property contains a building owned by Gary Hackett which has several other suites as well. The applicant has been using an interior suite as a meeting space for The Potter’s House since February of 2020. In March of 2020, the City received a Safety Inspection Certificate request (SIC) for the applicant to use the subject property as a Worship Facility land use. The applicant and owner were unaware that the Worship Facility land use was permitted only through a Conditional Use Permit in the C-4 Central Business Core zoning district.

Additionally, the applicant had already signed a lease with the owner prior to filing the SIC request. To allow the applicant some time to consider his options, the SIC was issued with a condition that The Potter's House was allowed to occupy the space until September 1, 2020, at which time the applicant would either need to relocate or apply for a Conditional Use Permit. The applicant believes the location best fits the mission of the church and has opted to apply for the required CUP to allow a longer term stay in their downtown location.

The basis of decision for a Conditional Use Permit is listed in OCCGF § 17.16.36.040. The Zoning Commission's recommendation and the City Commission's decision to approve, conditionally approve, or deny an application shall be based on whether the application, staff report, public hearing, and additional information demonstrates that the criteria which are attached as Findings of Fact - Conditional Use have been met.

Impacts:

The applicant has been operating at his current location for almost one year. Because the applicant uses a small space within the building and has a small congregation, no complaints have been received by the City on issues such as parking or vehicle traffic. In 2020, the Zoning Commission and City Commission did approve a request for a proposed Worship facility at a nearby location – 427 Central Avenue. During initial discussion of that request, concerns were expressed about the impact of worship facilities on the future ability of bars and taverns in the downtown to obtain liquor licenses. In response, City staff developed Ordinance 3122, which superseded Montana State Code's 600 foot distance restriction between bars/taverns seeking liquor licenses and worship facilities. Ordinance 3221 was adopted by the City Commission and effectively allows worship facilities and establishments requiring a liquor license to operate in non-residential zoning districts with no distance requirements. As a result, staff finds that the requested CUP has no negative impacts.

Transportation:

Central Avenue carries an average of 3,215 vehicles per weekday (2018 count). Because the church's highest number of vehicle trips would be on a Sunday, traffic on adjoining roadways will be very low due to many traffic generators (businesses and employment centers) being closed. Therefore, if any congestion occurs, it would be for a very brief period of time when multiple vehicles arrive at the facility for services.

Proximity to Other Uses:

The Subject Property is located within an existing building that currently leases to several other commercial uses. The Subject Property is surrounded by other buildings that have commercial and residential uses. The downtown is already a mixed land use environment, so the worship facility use fits well within the context of the area.

Neighborhood Council Input:

The Subject Property is located in Neighborhood Council District 7. The applicant was unable to meet with the Council so city staff met with the Council on January 11, 2021. The Council voted 4 to 1 to recommend approval of the Conditional Use Permit. Staff has not received any questions about the project.

Concurrences:

Representatives from the City's Public Works, Fire/Rescue, and Building Departments have reviewed the proposal and have no objections to the issuance of the Conditional Use Permit.

Fiscal Impact:

Approval of the CUP would have no adverse financial impact upon the City of Great Falls.

Staff Recommendation:

Staff recommends approval of the Conditional Use Permit, subject to the following conditions:

Conditions of Approval:

1. **Subsequent Modifications and Additions:** If, after establishment of the conditional use, the owner proposes to expand or modify the use, the Director of the Planning and Community Development Department shall determine in writing if such proposed change would alter the finding for one or more review criteria found in OCCGF § 17.16.36.040. If such proposed change would alter a finding, the proposal shall be submitted for review as a new conditional use application. If such proposed change would not alter a finding, the owner shall obtain all other permits as may be required.
2. **Expiration:** The Conditional Use Permit shall expire one year after the date of issuance, if a Safety Inspection Certificate has not been issued. The Administrator may extend the expiration date by up to one year.
3. **Abandonment:** If the permitted conditional use ceases to operate for more than six months, the Conditional Use Permit shall expire.
4. **General Code Compliance:** The proposed project shall be developed consistent with the conditions of approval adopted by the City Commission, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
5. **Acceptance of Conditions:** No Safety Inspection Certificate shall be issued until the property owner acknowledges in writing that it has received, understands, and agrees to comply with the conditions of approval.

Alternatives:

The Zoning Commission could recommend denial of the Conditional Use Permit. If so an alternative Basis of Decision would be required to support this action.

Attachments/Exhibits:

Basis of Decision
 Aerial Map
 Zoning Map
 Site Photos
 Applicant Narrative

CONDITIONAL USE BASIS OF DECISION

The applicant is requesting the approval of a Conditional Use Permit (CUP) for a Worship Facility in the C-4 district.

1. The zoning and conditional use is consistent with the City’s Growth Policy and applicable neighborhood plans, if any.

The proposed worship facility provides an opportunity to redevelop a portion of a building that has remained vacant for several years. It also encourages a diversity of land uses within the downtown area. More specifically, it is consistent with the following policies in the City’s Growth Policy:

Env2.3.1 – In order to maximize existing infrastructure, identify underutilized parcels and areas with infill potential as candidates for redevelopment in the City.

Phy4.1.5 – Encourage and incentivize the redevelopment or adaptive reuse of vacant or underutilized properties so as to maximize the City’s existing infrastructure.

2. The establishment, maintenance or operation of the zoning and conditional use will not be detrimental to, or endanger the health, safety, morals, comfort or general welfare.

The CUP will have no detrimental impact upon the health, safety, morals, comfort or general welfare. From a safety standpoint, the proposed hours for meetings and services will occur during periods of time when the downtown is less busy. Having more “eyes on the street” will assist with public safety in the area. Parking and traffic demands associated with the proposed CUP will be manageable due to the small size of the congregation.

3. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair values within the neighborhood.

The proposed CUP will not be injurious to other properties, nor impair property values within the downtown area. The proposed Worship facility only occupies a small tenant space within an existing building and contains a small congregation. They have also occupied the tenant space for almost one year without concerns being raised.

4. The conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

Due to its small size and limited traffic and parking impacts, the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. Also, as noted in the agenda report, there were initial concerns raised last year with a Worship facility request for 427 Central Avenue, which concerned the potential impact of churches on existing and proposed bars and

taverns that need liquor licenses from the State of Montana. To respond to this concern, the City Commission adopted Ordinance 3221 on September 15, 2020, which allows establishments that utilize liquor licenses and places of worship to operate within the same vicinity of each other. Because of these factors, the Conditional Use will not be injurious to the immediate vicinity for the purposes already permitted.

5. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.

Adequate services and infrastructure are available to serve the worship facility. The building containing the proposed CUP already receives all City services.

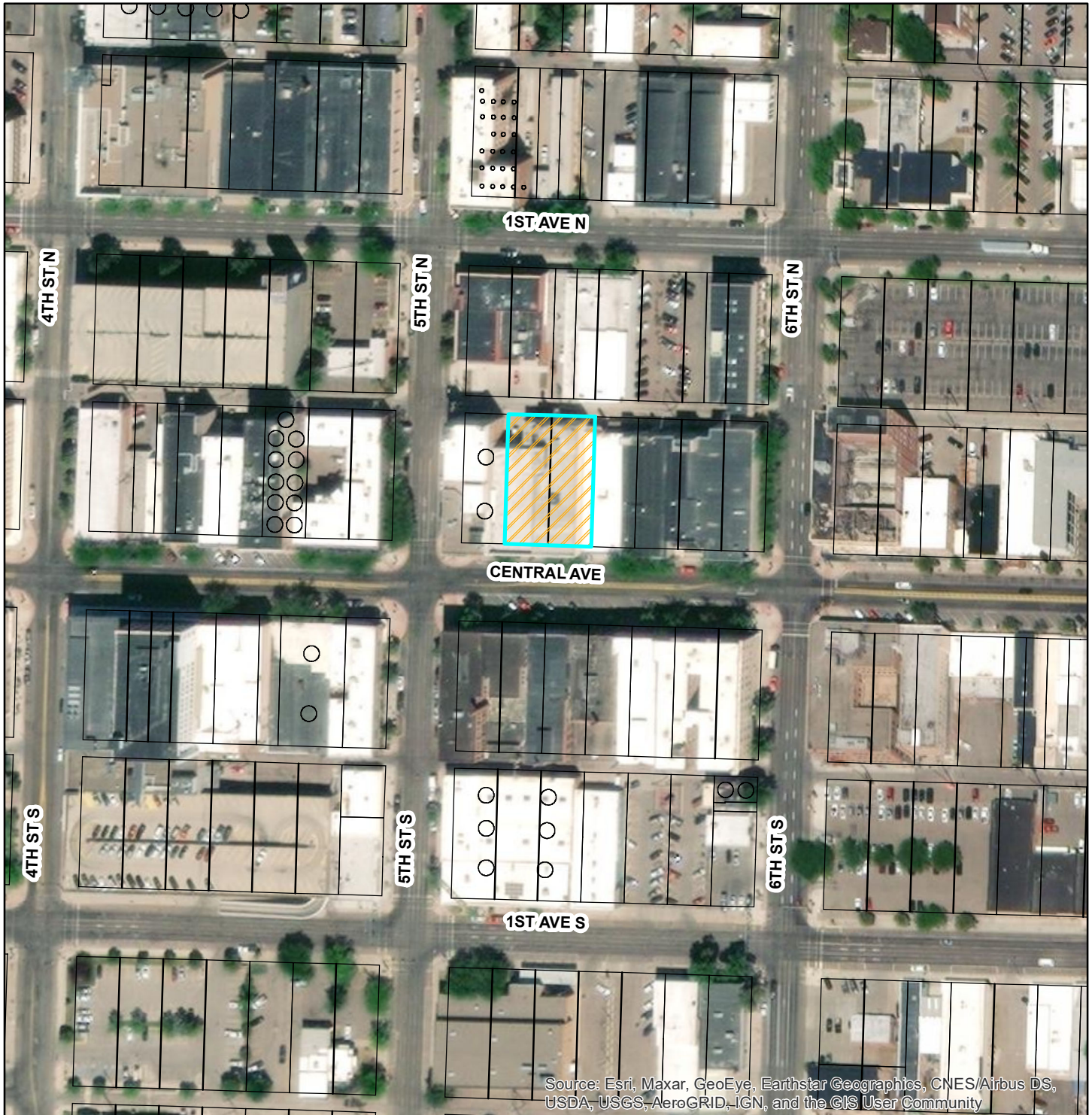
6. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

The Worship facility is used mainly on Sundays and Wednesday nights, times that have typically low-traffic volumes in the downtown. The congregants of the church are also encouraged to utilize the downtown parking garages in order to alleviate on-street parking concerns. As a result, there is no concern about ingress and egress for traffic congestion.


7. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the City Commission.

Because the property already contains an existing building and the proposed use is already established in a tenant space, no City regulations other than approval of the land use are affected by the applicant's request.

EXHIBIT A

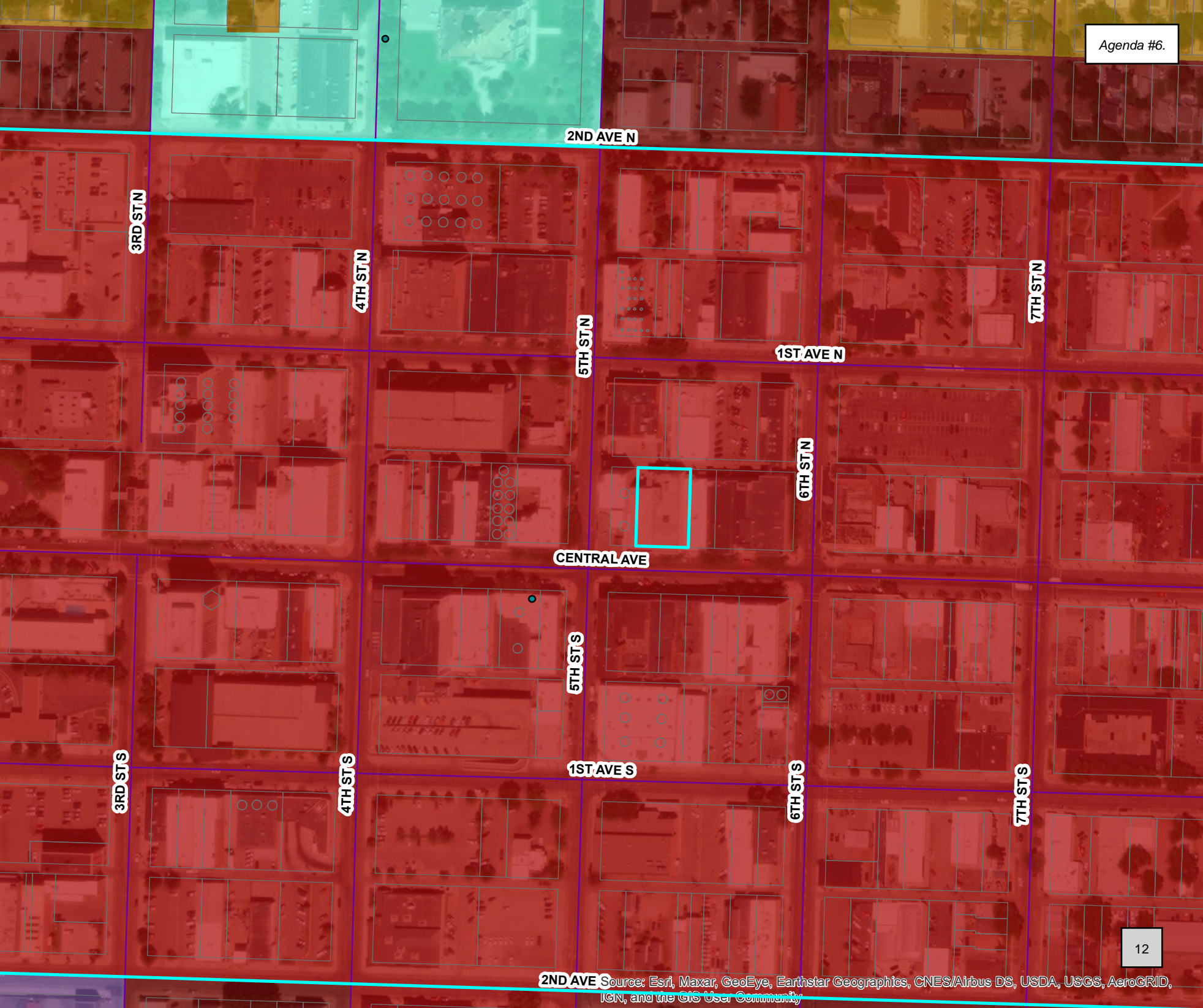


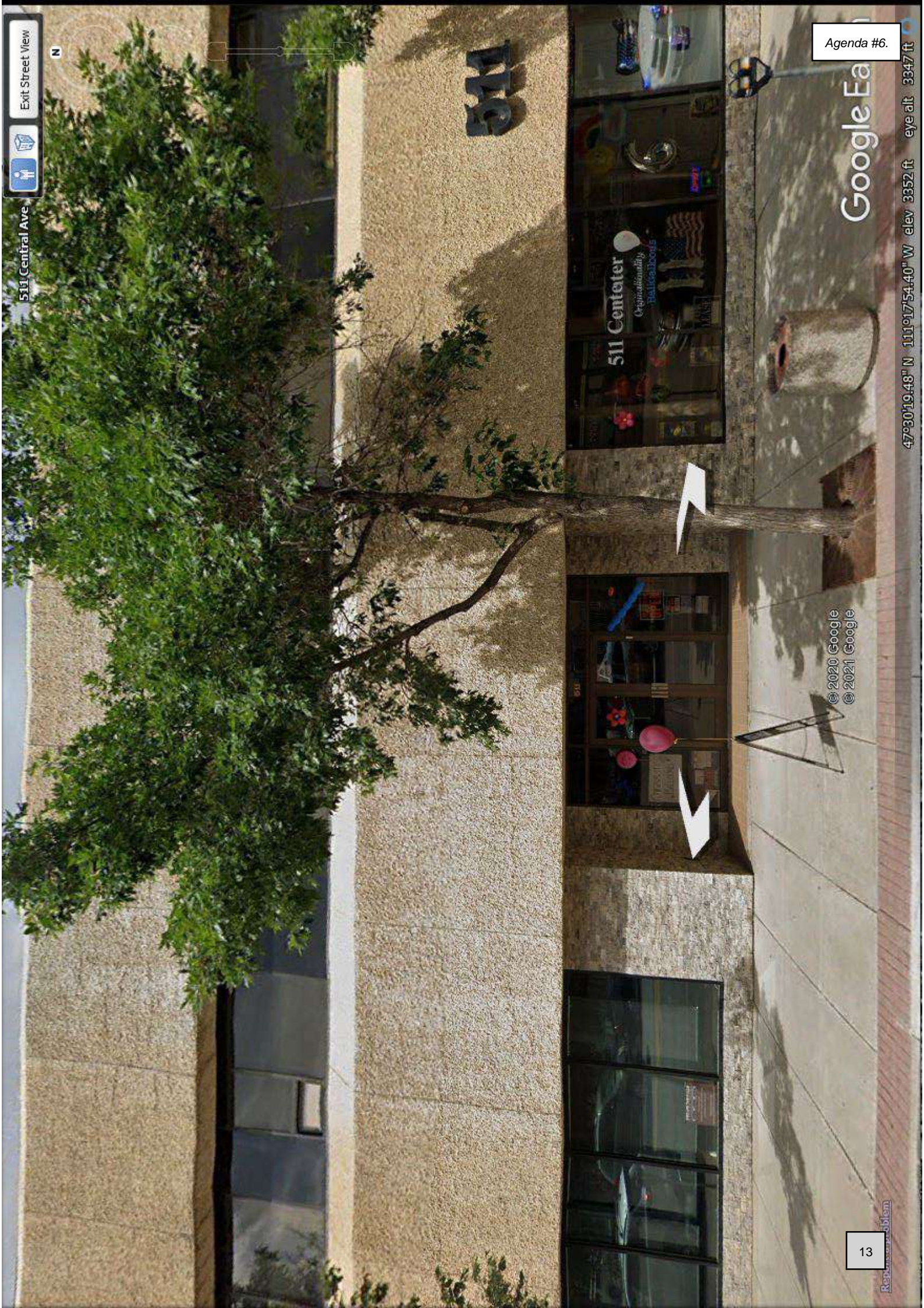
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

 Subject Property

 City Limits







Potter's House

511 Central
Great Falls, MT 59405
(123) 456 - 7890

Conditional Use Permit

December 1, 2020

Overview

"The Potter's House" Christian Fellowship Church is a Non-denominational pioneer church, for the last year we have been in operation at our current location inside 511 Central. The building is owned by Gary Hackett and The Potter's House has been in good standing with Gary, The City Of Great Falls, as well as all the other businesses in the area.

Our vision as a church is;

Evangelism: The Gospel taken outside the four walls is the absolute foundation of our church, in obedience to *Mark 16:15 And He said to them, 'Go into all the world and preach the gospel to every creature'...* We emphasize personal evangelism, and a large variety of outreaches to share the Gospel.

Conversion: We witness, testify and preach for a decision. The Gospel has the power to save and transform lives. *1 Peter 1:23 having been born again, not of corruptible seed but incorruptible, through the word of God which lives and abides forever...* The bulk of our congregation consists of people converted here by the Power of God.

The Power Of The Local Church: God has placed everything necessary to accomplish His will in the setting of the local church. *Ephesians 1:22-23 ...the church. Which is his body, the fullness of him who fills everything in every way.* God's will is accomplished in us and through us as we connect and commit ourselves to a local church.

Discipleship: God intends for calling to Him, and for Him, to be accomplished through being trained and equipped within the setting of a local church. Therefore, the highest calling of a Pastor and congregation is to obey God's command in *Matthew 28:19-20 Go therefore and make disciples of all the nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, teaching them to observe all things that I have commanded you; and lo, I am with you always, even to the end of the age."* Amen.

2

Church Planting: The result of disciples being raised up is that they be released **into the harvest field.** *Matthew 9:37-38 Then He said to His disciples, "The harvest truly is plentiful, but the laborers are few. 38 Therefore pray the Lord of the harvest to send out laborers into His harvest."* We send couples to plant brand new congregations, with the aim of reproducing our vision in a new area.

World Evangelism: From the earliest Bible record, God's vision is worldwide testimony and impact. The gospel message and the vision God has revealed to us is not simply American, but God-inspired; so therefore it works, and is relevant in every nation and culture of the world. *Mark 16:15 all the world/every person...Matthew 28:19 all the nations...* Our job as believers, and as the local church is to pray, train, invest, send and support workers to go into all the world!

Through this vision we have seen numbers of people come to know the love of Jesus Christ through repentance and conversion. We have seen meth addicts of 16 years saved and are now sober for the past year. Families restored, Parents getting custody of their children after losing them for substance abuse. Marriages are being strengthened, I could go on. We have been a blessing to the community and have been a supporter of the local businesses from consistent dining at Blocks, Mighty Mo's pizza, Maria's, Tracy's, Etc. To clothing purchases, Salons, Candy Shops, and even a puppy.

Our Goals

1. The reason for the conditional use permit is because we were operating on a temporary permit on the grounds that we were located within 600 feet of a liquor establishment.

Since the recent ordinance passed for a worship facility to be within 600 feet of a liquor establishment we wanted to continue our stay inside the 511 building to sustain our growth and central location to our congregation

2. The building owner Gary Hackett also has made accommodations (larger areas of use) should we continue to grow.
3. Our schedule of services Are all outside the majority of the normal operation hours of the downtown area therefore crowding and parking haven't been an issue in the last year.

3

We have utilized the parking areas in front of, and in back of the 511 building and have had no issues or problems as of yet.

However the building and the surrounding areas are properly equipped with adequate roads, alleys, and parking, as well as a nearby parking garage.

4. **The Potters House has and will continue to abide by the city ordinances, rules and regulations, and areas of compliance needed to continue being in operation.**
5. **All city permits were obtained and maintenance has been kept up on the property**
6. **During the pandemic social distancing, mask wearing, and hand sanitizer has been provided as well as sanitizing after every service and regular cleaning of the building is also maintained.**

In Concluding

The Potter's House would like to thank the city of Great Falls for their considerations in this decision. We look forward to continuing being a blessing to our community and assisting in the growth of local business in the downtown area.



Agenda #: _____
 Board Meeting Date: Jan. 26, 2021

CITY OF GREAT FALLS
PLANNING ADVISORY BOARD / ZONING COMMISSION AGENDA REPORT

Item: Section 5303 Federal Transit Administration Funding Contracts with the Montana Department of Transportation and the Great Falls Transit District.

Initiated By: Montana Department of Transportation

Presented By: Andrew Finch, Senior Planner

Action Requested: Approve funding contracts.

Suggested Motion:

1. Board Member moves:

“I move that the Planning Advisory Board approve the Section 5303 Contracts with the Montana Department of Transportation and the Great Falls Transit District.”

2. Chair calls for a second, discussion, and calls for the vote.

Overview:

Annually, the Planning Advisory Board enters into contracts with the Montana Department of Transportation (MDT) and the Great Falls Transit District (GFTD) to receive and pass on Federal transit planning funds, referred to as “Section 5303 Contracts” (referencing the source of federal funding). The subject contracts are attached to this report for consideration by the Board.

Background:

As part of its responsibilities as staff for the Great Falls Metropolitan Planning Organization (MPO), the Planning & Community Development Department annually prepares a Unified Planning Work Program (UPWP) to identify planning-related work activities to be undertaken by the Department and the Great Falls Transit District for the 2021 (current) Federal Fiscal Year (FFY).

On August 25, 2020, the Planning Advisory Board approved the FFY 2021 Unified Planning Work Program (UPWP). Along with identifying work activities to be performed by the Planning & Community Development Department and the Great Falls Transit District, the UPWP also identifies funding sources and the funding levels proposed for each work activity, including transit-related funding and work.

In accordance with the UPWP, the Montana Department of Transportation (MDT) will provide up to \$100,202 in Federal Transit Administration (FTA) “Section 5303” funds for local transit planning activities. Because the MPO is the entity that will “receive” the funds, the Planning & Community Development Department will receive and then “pass through” the FTA funds to the Great Falls Transit District for their planning activities, on a reimbursement basis. In accordance with the UPWP, the Transit District will use these funds to prepare transit related planning reports, programs, and documentation to

support its transit operations and to address Federal transit planning needs and requirements. The non-Federal match of \$25,050 will be provided by the Great Falls Transit District.

The Transit District will use the planning funds for Administration (\$19,055), Service Planning and Assessment (\$44,397), Service Enhancement (\$13,390), and Americans with Disabilities Act (ADA) Implementation (\$48,410).

To formalize the funding commitments and ensure the recipient (Planning Advisory Board) and sub-recipient (GFTD) adhere to federal requirements, the Planning Advisory Board is being asked to enter into two "Section 5303 Contracts". One between MDT and the Planning Advisory Board, and the other between the Planning Advisory Board and GFTD. The contracts are attached for Board review and action.

Staff Recommendation:

It is recommended that the Planning Advisory Board approve the Section 5303 Contracts for the current fiscal year.

Alternatives:

The Planning Advisory Board could elect to not approve the Contracts, but this would deny the Transit District its planning funds.

Attachments:

- 1) Section 5303 Planning Contract
- 2) Section 5303 Contract for Pass-through of Funds to the Great Falls Planning District

SECTION 5303 PLANNING CONTRACT #111628
**CFDA #20.505 – Metropolitan Transportation Planning and State and Non-Metropolitan
 Planning and Research**

This contract is entered into between the State of Montana, DEPARTMENT OF TRANSPORTATION, TRANSPORTATION PLANNING DIVISION, 2701 Prospect Avenue, PO Box 201001, Helena, Montana (State) and the Great Falls Planning Advisory Board (Sub-recipient), P. O. Box 5021, Great Falls, Montana 59403-5021. DUNS # 060267093 for the Sub-recipient. Liaison for the State is Carol Strizich, Multimodal Bureau Chief. Liaison for the sub-recipient is Nadine Hanning.

The State, having been allocated grant monies of \$457,912 from the Federal Transit Administration (FTA) under FAIN #MT210010 through Section 5303 of the Federal Transit Act for the Federal Fiscal Year of 2021 (October 1, 2020 – September 30, 2021), as amended, and desiring to assist the sub-recipient, enters into the following contract with sub-recipient. Actual award is contingent upon the availability of FTA funding.

ARTICLE 1. PROJECT

SECTION 1.1 Purpose of Contract. This Contract provides assistance to the Sub-recipient to evaluate, select and monitor technical study projects and transportation planning projects proposed by local metropolitan planning organizations or public bodies and agencies.

SECTION 1.2 Scope of Project. The Sub-recipient shall undertake and complete the Project as described in the Sub-recipient's Unified Planning Work Program (UPWP), hereby incorporated by reference, as already filed with and approved by the State.

SECTION 1.3 Period of Performance. This Contract will be effective from October 1, 2020 to September 30, 2021. Pre-award authority to incur project costs is and subject to the conditions and requirements contained therein.

SECTION 1.4 Costs of Project and Payment Terms. The total cost of the Project shall be \$125,252. The cost of the project shall be shared as follows:

80 Percent Federal and IDC	<u>\$100,202</u>
20 Percent Local Match and IDC	<u>\$ 25,050</u>
	<u>\$125,252</u>

It is understood and agreed between the parties that:

The Sub-recipient agrees to provide matching funds to assure payment of Project costs. Sub-recipient shall provide these funds when necessary to meet Project costs. The Sub-recipient will not refund or reduce its share of the Project cost unless there is a corresponding proportional grant amount refund to the State. State will make grant payments to Sub-recipient based upon the State's receipt and approval of reports and invoices submitted by the Sub-recipient.

Section 17-1-106, MCA, requires any state agency, including MDT, which receives non-general funds to identify and recover its indirect costs. These costs are in addition to direct project costs. MDT's indirect cost rate is determined annually as a percentage of the project's direct costs to cover the project's share of MDT's indirect costs as calculated by 2 CFR Part 200, Appendix VII. MDT's current indirect cost (IDC) rate is 10.99% for fiscal year 2021 (July 1, 2020 to June 30, 2021). In accordance with this statute, local agencies receiving Federal Transit Administration (FTA) funding are not subject to IDC on these funds and IDC will be absorbed by the State. All other federal funds are still subject to the current IDC rate. [Note: If this project extends across more than one fiscal year, more than one annual rate will be involved, as the rates may change during the life of the project].

SECTION 1.5 Travel Requests. The State must give prior written approval for the Sub-recipient to use any Section 5303 funds to attend courses, workshops, conferences and similar activities. Reimbursement for both in-state and out-of-state travel will be at rates prescribed in 2-18-501, M.C.A., *et seq.*

SECTION 1.6 Budget Changes. The Sub-recipient shall submit to the State for prior approval any changes in a work element resulting in a cost increase or decrease over 10%. The Sub-recipient shall indicate the task and amount of the overrun. The Sub-recipient shall notify the State through quarterly reports of any changes in work elements resulting in a cost increase or decrease of 10% or less. However, the federal share of the overall Section 5303 budget will not be exceeded.

The State must authorize any transfer of funds between or among UPWP tasks within the approved budget. The Sub-recipient shall indicate from which tasks federal funding will be transferred to offset the task over expended.

SECTION 1.7 Reporting. Sub-recipient shall advise the State in writing of Project progress at such times and in such manner as the State and FTA may require, but not less than on a quarterly basis.

ARTICLE 2. TERMS AND CONDITIONS

SECTION 2.1 Default. Nonperformance by the sub-recipient of any obligation imposed by this Contract, including noncompliance with the federal assurances, or reduction of local project cost funding, will constitute default.

SECTION 2.2 Termination. This Contract may be terminated by the State by serving a notice of termination on the sub-recipient. Termination may occur for either convenience or default. If termination is for convenience, the notice shall give the sub-recipient thirty days to wind down its activities under this Contract. If termination occurs due to default, the notice shall state the nature of the sub-recipient's default and offer the sub-recipient an opportunity to explain its nonperformance. If the State finds that the sub-recipient has a reasonable excuse for nonperformance, which is beyond the control of the sub-recipient, the State may set up a new work schedule and allow the completion of this Contract. In any termination, the State will make its contractual payments proportionate to the work properly performed in accordance with this Contract to the time of termination. Sub-recipient shall account for any Project property in its possession.

SECTION 2.3 Litigation. Controversy arising from this contract may result in litigation. Arbitration is not available. This Contract shall be governed by Montana law.

SECTION 2.4 Venue. In the event of litigation concerning this Agreement, venue shall be in the First Judicial District of the State of Montana, Lewis and Clark County.

SECTION 2.5 Contract Modification. Any change in this Contract will only be by written agreement of the Parties.

SECTION 2.6 Assignment and Subcontracting. Sub-recipient shall not assign any portion of the work to be performed under this Agreement, or execute any contract, amendment or change order thereto, or obligate sub-recipient in any manner with any third party with respect to sub-recipient's rights and responsibilities under this Agreement, without the prior written concurrence of the State.

SECTION 2.7 Subcontracts. Sub-recipient shall include in all subcontracts entered into pursuant to this Agreement a copy of this Contract, and the subcontract will make the provisions of this Contract a specific part of the subcontract. In addition, the sub-recipient shall include the all the provisions from this contract in any advertisement or invitation to bid for any procurement under this Agreement.

SECTION 2.8 Statement of Financial Assistance. This agreement is subject to a financial assistance contract between the Montana Department of Transportation, the U. S. Department of Transportation and the Federal Transit Administration.

SECTION 2.09 Indemnification. The Sub-recipient shall indemnify, defend, and hold harmless the State of Montana, Department of Transportation, its employees and agents from and against all claims, demands, or other damage to persons or entities (including the costs of defense and attorneys' fees) arising or resulting from the performance of this Contract.

SECTION 2.10 Access and Retention of Records. The sub-recipient agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine compliance with this Agreement. The sub-recipient agrees to create and retain records supporting this Agreement for a period of three years after the completion date of this Agreement or the conclusion of any claim, litigation or exception relating to this Agreement taken by the State of Montana or a third party.

SECTION 2.11 Notice. All notices arising from the provisions of this Contract shall be in writing and given to the parties at the addresses listed above, either by regular mail or delivery in person.

SECTION 2.12 Agency Assistance. No assistance, other than provided for by this Contract, will be required, but may be provided at the discretion of State.

SECTION 2.13 Severability and Integration. If any part, or parts, of this Contract are determined to be void, the remaining parts will remain valid and operative. This document, together with its schedules, attachments, and exhibits, represent the complete and entire understanding of the parties on its subject matter. No provision, express or implied, arising from any prior oral or written request, bid, inquiry, negotiation, contract, or any other form of communication, shall be a provision of this contract unless it is reduced to writing, signed by the parties, and attached to this document.

SECTION 2.14 Waivers. A party's failure to enforce any provision of this Contract shall not be construed as a waiver excusing the other party's future performance.

ARTICLE 3. FEDERAL REQUIREMENTS

SECTION 3.1 FTA Master Agreement. The sub-recipient understands this contract includes requirements specifically prescribed by Federal law or regulation and does not encompass all Federal laws, regulations, and directives that may apply to the sub-recipient or its project. A comprehensive list of those Federal laws, regulations and directives is contained in the current FTA Master Agreement MA(22) at the FTA website: <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-master-agreement-fiscal-year-2020> The clauses in this contract have been streamlined to highlight the most prevalent regulations that govern this award, however additional Federal laws, regulations and directives contained in the Master Agreement will apply. The sub-recipient's signature upon this document acknowledges they have read and understand the Master Agreement.

The sub-recipient also agrees to include FTA Master Agreement requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

SECTION 3.2 Prohibited Interest. No employee, officer, board member or agent of the sub-recipient shall participate in the selection, award, or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (1) The employee, officer, board member or agent;
- (2) Any member of his or her immediate family;
- (3) His or her partner; or
- (4) An organization which employs or is about to employ any of the above; has a financial or other interest in the firm selected for award. The sub-recipient's employees, officers, board members or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties of sub-agreements.

SECTION 3.3 Ineligible Bidders. Bidders or Suppliers whose names appear on the US Comptroller General's List located at <https://www.sam.gov/portal/public/SAM/> of Ineligible Contractors are not eligible for award of, or participation in, any contract that may be awarded as a result of this agreement. Submission of a bid by any bidder constitutes certification that the bidder or any subcontractor or suppliers to the bidder, on this proposed contract, if one is awarded, are not on the Comptroller General's List of Ineligible Contractors. A subsequent determination by FTA that a bidder knowingly made any misstatement of facts in this regard will be cause for immediate disqualification, suspension or termination of the contract for cause.

SECTION 3.4 False or Fraudulent Statements or Claims. Sub-recipient acknowledges that, should it make a false, fictitious, or fraudulent claim, statement, submission, or certification to the State or Federal Government in connection with this project, FTA reserves the right to pursue the procedures and impose on the sub-recipient the penalties of 18 USC 1001, 31 USC 3801, as may be deemed by FTA to be appropriate.

SECTION 3.5 Debarment and Suspension. Sub-recipient shall obtain from its third party contractors certifications required by Department of Transportation regulations, "Government-wide Debarment and Suspension (Non-procurement)," 49 CFR Part 29, and otherwise comply with the requirements of those regulations a list of debarred entities is located at <https://www.sam.gov/portal/public/SAM/>.

SECTION 3.6 No State or Federal Obligations to Third Parties. State shall not be subject to any obligations or liabilities to any third party in connection with the performance of this Project without the specific written consent of the State and FTA. Neither the concurrence in nor the approval of the award of this contract or any subcontract, or the solicitation thereof, nor any other act performed by the State under this contract shall constitute such consent.

SECTION 3.7 Non-Discrimination Notice. Sub-recipient agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, Title 42 USC Chapter 76 Section 6101 *et seq.*, and implementing regulations, which prohibit employment and other discrimination against individuals on the basis of age. The Sub-recipient also agrees to comply with the requirements of 49 USC 5301(d), 29 USC 794, the Americans with Disabilities Act, as amended (42 USC 12101 *et seq.*), and the Architectural Barriers Act of 1968, as amended (42 USC 4151 *et seq.*), as well as the applicable requirements of the regulations implementing those laws. The attached notice is incorporated herein by reference see Exhibit I.

SECTION 3.8 Disability Accommodation. The State of Montana's Department of Transportation is committed to operating all of its programs and services without regard to disability in accordance with all applicable State of Montana statutes and federal statutes (Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, The Civil Rights Restoration Act of 1973, Title II and III of the Americans with Disabilities Act). The Montana Department of Transportation does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need aids, alternative document formats or services for effective communications or other disability-related accommodations in the programs and services offered are invited to make their needs and preferences known to the MDT ADA Coordinator. Any person who believes he or she may have been discriminated against on the basis of disability may contact the Montana Department of Transportation, Office of Civil Rights and file a formal complaint.

SECTION 3.9 Federal Changes. Sub-recipient shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the State and FTA, as they may be amended or promulgated from time to time during the term of this contract. Sub-recipient's failure to so comply shall constitute a material breach of this contract.

SECTION 3.10 Settlement of Third Party Contract Disputes or Breaches. The term “third-party contract,” as used in this Agreement, is defined as a contract between the sub-recipient and its subcontractor in which the sub-recipient has procured a good and/or service commercially from the subcontractor. FTA has a vested interest in the settlement of disputes, defaults, or breaches involving any federally assisted third party contracts. FTA retains the right to a proportionate share, based on the percentage of the Federal share committed to the Project, of any proceeds derived from any third party recovery. Therefore, the sub-recipient shall avail itself of all legal rights available under any third party contract. The sub-recipient shall notify the State of any current or prospective litigation or major disputed claim pertaining to any third party contract. FTA reserves the right to concur in any compromise or settlement of the sub-recipient's claim(s) involving any third party contract, before making Federal assistance available to support that settlement. If the third party contract contains a liquidated damages provision, any liquidated damages recovered shall be credited to the Project account involved unless FTA permits otherwise.

SECTION 3.11 Incorporation of FTA Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein withstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The sub-recipient shall not perform any act, fail to perform any act, or refuse to comply with any State requests which would cause the State to be in violation of the FTA terms and conditions.

SECTION 3.12 Compliance with Laws. Some of the clauses contained in this Contract are not governed solely by Federal law, but are significantly affected by State law. The laws and regulations cited in this Contract are not all-inclusive of those which may apply to the successful completion of this Contract. The sub-recipient understands that it is its responsibility to learn what federal, state and local laws and regulations will apply to its operation under this Contract, and that sub-recipient is solely responsible for its lawful compliance with all laws and regulations, including those attached hereto as Exhibit I.

SECTION 3.13 Drug and Alcohol Compliance. The Sub-recipient shall comply with USDOT Federal Transit Administration drug and alcohol rules as established in the “Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit,” set forth in 49 CFR Part 40, and Part 655; Drug-Free Workplace act. Sub-recipient understands and agrees that failure to comply with this section constitutes default pursuant to Article 2, Section 2.1.

SECTION 3.14 Privacy Act. Sub-recipient agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC § 552a. Among other things, the sub-recipient agrees to obtain the express consent of the Federal Government before the sub-recipient or its employees operate a system of records on behalf of the Federal Government. The sub-recipient understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

SECTION 3.15 Single Audit Act. Sub-recipient may be subject to the audit requirements of 2 CFR 200 Subpart F if the audit threshold in 2 CFR 200.501 of \$750,000 is met. An audit must be conducted in compliance with 2 CFR 200 Subpart F if required. The audit must be completed and the data collection form and reporting package submitted to the Federal Audit Clearinghouse within the earlier of 30 calendar days after the receipt of the auditor's report(s) or nine months after the end of the audit period. For local governments and school districts, the Subrecipient will provide the report to the State of Montana, Department of Administration, Local Government Services Bureau. All other Subrecipients such as Tribal Communities and Non-Profit Organizations will provide the report to the State of Montana, Department of Transportation, Audit Services if audit findings are discovered.

SECTION 3.16 Prohibition on certain telecommunications and video surveillance services or equipment. Grant, cooperative agreement, and loan recipients are prohibited from using government funds to enter into contracts (or extend or renew contracts) with entities that use covered technology. See section 889 of [Public Law 115-232](#) (National Defense Authorization Act 2019).

SECTION 3.17 Counterpart Execution. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

The SUB-RECIPIENT warrants that it has the lawful authority to enter this Agreement, and that it has taken all actions and complied with all procedures necessary to execute the authority lawfully in entering this Agreement, and that the undersigned signatory for sub-recipient has been lawfully delegated the authority to sign this Agreement on behalf of sub-recipient.

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

**STATE OF MONTANA
DEPARTMENT OF TRANSPORTATION**

By: _____
Lynn Zanto, Administrator
MDT-Rail, Transit and Planning Division

Date: _____ 20__

GREAT FALLS PLANNING BOARD

By: _____

Printed Name: _____

Title: _____

Date: _____ 20__

APPROVED FOR CIVIL RIGHTS CONTENT

By: _____
DocuSigned by:
Patricia Schwinden
Date: _____ 20__
CDF2B6A0A2C34EC...

Office of Civil Rights

SUB-RECIPIENT ATTORNEY (optional)

By: _____
Date: _____ 20__

APPROVED FOR LEGAL CONTENT

By: _____
DocuSigned by:
Carol Grell Morris
C3685E7AFD144B6...

Date: 12/2/2020 20__

MDT Legal Services

Exhibit 1
MDT NONDISCRIMINATION
AND
DISABILITY ACCOMMODATION NOTICE

Montana Department of Transportation (“MDT”) is committed to conducting all of its business in an environment free from discrimination, harassment, and retaliation. In accordance with State and Federal law MDT prohibits any and all discrimination and protections are all inclusive (hereafter “protected classes”) by its employees or anyone with whom MDT does business:

Federal protected classes

Race, color, national origin,
sex, sexual orientation, gender identity,
age, disability, & Limited English Proficiency

State protected classes

Race, color, national origin, parental/marital
status, pregnancy, childbirth, or medical
conditions related to pregnancy or childbirth,
religion/ creed, social origin or condition,
genetic information, sex, sexual orientation,
gender identification or expression, national
origin, ancestry, age, disability mental or
physical, political or religious affiliations or
ideas, military service or veteran status

For the duration of this contract/agreement, the PARTY agrees as follows:

(1) Compliance with Regulations: The PARTY (hereinafter includes consultant) will comply with all Acts and Regulations of the United States and the State of Montana relative to Non-Discrimination in Federally and State-assisted programs of the U.S. Department of Transportation and the State of Montana, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

(2) Non-discrimination:

- a. The PARTY, with regard to the work performed by it during the contract, will not discriminate, directly or indirectly, on the grounds of any of the protected classes in the selection and retention of subcontractors, including procurements of materials and leases of equipment, employment, and all other activities being performed under this contract/agreement.
- b. PARTY will provide notice to its employees and the members of the public that it serves that will include the following:
 - i. Statement that PARTY does not discriminate on the grounds of any protected classes.
 - ii. Statement that PARTY will provide employees and members of the public that it serves with reasonable accommodations for any known disability, upon request, pursuant to the Americans with Disabilities Act as Amended (ADA).
 - iii. Contact information for PARTY’s representative tasked with handling non-discrimination complaints and providing reasonable accommodations under the ADA.

- iv. Information on how to request information in alternative accessible formats.
- c. In accordance with Mont. Code Ann. § 49-3-207, PARTY will include a provision, in all of its hiring/subcontracting notices, that all hiring/subcontracting will be on the basis of merit and qualifications and that PARTY does not discriminate on the grounds of any protected class.

(3) Participation by Disadvantaged Business Enterprises (DBEs):

- a. If the PARTY receives federal financial assistance as part of this contract/agreement, the PARTY will make all reasonable efforts to utilize DBE firms certified by MDT for its subcontracting services. The list of all currently certified DBE firms is located on the MDT website at mdt.mt.gov/business/contracting/civil/dbe.shtml
- b. By signing this agreement, the PARTY assures that:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

- c. PARTY must include the above assurance in each contract/agreement the PARTY enters.

(4) Solicitation for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation, made by the PARTY for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the PARTY of the PARTY's obligation under this contract/agreement and all Acts and Regulations of the United States and the State of Montana related to Non-Discrimination.

(5) Information and Reports: The PARTY will provide all information and reports required by the Acts, Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by MDT or relevant US DOT Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the PARTY will so certify to MDT or relevant US DOT Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(6) Sanctions for Noncompliance: In the event of a PARTY's noncompliance with the Non-discrimination provisions of this contract/agreement, MDT will impose such sanctions as it or the relevant US DOT Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the PARTY under the contract/agreement until the PARTY complies; and/or
- b. Cancelling, terminating, or suspending the contract/agreement, in whole or in part.

(7) Pertinent Non-Discrimination Authorities:

During the performance of this contract/agreement, the PARTY, for itself, its assignees, and successor in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Federal

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airways Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*).
- Executive Order 13672 prohibits discrimination in the civilian federal workforce on the basis of gender identity and in hiring by federal contractors on the basis of both sexual orientation and gender identity.

State

- Mont. Code Ann. § 49-3-205 Governmental services;
- Mont. Code Ann. § 49-3-206 Distribution of governmental funds;
- Mont. Code Ann. § 49-3-207 Nondiscrimination provision in all public contracts.

(8) Incorporation of Provisions: The PARTY will include the provisions of paragraph one through seven in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and/or directives issued pursuant thereto. The PARTY will take action with respect to any subcontract or procurement as MDT or the relevant US DOT Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the PARTY becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the PARTY may request MDT to enter into any litigation to protect the interests of MDT. In addition, the PARTY may request the United States to enter into the litigation to protect the interests of the United States.

**SECTION 5303 CONTRACT
FOR PASS-THROUGH OF FUNDS TO THE
GREAT FALLS TRANSIT DISTRICT**

THIS Contract is made this _____ day of _____, 2021, by the GREAT FALLS PLANNING ADVISORY BOARD, P. O. Box 5021, Great Falls, Montana, (Planning Board) and the GREAT FALLS TRANSIT DISTRICT, P. O. Box 2353, Great Falls, Montana (Sub-recipient). Liaison for the Planning Board is the Senior Transportation Planner. Liaison for the Sub-recipient is the General Manager.

The Planning Board, having received federal grant monies as a sub-recipient from the Federal Transit Administration (FTA) through Section 5303 of the Federal Transit Act and through a Section 5303 Contract with the Montana Department of Transportation (State or MDT), enters into the following Contract with the Sub-recipient to pass-through said grant monies. Actual award is contingent upon the availability of FTA funding.

ARTICLE 1. PROJECT

SECTION 1.1 Purpose of Contract. This Contract passes through federal assistance via the State to the Planning Board to the Sub-recipient to evaluate, select and monitor technical study projects and transportation planning projects proposed by local metropolitan planning organizations or public bodies and agencies.

SECTION 1.2 Scope of Project. The Sub-recipient shall undertake and complete the Project as described in the Great Falls Unified Planning Work Program (UPWP), hereby incorporated by reference, as already filed with and approved by the State.

SECTION 1.3 Period of Performance. This Contract will be effective during the same time period as the Section 5303 Contract between the Planning Board and the State, which is October 1, 2020 to September 30, 2021. Pre-award authority to incur project costs is subject to the conditions and requirements contained herein.

SECTION 1.4 Costs of Project and Payment Terms. The total cost of the Project shall be \$125,252. The cost of the Project shall be shared as follows:

Federal and IDC (80%)	\$100,202
Local Match and IDC (20%)	<u>\$ 25,050</u>
	\$125,252

It is understood and agreed between the parties that:

The Sub-recipient agrees to provide matching funds to assure payment of Project costs. Sub-recipient shall provide these funds when necessary to meet Project costs. The Sub-recipient

will not refund or reduce its share of the Project cost unless there is a corresponding proportional grant amount refund to the State via the Planning Board. The State will make grant payments to the City, and the City to the Sub-recipient, based upon the State's receipt and approval of reports and invoices submitted by the Sub-recipient.

Section 17-1-106, MCA, requires any state agency, including the Montana Department of Transportation, which receives non-general funds, to identify and recover its indirect costs. These costs are in addition to direct project costs. MDT's indirect cost rate is determined annually as a percentage of the project's direct costs to cover the project's share of MDT's indirect costs as calculated by 2 CFR Part 200, Appendix VII. MDT's current indirect cost (IDC) rate is 10.41% for fiscal year 2021 (July 1, 2020 to June 30, 2021). In accordance with this statute, local agencies receiving Federal Transit Administration (FTA) funding are not subject to IDC on these funds and will be absorbed by the State. All federal funds are still subject to the current IDC rate. [Note: if this project extends across more than one fiscal year, more than one annual rate will be involved, as the rates may change during the life of the project]

SECTION 1.5 Travel Requests. The State must give prior written approval for the Sub-recipient to use any Section 5303 funds to attend courses, workshops, conferences, and similar activities. Reimbursement for both in-state and out-of-state travel will be at the rates prescribed in 2-18-501, M.C.A., *et seq.*

SECTION 1.6 Budget Changes. The Sub-recipient shall submit to the State, via the Planning Board, for prior approval, any changes in a work element resulting in a cost increase or decrease over 10%. The Sub-recipient shall indicate the task and amount of the overrun. The Sub-recipient shall notify the Planning Board through quarterly reports of any changes in work elements resulting in a cost increase or decrease of 10% or less. However, the federal share of the overall Section 5303 budget will not be exceeded.

The State, via the Planning Board, must authorize any transfer of funds between or among UPWP tasks within the approved budget. The Sub-recipient shall indicate from which tasks federal funding will be transferred to offset the task over-expended.

SECTION 1.7 Reporting. Sub-recipient shall advise the Planning Board in writing of Project progress at such times and in such manner as the State and FTA may require, but not less than on a quarterly basis.

ARTICLE 2. TERMS AND CONDITIONS

SECTION 2.1 Default. Nonperformance by the Sub-recipient of any obligation imposed by this Contract, including noncompliance with the federal assurances, or reduction of local project cost funding, will constitute default.

SECTION 2.2 Termination. This Contract may be terminated by the Planning Board by serving a notice of termination on the Sub-recipient. Termination may occur for either convenience

or default, or if terminated by the State. If termination is for convenience, the notice shall give the Sub-recipient thirty days to wind down its activities under this Contract. If termination occurs due to default, the notice shall state the nature of the Sub-recipient's default, and offer the Sub-recipient an opportunity to explain its nonperformance. If the Planning Board finds that the Sub-recipient has a reasonable excuse for nonperformance, which is beyond the control of the Sub-recipient, the Planning Board, in consultation with and if concurred by the State, may set up a new work schedule and allow the completion of this Contract.

In any termination, the Planning Board will make its contractual pass-through payments proportionate to the work properly performed in accordance with this Contract to the time of termination, if such payments are provided by the State. Sub-recipient shall account for any Project property in its possession.

SECTION 2.3 Litigation. Controversy arising from this Contract may result in litigation. Arbitration is not available. This Contract shall be governed by Montana law.

SECTION 2.4 Venue. In the event of litigation concerning this Contract, venue shall be in the Eighth Judicial District of the State of Montana, Cascade County, unless the State requires said venue to be in the First Judicial District of the State of Montana, Lewis & Clark County.

SECTION 2.5 Contract Modification. Any change in this Contract will only be by written agreement of the Parties.

SECTION 2.6 Assignment and Subcontracting. The Sub-recipient shall not assign any portion of the work to be performed under this Contract, or execute any contract, amendment or change order thereto, or obligate Sub-recipient in any manner with any third party with respect to Sub-recipient's rights and responsibilities under this Contract, without the prior written concurrence of the Planning Board and the State.

SECTION 2.7 Subcontracts. The Sub-recipient shall include in all subcontracts entered into pursuant to this Contract a copy of this Contract, and the subcontract will make the provisions of this Contract a specific part of the subcontract. In addition, the Sub-recipient shall include all the provisions from this contract in any advertisement or invitation to bid for any procurement under this Contract.

SECTION 2.8 Statement of Financial Assistance. This Contract is subject to a financial assistance contract between the Montana Department of Transportation, the U. S. Department of Transportation, and the Federal Transit Administration, as well as an agreement between the Planning Board and the State.

SECTION 2.9 Indemnification. The Sub-recipient shall indemnify, defend, and hold harmless the Planning Board, the City of Great Falls, the State of Montana Department of Transportation, and their employees and agents from and against all claims, demands, or actions

from damages to property or injury to persons or other damage to persons or entities arising or resulting from the performance of this Contract.

SECTION 2.10 Access and Retention of Records. The Sub-recipient agrees to provide the Planning Board, City of Great Falls, State, Legislative Auditor or their authorized agents, access to any records necessary to determine compliance with this Contract. The Sub-recipient agrees to create and retain records supporting this Contract for a period of three years after the completion date of this Contract or the conclusion of any claim, litigation or exception relating to this Contract taken by the Planning Board, State of Montana or a third party.

SECTION 2.11 Notice. All notices arising from the provisions of this Contract shall be in writing and given to the parties at the addresses listed above, either by regular mail or delivery in person.

SECTION 2.12 Agency Assistance. No assistance, other than provided for by this Contract, will be required, but may be provided at the discretion of Planning Board or State.

SECTION 2.13 Severability and Integration. If any part, or parts, of this Contract are determined to be void, the remaining parts will remain valid and operative. This document, together with its schedules, attachments, and exhibits, represent the complete and entire understanding of the parties on its subject matter. No provision, express or implied, arising from any prior oral or written request, bid, inquiry, negotiation, contract, or any other form of communication, shall be a provision of this Contract unless it is reduced to writing, signed by the parties, and attached to this document.

SECTION 2.14 Waivers. A party's failure to enforce any provision of this Contract shall not be construed as a waiver excusing the other party's future performance.

ARTICLE 3. FEDERAL REQUIREMENTS

SECTION 3.1 FTA Master Agreement. The Sub-recipient understands that this Contract includes requirements specifically prescribed by Federal law or regulation and does not encompass all Federal laws, regulations, and directives that may apply to the Sub-recipient or its project. A comprehensive list of those Federal laws, regulations and directives is contained in the current FTA Master Agreement MA(22) at the FTA website: <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-master-agreement-fiscal-year-2020>. The clauses in this Contract have been streamlined to highlight the most prevalent regulations that govern this award; however, additional Federal laws, regulations and directives contained in the Master Agreement will apply. The Sub-recipient's signature upon this document acknowledges they have read and understand the Master Agreement.

The Sub-recipient also agrees to include the FTA Master Agreement requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

SECTION 3.2 Prohibited Interest. No employee, officer, board member or agent of the Sub-recipient shall participate in the selection, award, or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (1) The employee, officer, board member or agent;
- (2) Any member of his or her immediate family;
- (3) His or her partner; or
- (4) An organization which employs, or is about to employ any of the above; has a financial or other interest in the firm selected for award. The Sub-recipient's employees, officers, board members or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties of sub-contracts.

SECTION 3.3 Ineligible Bidders. Bidders or Suppliers whose names appear on the US Comptroller General's List located at <https://www.sam.gov/portal/public/SAM/> of Ineligible Contractors are not eligible for award of, or participation in, any contract that may be awarded as a result of this Contract. Submission of a bid by any bidder constitutes certification that the bidder or any subcontractor or suppliers to the bidder, on this proposed Contract, if one is awarded, are not on the Comptroller General's List of Ineligible Contractors. A subsequent determination by FTA that a bidder knowingly made any misstatement of facts in this regard will be cause for immediate disqualification, suspension or termination of the Contract for cause.

SECTION 3.4 False or Fraudulent Statements or Claims. The Sub-recipient acknowledges that, should it make a false, fictitious, or fraudulent claim, statement, submission, or certification to the Planning Board, City of Great Falls, State or Federal Government in connection with this project, FTA reserves the right to pursue the procedures and impose on the Sub-recipient the penalties of 18 USC 1001, 31 USC 3801, as may be deemed by FTA to be appropriate.

SECTION 3.5 Debarment and Suspension. The Sub-recipient shall obtain from its third party contractors certifications required by Department of Transportation regulations, "Government-wide Debarment and Suspension (Non-procurement)," 49 CFR Part 29, and otherwise comply with the requirements of those regulations a list of debarred entities is located at <https://www.sam.gov/portal/public/SAM/>.

SECTION 3.6 No State or Federal Obligations to Third Parties. The State shall not be subject to any obligations or liabilities to any third party, including the Sub-recipient, in connection with the performance of this Project without the specific written consent of the State and FTA. Neither the concurrence in nor the approval of the award of this Contract or any subcontract, or the solicitation thereof, nor any other act performed by the Planning Board or State under this Contract shall constitute such consent.

SECTION 3.7 Non-Discrimination Notice. The Sub-recipient agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, Title 42 USC Chapter 76 Section 6101 *et seq.*, and implementing regulations, which prohibit employment and other discrimination against individuals on the basis of age. The Sub-recipient also agrees to comply

with the requirements of 49 USC 5301(d), 29 USC 794, the Americans with Disabilities Act, as amended (42 USC 12101 *et seq.*), and the Architectural Barriers Act of 1968, as amended (42 USC 4151 *et seq.*), as well as the applicable requirements of the regulations implementing those laws. The attached notice is incorporated herein by reference see Exhibit 1.

SECTION 3.8 Disability Accommodation. The State of Montana's Department of Transportation is committed to operating all of its programs and services without regard to disability in accordance with all applicable State of Montana statutes and federal statutes (Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, The Civil Rights Restoration Act of 1973, Title II and III of the Americans with Disabilities Act). The Montana Department of Transportation does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need aids, alternative document formats or services for effective communications or other disability-related accommodations in the programs and services offered are invited to make their needs and preferences known to the MDT ADA Coordinator. Any person who believes he or she may have been discriminated against on the basis of disability may contact the Montana Department of Transportation, Office of Civil Rights and file a formal complaint.

SECTION 3.9 Federal Changes. Sub-recipient shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the State and FTA, as they may be amended or promulgated from time to time during the term of this Contract. Sub-recipient's failure to so comply shall constitute a material breach of this Contract.

SECTION 3.10 Settlement of Third Party Contract Disputes or Breaches. The term "third-party contract," as used in this Contract, is defined as a contract between the Sub-recipient and its subcontractor in which the Sub-recipient has procured a good and/or service commercially from the subcontractor. FTA has a vested interest in the settlement of disputes, defaults, or breaches involving any federally assisted third party contracts. FTA retains the right to a proportionate share, based on the percentage of the Federal share committed to the Project, of any proceeds derived from any third party recovery. Therefore, the Sub-recipient shall avail itself of all legal rights available under any third party contract. The Sub-recipient shall notify the Planning Board and State of any current or prospective litigation or major disputed claim pertaining to any third party contract. FTA reserves the right to concur in any compromise or settlement of the Sub-recipient's claim(s) involving any third party contract, before making Federal assistance available to support that settlement. If the third party contract contains a liquidated damages provision, any liquidated damages recovered shall be credited to the Project account involved unless FTA permits otherwise.

SECTION 3.11 Incorporation of FTA Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein withstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with

other provisions contained in this Contract. The Sub-recipient shall not perform any act, fail to perform any act, or refuse to comply with any State requests which would cause the State to be in violation of the FTA terms and conditions.

SECTION 3.12 Compliance with Laws. Some of the clauses contained in this Contract are not governed solely by Federal law, but are significantly affected by State law. The laws and regulations cited in this Contract are not all-inclusive of those which may apply to the successful completion of this Contract. The Sub-recipient understands that it is its responsibility to learn what federal, state and local laws and regulations will apply to its operation under this Contract, and that Sub-recipient is solely responsible for its lawful compliance with all laws and regulations, including those attached hereto as Exhibit 1.

SECTION 3.13 Drug and Alcohol Compliance. The Sub-recipient shall comply with USDOT Federal Transit Administration drug and alcohol rules as established in the “Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit,” set forth in 49 CFR Part 40, and Part 655; Drug-Free Workplace act. Sub-recipient understands and agrees that failure to comply with this section constitutes default pursuant to Article 2, Section 2.1.

SECTION 3.14 Privacy Act. The Sub-recipient agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC § 552a. Among other things, the Sub-recipient agrees to obtain the express consent of the Federal Government before the Sub-recipient or its employees operate a system of records on behalf of the Federal Government. The Sub-recipient understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

SECTION 3.15 Single Audit Act. The Sub-recipient may be subject to the audit requirements of 2 CFR 200 Subpart F if the audit threshold in 2 CFR 200.501 of \$750,000 is met. An audit must be conducted in compliance with 2 CFR 200 Subpart F if required. The audit must be completed and the data collection form and reporting package submitted to the Federal Audit Clearinghouse within the earlier of 30 calendar days after the receipt of the auditor’s report(s) or nine months after the end of the audit period. For local governments and school districts, the Sub-recipient will provide the report to the State of Montana, Department of Administration, Local Government Services Bureau. All other sub-recipients such as Tribal Communities and Non-Profit Organizations will provide the report to the State of Montana, Department of Transportation, Audit Services, if audit findings are discovered.

SECTION 3.16 Prohibition on certain telecommunications and video surveillance services or equipment. Grant, cooperative agreement, and loan recipients are prohibited from using government funds to enter into contracts (or extend or renew contracts) with entities that use covered technology. See section 889 of [Public Law 115-232](#) (National Defense Authorization Act 2019).

SECTION 3.17 Counterpart Execution. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Contract. The counterparts of this Contract may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

The Sub-recipient warrants that it has the lawful authority to enter this Contract, and that it has taken all actions and complied with all procedures necessary to execute the authority lawfully in entering this Contract, and that the undersigned signatory for Sub-recipient has been lawfully delegated the authority to sign this Contract on behalf of Sub-recipient.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be executed.

Name: Great Falls Transit District

By: _____

Title: General Manager

Date: _____

Name: Great Falls Planning Advisory Board

By: _____

Title: Chairperson

Date: _____

Exhibit 1
MDT NONDISCRIMINATION
AND
DISABILITY ACCOMMODATION NOTICE

Montana Department of Transportation (“MDT”) is committed to conducting all of its business in an environment free from discrimination, harassment, and retaliation. In accordance with State and Federal law MDT prohibits any and all discrimination and protections are all inclusive (hereafter “protected classes”) by its employees or anyone with whom MDT does business:

Federal protected classes

Race, color, national origin, sex, sexual orientation, gender identity, age, disability, & Limited English Proficiency

State protected classes

Race, color, national origin, parental/marital status, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, religion/ creed, social origin or condition, genetic information, sex, sexual orientation, gender identification or expression, national origin, ancestry, age, disability mental or physical, political or religious affiliations or ideas, military service or veteran status

For the duration of this contract/agreement, the PARTY agrees as follows:

(1) Compliance with Regulations: The PARTY (hereinafter includes consultant) will comply with all Acts and Regulations of the United States and the State of Montana relative to Non-Discrimination in Federally and State-assisted programs of the U.S. Department of Transportation and the State of Montana, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

(2) Non-discrimination:

- a. The PARTY, with regard to the work performed by it during the contract, will not discriminate, directly or indirectly, on the grounds of any of the protected classes in the selection and retention of subcontractors, including procurements of materials and leases of equipment, employment, and all other activities being performed under this contract/agreement.
- b. PARTY will provide notice to its employees and the members of the public that it serves that will include the following:
 - i. Statement that PARTY does not discriminate on the grounds of any protected classes.
 - ii. Statement that PARTY will provide employees and members of the public that it serves with reasonable accommodations for any known disability, upon request, pursuant to the Americans with Disabilities Act as Amended (ADA).
 - iii. Contact information for PARTY’s representative tasked with handling non-discrimination complaints and providing reasonable accommodations under the ADA.

(7) Pertinent Non-Discrimination Authorities:

During the performance of this contract/agreement, the PARTY, for itself, its assignees, and successor in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Federal

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airways Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- iv. Information on how to request information in alternative accessible formats.
- c. In accordance with Mont. Code Ann. § 49-3-207, PARTY will include a provision, in all of its hiring/subcontracting notices, that all hiring/subcontracting will be on the basis of merit and qualifications and that PARTY does not discriminate on the grounds of any protected class.

(3) Participation by Disadvantaged Business Enterprises (DBEs):

- a. If the PARTY receives federal financial assistance as part of this contract/agreement, the PARTY will make all reasonable efforts to utilize DBE firms certified by MDT for its subcontracting services. The list of all currently certified DBE firms is located on the MDT website at mdt.mt.gov/business/contracting/civil/dbe.shtml
- b. By signing this agreement, the PARTY assures that:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

- c. PARTY must include the above assurance in each contract/agreement the PARTY enters.

(4) Solicitation for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation, made by the PARTY for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the PARTY of the PARTY's obligation under this contract/agreement and all Acts and Regulations of the United States and the State of Montana related to Non-Discrimination.

(5) Information and Reports: The PARTY will provide all information and reports required by the Acts, Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by MDT or relevant US DOT Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the PARTY will so certify to MDT or relevant US DOT Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(6) Sanctions for Noncompliance: In the event of a PARTY's noncompliance with the Non-discrimination provisions of this contract/agreement, MDT will impose such sanctions as it or the relevant US DOT Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the PARTY under the contract/agreement until the PARTY complies; and/or
- b. Cancelling, terminating, or suspending the contract/agreement, in whole or in part.

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*).
- Executive Order 13672 prohibits discrimination in the civilian federal workforce on the basis of gender identity and in hiring by federal contractors on the basis of both sexual orientation and gender identity.

State

- Mont. Code Ann. § 49-3-205 Governmental services;
- Mont. Code Ann. § 49-3-206 Distribution of governmental funds;
- Mont. Code Ann. § 49-3-207 Nondiscrimination provision in all public contracts.

(8) Incorporation of Provisions: The PARTY will include the provisions of paragraph one through seven in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and/or directives issued pursuant thereto. The PARTY will take action with respect to any subcontract or procurement as MDT or the relevant US DOT Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the PARTY becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the PARTY may request MDT to enter into any litigation to protect the interests of MDT. In addition, the PARTY may request the United States to enter into the litigation to protect the interests of the United States.



**BOARDS AND COMMISSIONS
CITIZEN INTEREST FORM**
(PLEASE PRINT OR TYPE)

Thank you for your interest. Citizen volunteers are regularly appointed to the various boards and commissions. This application subject to Montana Right to Know laws.

Board/Commission Applying For: <i>Planning advisory Board/ Zoning Commission</i>		Date of Application: <i>Dec - 17 - 2020</i>
Name: <i>Tory Mills</i>		
Home Address: <i>2817 upper river Road</i>		Email address: <i>Tory@UnitedElectricnow.com</i>
Home Phone: <i>-</i>	Work Phone: <i>-</i>	Cell Phone: <i>406-799-4277</i>
Occupation: <i>Electrician</i>	Employer: <i>United Electric</i>	
Would your work schedule conflict with meeting dates? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (If yes, please explain)		
Related experiences or background: <i>3 years on Planning advisory Board, 15 years construction</i>		
Educational Background: <i>High school GED, Masters Electrical</i>		
IF NECESSARY, ATTACH A SEPARATE SHEET FOR YOUR ANSWERS TO THE FOLLOWING:		
Previous and current service activities:		
Previous and current public experience (elective or appointive):		
Membership in other community organizations:		

Have you ever worked for or are you currently working for the City of Great Falls? Yes No If yes, where and when?

Do you have any relatives working or serving in any official capacity for the City of Great Falls? Yes No If yes, who, which department, and relationship?

Have you ever served on a City or County board? Yes No If yes, what board and when did you serve?

Planning advisory Board

Are you currently serving on a Board? Yes No If yes, which board?

Planning advisory Board

Please describe your interest in serving on this board/commission?

I would like to continue to serve my community.

Please describe your experience and/or background which you believe qualifies you for service on this board/commission?

I have served for 3 years under this Board, during which has had great leadership. I believe this will help me serve for an additional term

Additional comments:

Thank you for the opportunity

Signature

Tunglin

Date:

Dec 17-2020

If you are not selected for the current opening, your application may be kept active for up to one year by contacting the City Manager's office. Should a board/commission vacancy occur within 30 days from the last City Commission appointment, a replacement member may be selected from citizen interest forms submitted from the last advertisement. For more information, contact the City Manager's office at 455-8450.

Return this form to:

City Manager's Office
P.O. Box 5021
Great Falls, MT 59403

Fax:
(406) 727-0005

Email:
kartis@greatfallsmt.net