



**Planning Advisory Board/Zoning Commission
2 Park Drive South, Great Falls, MT
Commission Chambers. Civic Center
Agenda for December 28, 2021
3:00 PM**

UPDATES CONCERNING PROCESS OF MEETINGS

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:

- Effective May 4, 2021 Planning Advisory Board/Zoning Commission members and City staff will be attending the meeting in person.
- 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 participation is welcome in the following ways:
 - Attend in person. Please refrain from attending in person if you are not feeling well.
 - Provide public comments via email. Comments may be sent via email before 12:00 PM on Tuesday, December 28, 2021, to: jnygard@greatfallsmt.net. Include the agenda item or agenda item number in the subject line, and include the name of the commenter and either an address or whether the commenter is a city resident. Written communication received by that time will be shared with the City Commission and appropriate City staff for consideration during the agenda item and before final vote on the matter; and, will be so noted in the official record of the meeting.
 - Call-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 - Chair

Chuck Pankratz - Vice Chair

Lindsey Bullock

Kelly Buschmeyer

Pat Green

Tory Mills

Samantha Shinaberger

3. Recognition of Staff
4. Approval of Meeting Minutes - September 28, 2021

BOARD ACTIONS REQUIRING PUBLIC HEARING

- [5.](#) Public Hearing – Request for a Conditional Use Permit to allow a “Community center” land use in the R-3 Single-family High Density zoning district for property addressed as 3400 Flood Road and legally described as Block 15A of the Second Amended Plat of Tract 3 of Block 14 and Block 15, Belview Palisade Addition to the City of Great Falls, SE 1/4 NW 1/4 Section 22, T20N, R4E, P.M.M., Cascade County, Montana
- [6.](#) Public Hearing – Rezone of Lots 5-10, Block 736, of the Tenth Addition to Great Falls Townsite, including those portions of the vacated 17th Street South and 4th Alley South right of way, and approval of a non-administrative plat to aggregate the various lots of the vacated rights-of-way.

BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

- [7.](#) Section 5303 Federal Transit Administration Funding Contracts with the Montana Department of Transportation and the Great Falls Transit District
8. Recommendations on Expired Terms of Board Members - Chair Dave Bertelsen, Kelly Buschmeyer, and Samantha Shinaberger
9. Discussion on Recommendations for Chair and Vice Chair appointments for 2022

COMMUNICATIONS

10. Conditional Use Permit request at 1700 1st Ave N for January 11, 2022 Meeting

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
September 28, 2021

CALL TO ORDER

The regular meeting of the Great Falls Planning Advisory Board/Zoning Commission was called to order by Vice Chair Chuck Pankratz at 3:01 p.m. in the Commission Chambers at the Civic Center

ROLL CALL & ATTENDANCE

UPDATES CONCERNING PROCESS OF MEETINGS

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Planning Board Members present:

Charles Pankratz, Vice Chair

Minutes of the September 28, 2021

Planning Advisory Board Meeting

Page 2

Lindsey Bullock
Kelly Buschmeyer
Pat Green
Tory Mills
Samantha Shinaberger

Planning Board Members absent:

Dave Bertelsen, Chair

Planning Staff Members present:

Craig Raymond, Director Planning and Community Development
Tom Micuda, Deputy Director Planning and Community Development
Jamie Nygard, Senior Administrative Assistant

Other Staff present:

Jeff Hindoien, Deputy City Attorney

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

MINUTES

Vice Chair Chuck Pankratz asked if there were any comments or corrections to the minutes of the meeting held on September 14, 2021. Seeing none, Mr. Mills moved to approve the minutes. Ms. Shinaberger seconded, and all being in favor, the minutes were approved.

BOARD ACTIONS REQUIRING A PUBLIC HEARING

Request to rezone 14.9 acres located at 1300 River Drive North from Light Industrial and Mixed-Use Transitional to Planned Unit Development

Minutes of the September 28, 2021

Planning Advisory Board Meeting

Page 3

Tom Micuda, Deputy Director, presented to the Board. He stated that there are two applicants, TC Glass and Northern Hydraulics. TC Glass is interested in the western portion of the property and Northern Hydraulics is interested in the eastern portion of the property.

Mr. Micuda presented an Aerial Map, Zoning Map, and Site Photos.

Mr. Micuda stated that there is a roughly 105,000 square foot building on the site that has been vacant for the last couple of years. TC Glass wants to consolidate both their office/sales space that is located within the City and their production facility which is located in the County. The former Wausau Supply building on River Drive would be a perfect space for the 50,000 square foot business. All of their operations could be enclosed and the use is permitted. That would still leave 50,000 or so square feet of building space and a large portion of approximately 11 acres available. The property zoning does not permit Heavy Industrial options, so they are requesting the option for Heavy Industrial to have some flexibility for tenants.

The Northern Hydraulics request would be permitted on the eastern site where the split zoning between I-1 and M-2 is located, so they are asking for the same flexibility as TC Glass to allow for Heavy Industrial use.

Mr. Micuda stated that there were two ways that staff could have approached the request. One would have been to direct the applicants to bring forward a petition to zone the property I-2 Heavy Industrial, but the applicant, as well as staff, felt that creating a customized zoning approach of Planned Unit Development (PUD) was the better choice. The proposal is for I-1 development standards and land uses with Heavy Industrial added. The PUD proposal allows the applicants to exclude certain land uses and avoid "Bad Neighbors" such as Fuel Tank Farms, Junkyards, Motor Vehicle Graveyards and Motor Vehicle Wrecking Facilities.

Mr. Micuda gave the definition of Heavy Industrial Land Use. He stated the biggest difference between light and heavy industrial is where the incoming product starts from. With the light industrial operation you are starting with more of a finished product where heavy industrial you are starting with raw material and creating an outgoing product in a finished form.

There are safeguards if the City receives a request for a Heavy Industrial land use. First, there would be a Conditional Use review if needed. Additionally, there are other City codes that govern nuisances, noise and truck routes. Also, the permit review process involves the Fire Department and the Environmental Division. The subject property is in a good location surrounded by non-residential zoning, and the property is bordered by rail and two major streets.

Mr. Micuda presented the Basis of Decision:

Environmental

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

Economic

- Eco3.2.7 – Identify potential growth areas to accommodate the demands created by the building industry and trade in the area.
- Eco3.4.4. – Continue to offer incentives to responsible developers and employers.
- Eco3.7.8 – Encourage entrepreneurship and free market innovation.
- Eco3.7.9 – Develop incentives, such as expedited permitting, for brownfield redevelopment, infill, and other highly desired but challenging projects.

The establishment, maintenance, or operation to the development project will not be detrimental to, or endanger the public health, safety, morals, comfort or general welfare.

- Requested Heavy Industrial Use may never be needed.
- If proposed, use will be subject to permit review, including review to make sure a CUP is not required. Review includes Fire and Environmental. Must comply with other ordinances.

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

- Property well located for industrial development. Surrounding properties are zoned nonresidential.
- Property buffered by heavy landscaping along River Drive and railroad tracks. Future industrial development near several nonconforming homes will be required to provide buffering.

The development project will not impeded the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

- Properties surround the rezoning site are largely developed with nonresidential uses. The proposed rezoning request may stimulate increased redevelopment with higher value land uses.

Mr. Micuda did highlight the Conditions of Approval:

- Section 17.20.3.060 of the Land Development Code. If a future land use application includes a “permitted land use that emits air contaminates or potentially offensive odors outside of the building, or that handles radioactive materials, hazardous substances, hazardous waste, or regulated substances”, such application shall be subject to Conditional Use Permit review.
- Section 17.44.030 (G) Screening between uses. Any industrial development activity including material storage, in the PUD is shall be subject to the landscape buffer requirements to protect existing residential uses.
- Legal Description Required. Prior to City Commission adoption of the PUD ordinance, an accurate legal description matching the property requested for rezoning shall be submitted.

Minutes of the September 28, 2021

Planning Advisory Board Meeting

Page 5

- Future Development of the 3.9 acre site along 14th Street. Future development of the 3.9 acre area represented in the Northern Hydraulics application is subject to City staff verification that a legal parcel has been created by the applicant.

PETITIONER'S PRESENTATION

Mr. Micuda stated that there was a representative from Woith Engineering present for any questions.

PROPONENTS

Brett Doney, Great Falls Development Authority, 405 3rd Street North West, stated that the area is very important to the community and they have been trying to fill the location since Wausau decided to leave. He stated that TC Glass has been growing rapidly and the building has been very difficult to finance. The rezoning gives the flexibility while insuring that the City will be able to protect abutting properties so there will not be a nuisance use. He stated that GFDA is trying to attract potential business for the vacant areas of the property.

OPPONENTS

None.

BOARD DISCUSSION AND ACTION

Vice Chair Pankratz asked for some examples of what type of Heavy Industrial businesses would fit into the subject property (i.e. the Pasta Plant, General Mills). Mr. Micuda concurred and stated that vehicle assembly would be considered heavy as well as businesses that are typically located in the Agri-Tech and Great Bear industrial parks. Mr. Pankratz asked if those uses are being requested, if the applicant would have to go through the request process again. Mr. Micuda responded that they would have to go through the permit review process, and if there is any concerns identified, than the Conditional Use process, which is a public process, would be used.

Mr. Mills asked what the square in the middle of the property on the Aerial Map was. Mr. Micuda stated that it is owned by the railroad.

MOTION: That the Zoning Commission recommend the City Commission approve the request to rezone 14.9 acres located at 1300 River Drive North from Light Industrial and Mixed-Use Transitional to Planned Unit Development as legally described in the Staff Report, and the accompanying Findings of Fact, subject to the Conditions of Approval being fulfilled by the applicants.

Minutes of the September 28, 2021

Planning Advisory Board Meeting

Page 6

Made by: Ms. Bullock

Second: Ms. Buschmeyer

VOTE: All in favor, the motion carried 6-0

BOARD ACTIONS NOT REQUIRING A PUBLIC HEARING

Amendment to 17.32.150 of the Land Development Code - Driveways

Mr. Micuda presented to the Board. He stated that the driving factor behind the proposed amendment to the Driveway chapter of the Land Development Code was a series of permit requests to construct street accessed driveways on properties within the older neighborhoods that also have alley access. The requests brought to light a problematic provision with the Driveway chapter of the City's Land Development Code.

17.32 states:

- Alley Accessed Lots – For those properties which are served by an alley, no new driveways or expansions of exiting driveways accessing the street are allowed unless authorized by both the City Engineer and the Director of Planning and Community Development.

Mr. Micuda stated that there is a reason for restrictions for driveways. It reduces vehicle conflicts with other vehicles, pedestrians and bicycles and it keeps street boulevards and sidewalks intact and maintains front greenspace.

Mr. Micuda stated that the code is contradictory because it notes that these driveways are not allowed, gives staff the discretion to overrule the code, but doesn't provide any criteria for such a decision. On most blocks there are some street accessed driveways and people felt like they were not getting what their neighbors had and didn't understand why the City's position was so tough. People don't own cars like they used to when the older neighborhoods were developed, so it is not realistic to address the greater vehicle storage needs of today.

Mr. Micuda presented the Code Amendment Proposal: "For those properties which are served by an alley, a single street-accessed driveway is allowed. The owner must obtain a permit, and the driveway shall be limited to no greater than twelve (12) feet in width. Such driveway must be surfaced and maintained with Portland cement concrete, asphaltic concrete, or pavers."

Mr. Micuda presented the Justification for Amendment:

- Easier for snow removal and street sweeping
- Safety issues with having larger vehicles on streets
- Very consistent with the City Commission's Large Vehicle Ordinance
- More realistic and clear
- Only will allow 12 feet out of a typical 50 foot wide lot to be used for a single driveway

BOARD DISCUSSION AND ACTION

Ms. Shinaberger asked what the distance requirement is between neighbor's lawns. Mr. Micuda responded that there are requirements in regards to the spacing of driveways that are in another portion of the Driveway code, so there should not be an abutment of driveways. Ms. Shinaberger also asked if there is going to be an amendment in regards to larger vehicles. Mr. Hindoien responded that the Large Vehicle Ordinance has still not been adopted by the Commission. Mr. Micuda stated that the purpose of the Driveway Amendment is to get the vehicle on the property but not in the right of way. Ms. Shinaberger asked if neighbors had any say in the driveway requests and Mr. Micuda responded that the driveway requests are administrative actions, but they can be appealed. He stated that he doesn't foresee a lot of requests, but if the City does receive any, the amendment will allow for more flexibility.

MOTION: That Planning Advisory Board recommend that the City Commission approve the proposed amendment to the Land Development Code as legally described in the staff report.

Made by: Mr. Mills

Second: Mr. Green

VOTE: All in favor, the Motion carried 6-0

COMMUNICATIONS

Mr. Micuda stated that there will more than likely not be a meeting on October 12, 2021.

PUBLIC COMMENT

None.

ADJOURNMENT

Minutes of the September 28, 2021

Planning Advisory Board Meeting

Page 8

There being no further business, Vice Chair Pankratz adjourned the meeting at 3:49 p.m.

CHAIRMAN

SECRETARY



Meeting Date: December 28 ,
2021

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

Item: Public Hearing – Request for a Conditional Use Permit to allow a “Community center” land use in the R-3 Single-family High Density zoning district for property addressed as 3400 Flood Road and legally described as Block 15A of the Second Amended Plat of Tract 3 of Block 14 and Block 15, Belview Palisade Addition to the City of Great Falls, SE 1/4 NW 1/4 Section 22, T20N, R4E, P.M.M., Cascade County, Montana

Initiated By: Foothills Community Christian School

Presented By: Lonnie Hill, Planner I, Planning and Community Development

Action Requested: Recommendation to the City Commission

Public Hearing:

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

Suggested Motion:

1. Commission Member moves:

“I move that the Zoning Commission recommend the City Commission (approve/deny) the Conditional Use Permit for the subject property 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:

Foothills Community Christian School submitted an application requesting a Conditional Use Permit to allow a “Community center” land use in the R-3 Single-family High Density zoning district for the property located south of an existing church at 3400 Flood Road. The definition of the Community center land use in City’s Land Development Code includes buildings that are used for purposes of recreation. The applicant proposes to develop a 16,100 square foot indoor athletic facility as well as an outdoor soccer field. Foothills intends to host sporting events that are school related, but also partner with other outside organizations for recreational play at various levels from youth to adult competition. Larger events, such as tournaments, are expected to be held 2-4 times a year. These events would have an attendance of around 500 spectators, and would utilize the proposed on-site parking lot in addition to the existing parking lot of the church. Most events will occur on weekday evenings or on weekends.

This property was originally part of the Valley Community Bible Church located to the north, which was annexed into the City of Great Falls in 2008 by Ordinance 3019. At that time, the property was annexed and assigned R-3 zoning. The use of a worship facility was approved through a Conditional Use Permit, which ran concurrently with the annexation request. This application for an athletic facility is following the same conditional use permit process. This tract of land was created by Valley Community Bible Church by performing a boundary line adjustment which was recorded at the Cascade County Clerk and Recorder on October 12, 2021 as P-2021-0000029.

To the west of the subject property is the Burlington Northern Santa Fe Railroad which is not within City limits. To the south is a vacant parcel within the County that has Suburban Residential zoning. To the east is existing single-family residences within the City limits across Flood Road. These residential lots are zoned R-3, Single-family High Density.

As part of the Conditional Use Permit, Foothills Christian School is requesting an exemption from the signing requirements for residential zoning districts. The provisions related to on-premise signs of residential districts is listed within *OCCGF §17.60.4.010 – Residential districts*. Instead, Foothills has requested on-premise signage be reviewed under the provisions of *OCCGF §17.60.4.015 – Neighborhood commercial, Central business periphery, Mixed use, Public lands and institutional and Parks and open space districts*. Staff concludes the request is appropriate for the context of this project.

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 *Basis of Decision* have been met. Public notice for this Public Hearing was published in the *Great Falls Tribune* on December 12, 2021. Notice was additionally mailed to all property owners within 150 feet of the subject property, and a sign is posted on the property. As of the submission of this report there have been no comments submitted to staff related to this proposal.

Improvements:

The applicant is proposing development of the site to establish a 16,100 square feet athletic facility which will include an indoor gym and an outdoor soccer field. Site improvements will include a new access drive off of Flood Road at Derby Drive to serve the interior circulation and off-street parking of the development. The site will include 95 new parking spaces dedicated to the proposed development with access to the existing 116 existing parking spaces which are part of the church. Foothills Community Christian School will be required to formalize an access and shared parking agreement with the church, which will be filed at the Cascade County Clerk and Recorder. City Staff concludes the proposed parking arrangement will provide adequate capacity for most day-to-day events, and provide for overflow parking for larger events that are held less frequently. Staff recognizes a need for a safe pedestrian connection into the existing neighborhood to the east of the subject property. This crossing should be located at the intersection of either Derby Drive or Dixie Lane and Flood Road to account for residents of the existing neighborhood as stated in the Condition of Approval #5.

This development will require site improvements in conformance with the standards of the City Land Development Code and Public Works Design Standards. Improvements to Flood Road have been deferred until the City deems necessary, which is consistent with the annexation agreement that was executed as part of the annexation of the church. It is anticipated that Flood Road will undergo improvements to bring the roadway into conformance with urban standards in the future. At that point,

the requirements within the annexation agreement will apply. This will include establishment of curb, gutter, sidewalks, and boulevard landscaping along Flood Road. The applicant has stated their intent to phase construction as funds become available. The applicant and City staff will work together to ensure the phasing approach is constructed in a sequence that will meet the standards of the City Land Development Code and Public Works standards including Environmental Division active construction requirements.

Neighborhood Council Input:

The Subject Property is located within Neighborhood Council #1. Information related to the project was presented to the Council at their regularly scheduled December 14, 2021 meeting. The Council voted unanimously to recommend approval of the project.

Concurrences:

Representatives from the City's Planning and Community Development, 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 Conditional Use Permit would have no adverse fiscal impacts upon the City of Great Falls. This development will connect to existing water and sewer utility mains and the property is already served by City Police and Fire. New water and sewer services will be required, and the cost of the connection improvements will be borne by the applicant. The development of the site will increase the City's tax base and increase revenue.

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, buildings, and/or structures, 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. **Non-establishment:** The conditional use permit shall expire one (1) year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.
3. **Abandonment:** If the permitted conditional use ceases to operate for more than six months, the Conditional Use Permit shall expire.
4. **Sign Code:** The proposed project shall be consistent with codes within OCCGF §17.60.4.015 – *Neighborhood commercial, Central business periphery, Mixed use, Public lands and institutional and Parks and open space districts* rather than OCCGF §17.60.4.010 – *Residential districts*.

5. **Pedestrian Crossing:** The applicant shall design and install a pedestrian crossing across Flood Road to the existing neighborhood to the east. These improvements shall comply with the standards of the City Land Development Code and Public Works Design Standards.
6. **General Code Compliance:** With exception to Condition of Approval #4 above, 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.
7. **Acceptance of Conditions:** No zoning or building permits 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
- Project Narrative
- Preliminary Site Plan

CONDITIONAL USE PERMIT - BASIS OF DECISION

The applicant is requesting the approval of a Conditional Use Permit (CUP) for a “Community center” land use to develop an athletic facility within the R-3 zoning district for the property addressed as 3400 Flood Road and legally described as Block 15A of the Second Amended Plat of Tract 3 of Block 14 and Block 15, Belview Palisade Addition to the City of Great Falls, SE 1/4 NW 1/4 Section 22, T20N, R4E, P.M.M., Cascade County, Montana.

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

The proposed conditional use for the subject property is consistent with the overall intent and purpose of the 2013 City Growth Policy Update. The proposed project specifically supports the following Goals and Policy from the Social and Physical portions of the Growth Policy:

- Social Policy 1.2.1 – Continue to provide quality recreational programs and facilities to meet the current and future needs of area residents.
- Social Policy 1.3.3 – Partner with other governmental and non-governmental entities to coordinate improvement projects, promote joint uses, avoid duplication, and maximize the public benefit of facilities and services.
- Physical Policy 4.1.3 – Create a balanced land use pattern that provides for a diversity of uses that will accommodate existing and future development in the City.
- Physical Policy 4.1.5 – 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 establishment, maintenance or operation of the proposed conditional use will not be detrimental to, or endanger the health, safety, morals, comfort or general welfare of the community. The existing church to the north was annexed and zoned for similar purposes of general assembly. The proposed development will be similar in terms of impacts and will fit safely into the context of the surrounding area. In addition, the applicants have expressed interest in partnering with community organizations for use of the facility for recreational competition. This community partnership will benefit the City by creating another opportunity for indoor gym recreation.

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 property values within the neighborhood.

The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted. Although the property is zoned for single-family residential usage, it is not located within an existing residential context like the properties on the east side of Flood Road. Instead, the property is located in a non-residential context next to an existing church. The proposed recreational facility will also share parking and access with the existing church, and their days/times of activity will be very different. This will limit impacts to the existing neighborhood.

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

The proposed project will not impede the normal and orderly development and improvement of surrounding properties. In addition to the existing church, an existing railroad line is located to the west and a vacant County lot zoned SR1 is located to the south. The proposed conditional use will not negatively impact the future development options for the vacant land to the south, although approval of this nonresidential use might make it more likely that another nonresidential development will be constructed. The location of the project adjacent to the railroad creates no option for access to and from the west, which is less than ideal for residential development that would require an internal residential street network. Although there is vacant property east of Flood Road, these lots are platted and already established for future single family homes.

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

Utilities, access roads, drainage and other necessary facilities currently exist in the vicinity of the subject property. City water and sewer mains are currently within the right-of-way of Flood Road. The applicant will be required to connect to these existing facilities. Flood Road is identified in the City's transportation system as a Collector street. There is adequate capacity on Flood Road to handle traffic impacts from the proposed use. Only one new access point onto Flood Road will be needed since the proposed recreational facility will share parking and access with the church. The proposed development will be required to meet the Public Works Department's storm water quantity and the Environmental Division water quality requirements.

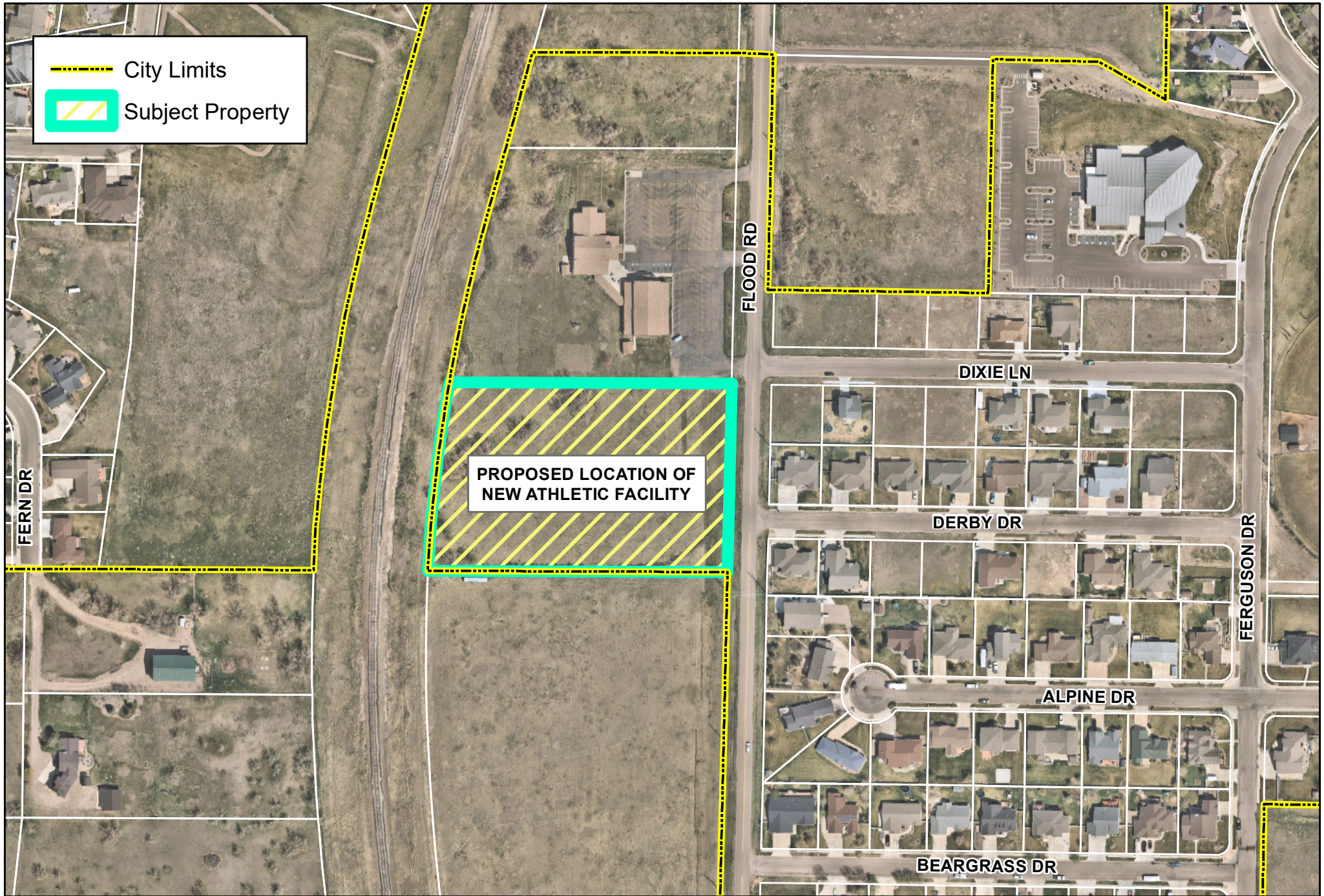
5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

As part of the required site improvements, access points will be restricted to the site from the intersections of Dixie Lane and Derby Lane. Aligning access points with these existing roadways will increase safety, minimize traffic congestion and make vehicular ingress/egress more predictable. The City is also requiring the construction of a pedestrian crossing to connect this development to the existing neighborhood. All access driveways, interior circulation and parking will be required to conform to current City standards.

6. 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.

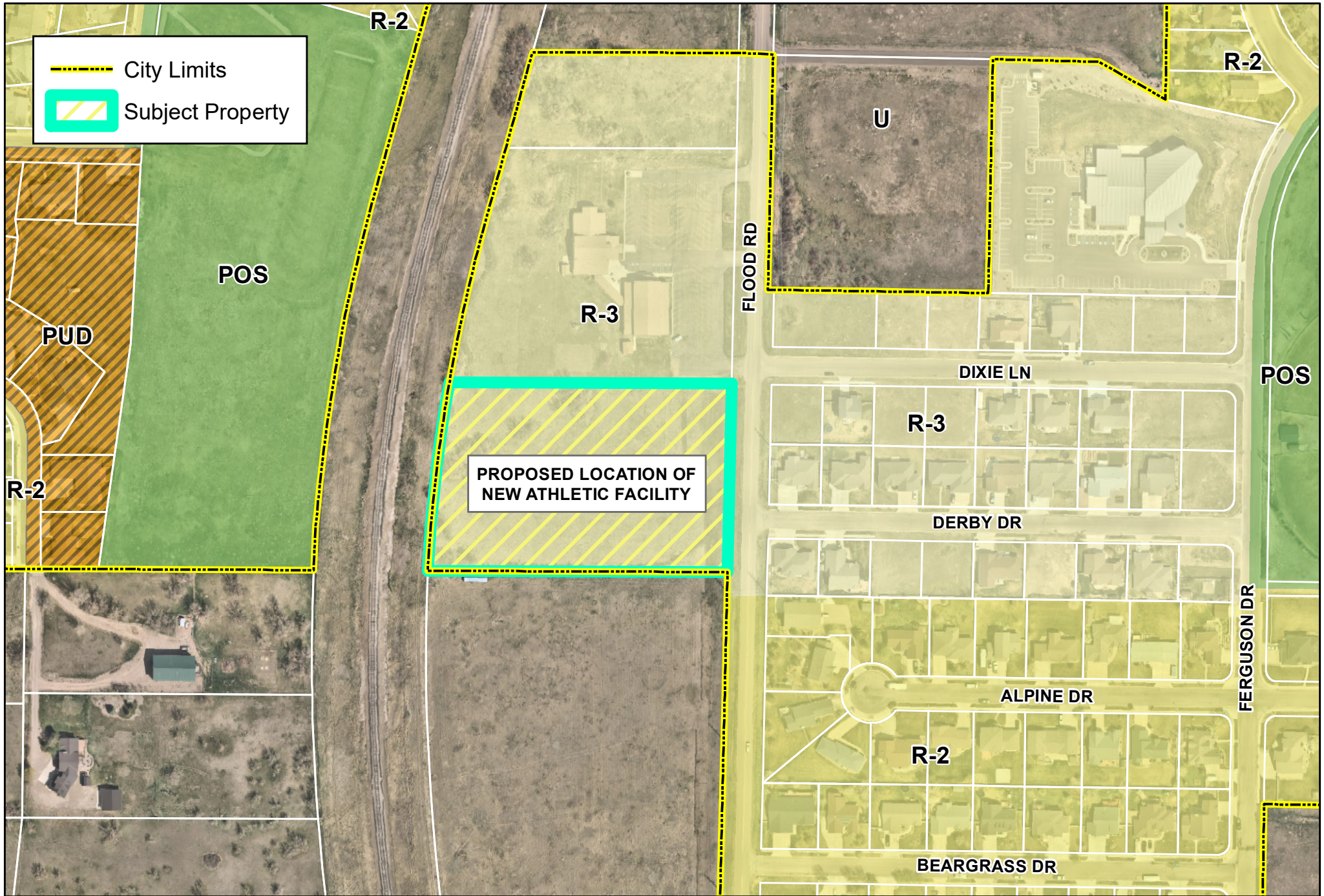
The proposed conditional use will conform to all applicable regulations of the *Title 17 - Land Development Code* with the exception of one requested deviation from the requirements of *Title 17, Chapter 60 – Sign code*. The applicant has requested that on-premise signage be reviewed under the provisions of *OCCGF §17.60.4.015 – Neighborhood commercial, Central business periphery, Mixed use, Public lands and institutional and Parks and open space districts* rather than *OCCGF §17.60.4.010 – Residential districts*. Staff concludes that this request is appropriate given that the proposed land use is better aligned with the Public lands and institutional signage requirements than those for residential zoning districts.

Location Map



0 125 250 500 Feet

Zoning Map



0 125 250 500 Feet

Foothills Community Christian School

2210 5th Avenue North • Great Falls, Montana 59401 • (406) 452-5276
 advancement@foothillschristian.org • www.foothillschristian.org

Falcons Take Flight

Foothills Community Christian School is requesting a conditional use permit for the property located near the Bridge Church at 3400 Flood Road. The conditional use permit is required for the requested use of a community center within the R3 zoning district.

Foothills is excited to partner with our community to expand our facility and opportunities with the construction of a 16,000-foot athletic facility and a soccer field.

In addition to the case support for why the school is exploring this new facility and the need for the facility itself is included with this document. In order to facilitate discussion about our project, we want to expand more on what this project will provide and the impact it may have on the neighborhood. The following information is intended to further explain our rationale for the requested conditional use permit.

Activities

- Primary activities will be gymnasium related – volleyball, basketball at Elementary, Middle, and High School level (school related) as well as potential community opportunities for recreational play at various levels from youth to adult.
- Other court-based sports such as pickleball, could be held in the facility
- The outdoor area will be used primarily for high school soccer in the fall but could also be used for other club sports such as Lacrosse. The field size would accommodate football games but does not provide seating for large competitive football events.
- Tournaments will also be held from time to time. High school tournaments would be on weekends primarily and not usually more often than once a quarter.
- Large scale tournaments that would have attendance of more than 500 on average, would be held 2-4 times a year.
- Outside of athletic events, the facility will be available for use for community groups for fundraising opportunities or similar group meetings.
 - No kitchen facilities are included at this time other than basic concessions for standard athletic events.
- Other general outdoor recreation could take place on the athletic field and possibly outdoor events such as graduations and group gatherings.



*Assisting parents in providing a Christ-centered education that values
 Exceptional academics, strong moral character, and service to others*



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Times of Use

- Since the location is in conjunction with Foothills Community Christian School, primary use of the facility will be weekdays after school until early evening – generally 3:30p-8:00pm.
- Weekend use will be primarily on Saturdays for morning games and activities and may also include some evenings.
- Use of the location on Sundays will be limited to special tournaments and organizers who rent the facility and those are anticipated to be infrequent.
- During evening events, it is anticipated that activity will be completed by 10pm on weekends and should rarely, if ever, extend beyond 11pm.
- Summer use and hours may vary based on any groups or events taking place but usually not before 8am and not extending later than the 8pm time frame consistent with the rest of the year.

Traffic and Neighborhood Impact

- While the facility will seat approximately 1200 guests, the events that bring in that number will be limited and not likely exceed one per quarter.
- General events will more often draw 250-500 attendees and most of these will be early evening hours.
- Since the facility is a gym, noise should be minimal to the surrounding area and neighborhoods.

Other considerations

- As part of the Conditional Use Permit, we also request an exemption from the signage requirements for the existing residential zoning. We ask that school representatives work with City Planning Officials regarding signage for the facility that is reasonable for its intended use. Signage needs for the venue will include a large school logo on the building (see rendering), an electronic marquee to promote events, games, and community information, as well as the school signage already located on the property to identify its ownership.



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 Exceptional academics, strong moral character, and service to others*





NEW SOCCER FIELD

**116 EXISTING
PARKING
SPOTS**

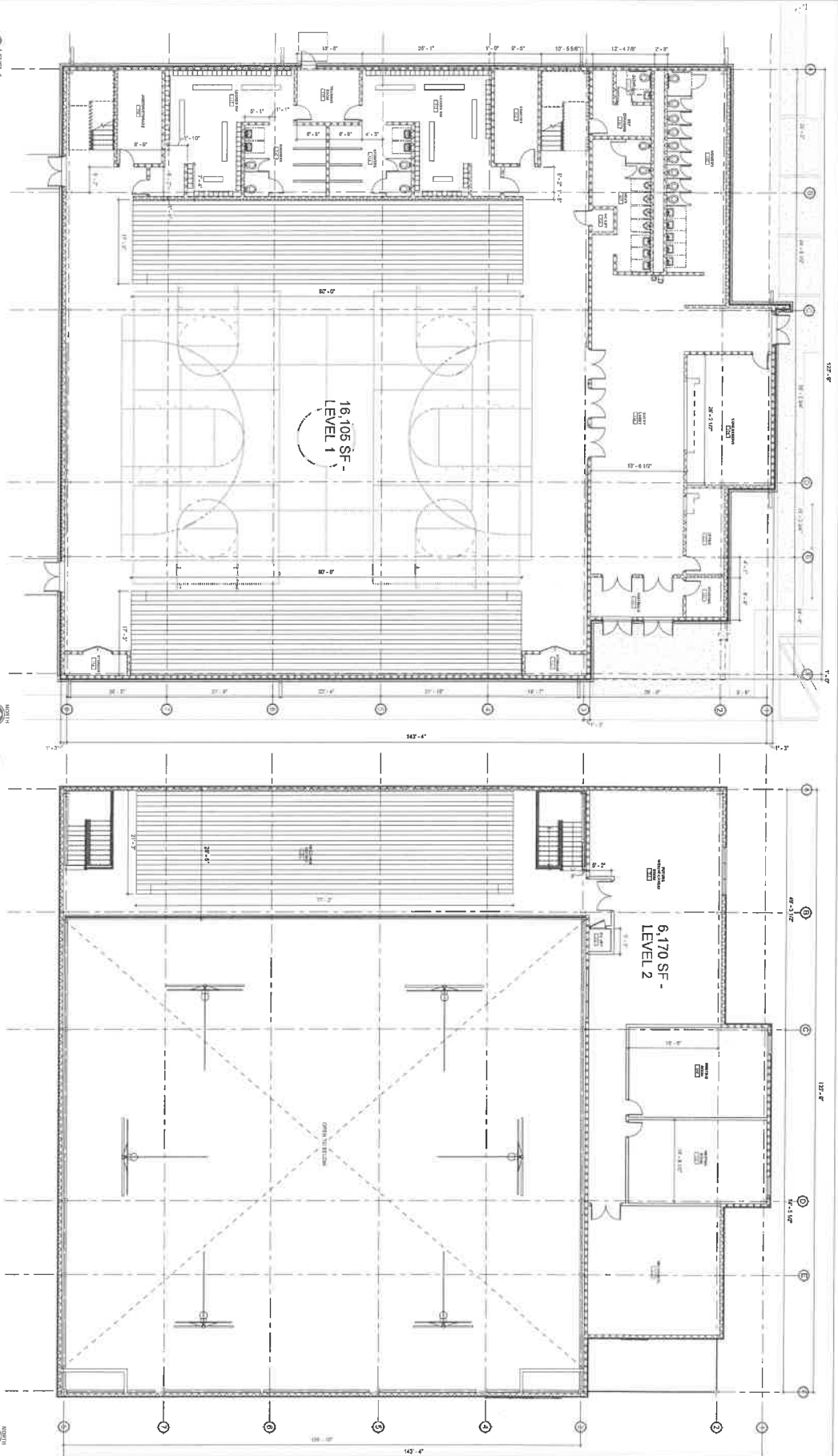
**GYM
(16,100 SF)**

**95 NEW
PARKING
SPOTS**

FLOOD RD

DIXIE LN

DERBY DR



- CMU WALL W/ BRICK VENEER**
- SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
 - SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
 - SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
 - SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
- CMU WALL W/ METAL PANEL**
- SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
 - SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
 - SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
 - SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
- 2X6 WOOD FRAMED WALL**
- SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
 - SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
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 - SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND

- CMU INTERIOR WALL**
- SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
 - SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
 - SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
 - SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
- 2X4 WOOD FRAMED WALL**
- SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
 - SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
 - SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND
 - SEE FINISH AND ANNOT. FOR SPECIFIC WALL.
 - 2" x 8 BRICK @ 1" x 4 LIND

FOOTHILLS CHRISTIAN GYMNASIUM
Project Line 2

FLOOR PLAN

ARCHITECTURE
LPU
www.lpuarchitect.com
PHONE 1-800-715-7272
OFFICE 714-511-5200
CELL 714-511-5200

**PRELIMINARY
NOT FOR
CONSTRUCTION**

DATE	00-000
REVISION	A1.1
DESCRIPTION	
BY	
CHECKED	
APPROVED	









Meeting Date: Dec 28, 2021

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

Item: Public Hearing – Rezone of Lots 5-10, Block 736, of the Tenth Addition to Great Falls Townsite, including those portions of the vacated 17th Street South and 4th Alley South right of way, and approval of a non-administrative plat to aggregate the various lots of the vacated rights-of-way.

Initiated By: Great Falls Public School District

Presented By: Alaina Mattimiro, Planner I, Planning and Community Development

Action Requested: Recommendation to the City Commission

Public Hearing:

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

Suggested Motion:

Board Member moves:

- I. “I move that the Zoning Commission recommend the City Commission (approve/deny) the rezoning request from POS Parks and Open Space to PLI Public Lands and Institutional for the subject property 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.”

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

And;

- II. “I move that the Planning Advisory Board recommend the City Commission (approve/deny) 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.”

Chairman calls for a second, Board discussion, and calls for the vote.

Background: The Great Falls Public School District has recently acquired six lots from the City of Great Falls within Kranz Park, just west of Great Falls High. The school district is proposing an

additional parking lot, closer to the existing high school stadium, and then extending the practice fields farther west, using the newly obtained lots. In order to proceed with the proposal, the district has filed an application to vacate the rights-of-way for 17th Street South between 3rd Ave S and 4th Ave S and 4th Alley South, adjacent to the six lots the school district has acquired. In addition to the right-of-way vacation request, the school district is also requesting to rezone the lots acquired and the vacated rights-of-way, as well as a non-administrative plat to aggregate the vacated rights-of-ways.

Zoning Map Amendment Request:

The Great Falls Public School District is requesting a zone change for the acquired Kranz Park lots from Parks and Open Space to Public Lands and Institutional. The PLI zoning district would unify the school's property under one zoning district, as well as give the school the ability to use the property to its full potential in the future. In the short term, the district's proposal to expand the school's parking, as well as extend the practice fields complies the property's current PLI zoning. Staff concludes that the district's request for PLI zoning for the vacated rights of way as well as the Kranz lots is warranted because it creates a completely unified campus that will allow the district future opportunities for improve their high school facilities.

The basis for decision on zoning map amendments, i.e. rezoning or zone changes, is listed in The Official Code of the City of Great Falls (OCCGF) §17.16.40.030. The recommendation of the Zoning Commission and the decision of City Commission shall at a minimum consider the criteria which are attached as Findings of Fact/Basis of Decision – Zoning Map Amendment.

Non-Administrative Plat:

The applicant is proposing to vacate the rights-of-way of 17th Street South between 3rd Ave S and 4th Ave S and 4th Alley South adjacent to the six lots, and then aggregate the abandoned rights-of-way to the affected parcels as shown on the attached draft amended plat. The draft plat requires review due to Montana Code Annotated (MCA) 76-3-207 (2) which states:

"Within a platted subdivision filed with the county clerk and recorder, a division, redesign, or rearrangement of lots that results in an increase in the number of lots or that redesigns or rearranges six or more lots must be reviewed and approved by the governing body before an amended plat may be filed with the county clerk and recorder."

Staff has prepared Findings of Fact based on the criteria for a subdivision. Additionally, pursuant to the OCCGF, Staff has reviewed the plat for compliance with the survey requirements of this Title and State law, provisions of easements for the location and installation of any planned utilities, and review of physical and legal access to the parcels. The recommendation of the Planning Advisory Board and the decision of City Commission shall at a minimum consider the criteria which are attached as Findings of Fact/Basis of Decision – Subdivision. Staff recommends the proposed aggregation be approved because it will eliminate unnecessary lot lines that will make it easier for the district to construct future facilities in compliance with the zoning code.

Neighborhood Council Input:

The applicant attended Neighborhood Council #9 on December 9th, 2021, and the Council voted in favor of the rezone and aggregation.

Concurrences: Staff has coordinated its review of the rezoning request and parcel aggregation with the Public Works Department. If the City Commission approves the vacation of 17th Street South and 4th Alley South, the Public Works Department will further review the proposal for the abandonment of

utilities as well as dedication of any necessary easements. Such easements will be needed due to existing utilities that are present in these rights of way.

Fiscal Impact:

The subject property is currently served by public infrastructure and services. Since all utilities will be maintained with easement access, no financial impact to the City will accompany the rezone and lot aggregation proposals.

Staff Recommendation:

Staff recommends approval of the rezone and the amended plat of the subject properties with the following conditions:

Conditions of Approval:

- 1. General Code Compliance.** The proposed project shall be developed consistent with the conditions in this report, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
- 2. Amended Plat.** Provide a revised Amended Plat of the subject properties, showing the proposed vacation and aggregation, containing all easements required by the City of Great Falls. The revised Plat shall incorporate corrections of any errors or omissions noted by Staff. Also a deed will be required to ensure that all the properties are under one ownership in order to aggregate the parcels.
- 3. Land Use & Zoning.** The development standards and land uses for the subject properties shall be consistent with the OCCGF.
- 4. Subsequent modifications and additions.** If after establishment of the zoning, the owner proposes to expand or modify the use, buildings, and/or structures, 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. If such proposed changes would alter a finding, the proposal shall be submitted for review as a new development application. If such proposed change would not alter a finding, the owner shall obtain all other permits as may be required.

Alternatives:

The Planning Advisory Board/Zoning Commission could recommend denial of the rezone and amended plat request to the City Commission. For this action, the Planning Advisory Board/Zoning Commission must provide separate Findings of Fact/Basis of Decision to support an alternative recommendation.

Attachments/Exhibits:

Aerial Map

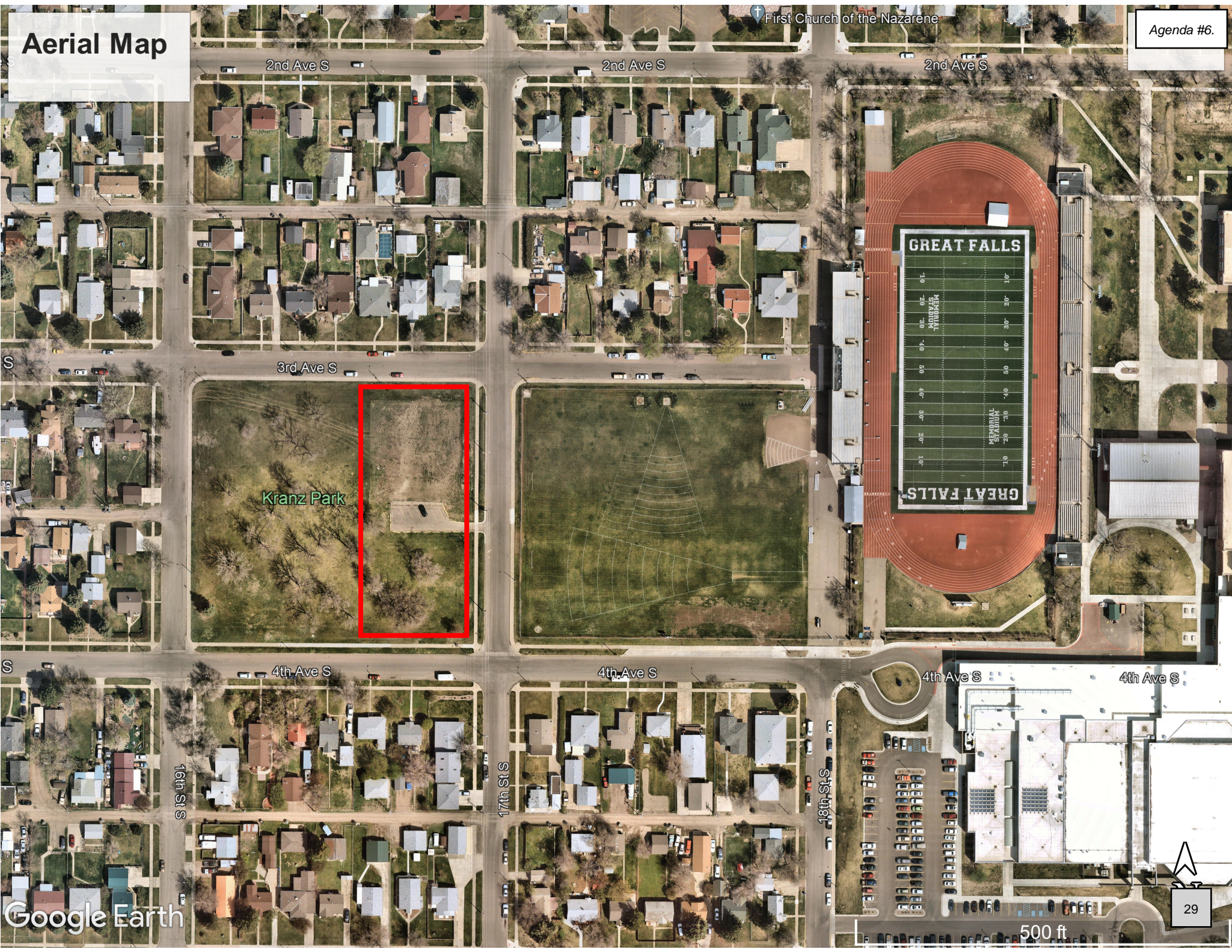
Zoning Map

Basis of Decision/Findings of Fact – Zoning Map Amendment

Basis of Decision/Findings of Fact – Non-Administrative Amended Plat

Draft Amended Plat

Aerial Map



First Church of the Nazarene

2nd Ave S

2nd Ave S

2nd Ave S

3rd Ave S

Kranz Park

4th Ave S

4th Ave S

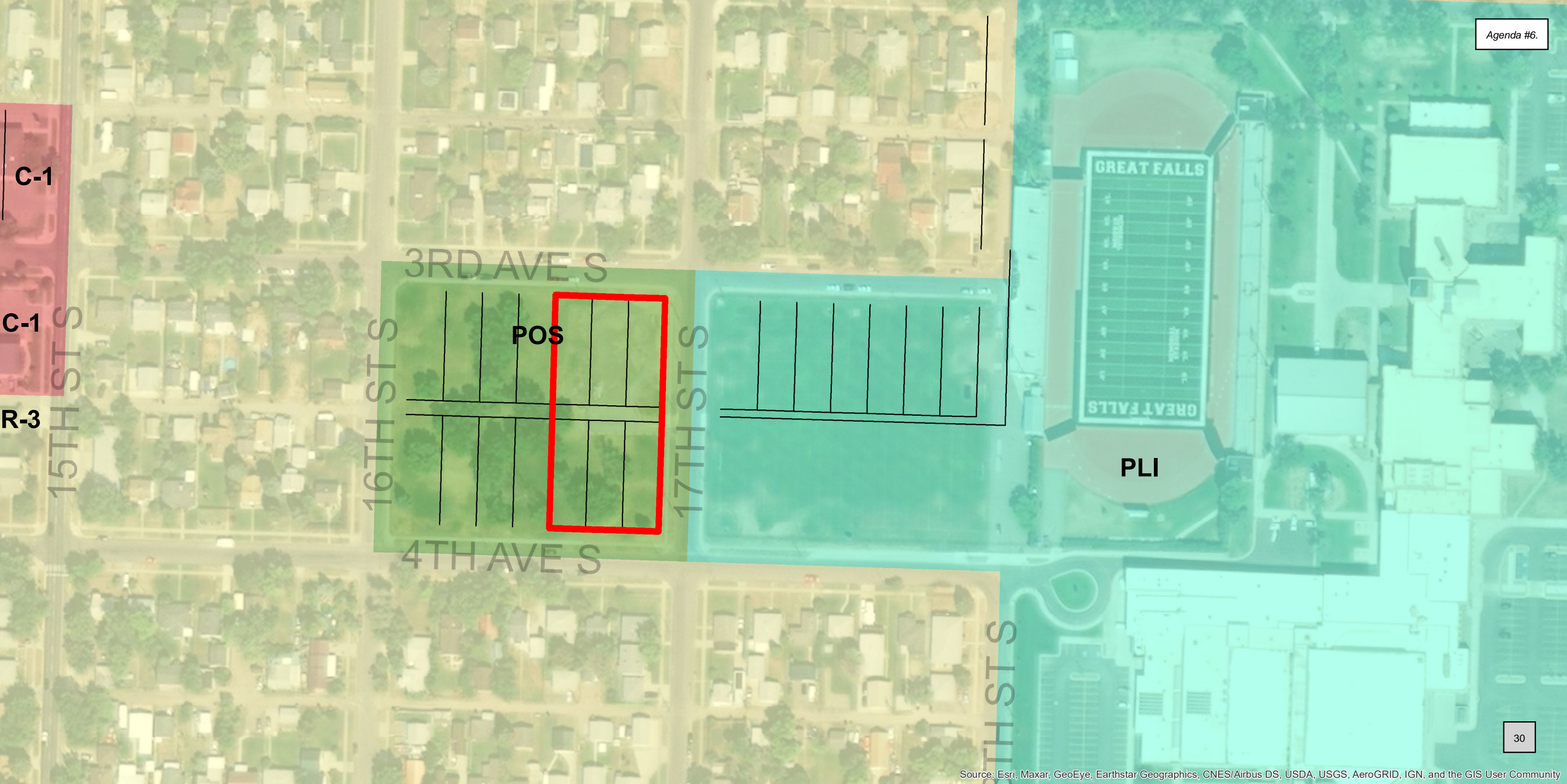
4th Ave S

4th Ave S

16th St S

17th St S

18th St S



C-1
C-1
R-3

15TH ST S

16TH ST S
3RD AVE S
POS
4TH AVE S
17TH ST S

TH ST S

GREAT FALLS
GREAT FALLS

PLI

FINDINGS OF FACT – ZONING MAP AMENDMENT FOR THE SCHOOL DISTRICT

Lots 5-10, Block 736, of the Tenth Addition to Great Falls Townsite, including those portions of the vacated 17th Street South between 3rd Avenue South and 4th Avenue South, and 4th Alley South adjacent to Lots 5-10, located in the NW1/4, NE1/4, SW1/4, and SE1/4 of Section 7, T20N, R4E, P.M.M., City of Great Falls, Cascade County, Montana

PRIMARY REVIEW CRITERIA:

The basis for decision on zoning map amendments is listed in Official Code of the City of Great Falls (OCCGF) §17.16.40.030 of the Land Development Code. The recommendation of the Zoning Commission and the decision of City Commission shall at a minimum consider the following criteria:

1. The amendment is consistent with and furthers the intent of the City's growth policy.

The proposed zoning map amendment is consistent with the overall intent and purpose of the 2013 City Growth Policy Update. The proposal to amend the zoning of the proposed properties from POS Parks and Open Space to PLI Public Lands and Institutional will aid in the future use of the Great Falls Public School District property. The proposed development is strongly supported by the Social portions of the Growth Policy, specifically the goal to support diverse and affordable recreation, educational, and cultural opportunities in the community. The Growth Policy recognizes that the City has vital educational assets, and as a result, the document contains policy guidance to support the growth and development of these institutions. The proposed zoning map amendment is consistent with several of these policies including:

Social – Community Facilities

Soc1.3 Develop and maintain the City's community facilities and cultural resources.

Soc1.3.2 Utilize the following criteria as a basis for reviewing the location of new or expanded facilities:

- a. Proximity to major transportation routes, essential
- b. Land use compatibility and consistency with the Growth Policy
- c. Potential impacts to environmental, historical, and cultural resources
- d. Public costs and benefits of the project, including operation and maintenance
- e. Current capacity and location of equivalent facilities
- f. The existence of reasonable alternatives to the proposed facility within the community
- g. Other public interest criteria as determined to be relevant to the specific proposed facility

Soc1.3.4 Ensure that affected citizens, agencies, and other interested parties are given adequate notice and opportunity for meaningful participation in decisions on locating or expanding community facilities and services.

The proposed zoning map amendment and required public process will enable these policies to be addressed and further the implementation of the Growth Policy. By recognizing the criteria of the policies above, the City can aid the school district in the master planning of its campus.

2. The amendment is consistent with and furthers adopted neighborhood plans, if any.

Great Falls is separated into nine Neighborhood Councils. There are no adopted Neighborhood Plans for any of the Councils within the City. The subject properties are located in Neighborhood Council #9. The applicant formally presented to the Council at their December 9th, 2021 meeting, and the Council voted in favor of the rezone. Notice of the proposed zoning map amendment was also sent to adjoining property owners pursuant to the noticing requirements of the OCCGF.

3. The amendment is consistent with other planning documents adopted by the City Commission, including the river corridor plan, transportation plan and sub-area plans.

The subject property does not lie within any adopted planning or sub-area planning areas. Since development is limited to a new parking lot and extension of a practice field area, review for consistency with other planning documents will not be applicable.

4. The code with the amendment is internally consistent.

The proposed zoning map amendment is not in conflict with any portion of the existing City Code and will be consistent with the adjacent existing zoning of the school. Due to the proposal of vacating the right-of-way of 17th Street South and 4th Alley South and aggregation of the parcels, the proposed zoning map amendment is internally consistent and will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor substantially diminish and impair property values in the neighborhood.

5. The amendment is the least restrictive approach to address issues of public health, safety, and welfare.

There are no existing public health, safety, or welfare issues that are triggered by simply aggregating properties and changing their zoning. The future expansion will require the abandonment of public infrastructure which will be reviewed by the Public Works Department at the time the proposal is brought forward.

6. The City has or will have the financial and staffing capability to administer and enforce the amendment.

The City has the financial and staffing capability to enforce the amendment if it is approved. The zoning map amendment will affect several properties, all owned by the applicant, and the property will be developed in a manner consistent with the zoning for the school.

FINDINGS OF FACT/BASIS OF DECISION – MONTANA SUBDIVISION AND PLATTING ACT – FOR THE SCHOOL DISTRICT’S PROPOSAL TO AGGREGATE PROPERTY DESCRIBED BELOW

Lot 1A, Block 400, of the Amended Plat of Lots 1-14, Block 399, Lots 1-14, Block 400, Third Addition to Great Falls Townsite, and Lots 1-11, Block 733, Lots 1-14, Block 734, Lots 8-14, Block 735, Lots 1-14, Block 745, Lots 1-10, Block 746, Tenth Addition to Great Falls Townsite, and Lots A, 8-9, Block 1, Lots 6-9, Block 8, Resurvey of Huy's Addition, including those portions of the streets and alleys vacated by Ordinance No. 656, 776, 1021, 1031, 2019, and Resolution No. 8839, and Lots 1-7, Block 735, Lots 5-10, Block 736, of the Tenth Addition to Great Falls Townsite, including those portions of the vacated 17th Street South and 4th Alley South right of way. Located in the NW1/4, NE1/4, SW1/4, and SE1/4 of Section 7, T20N, R4E, P.M.M., City of Great Falls, Cascade County, Montana

(PREPARED IN RESPONSE TO 76-3-608(3) MCA)

PRIMARY REVIEW CRITERIA:

Effect on Agriculture and Agricultural Water User Facilities: The owner of the subject properties has proposed to aggregate the vacated rights of way, if approved, to the affected parcels. The existing lots consist of former park land and current school district property used for practice fields. Thus, the proposal will not interfere with any agricultural irrigation system or present any interference with agricultural operations in the vicinity.

Effect on Local Services: The existing lots are surrounded by existing utilities. All of the properties are currently receiving law enforcement and fire protection service from the City of Great Falls. Providing these services to the subject properties is expected to be a manageable cost to the City. All required easements will be provided for utilities, and the loss of these rights of way due to the aggregation request will still allow for adequate transportation access on nearby streets.

Effect on the Natural Environment: The owner is proposing to develop an additional parking lot and extend the high school practice fields; therefore the aggregation is not expected to adversely affect soils or the water quality or quantity of surface or ground waters. The applicant will need to address stormwater control, and when the proposal is brought forward, it will be reviewed by City staff to ensure compliance with requirements.

Effect on Wildlife and Wildlife Habitat: The proposed lots to be aggregated are surrounded by existing residential properties to the north, west, and south, and existing Great Falls High to the east. This is not in an area of significant wildlife habitat beyond occasional migrating fowl.

Effect on Public Health and Safety: Based on available information, the proposed lots to be aggregated are not subject to abnormal natural hazards nor potential man-made hazards. Any proposed development of the properties will not have a negative effect on Public Health and Safety. As noted above, the proposed site already receives City public safety services, utilities, and transportation access from adjoining streets.

REQUIREMENTS OF MONTANA SUBDIVISION AND PLATTING ACT, UNIFORM STANDARDS FOR MONUMENTATION, AND LOCAL SUBDIVISION REGULATIONS

The lots in the proposed aggregation meet the requirements of the Montana Subdivision and Platting Act and the surveying requirements specified in the Uniform Standards for Monumentation and conforms to the design standards specified in the local subdivision regulations. The local government has complied with the subdivision review and approval procedures set forth in the local subdivision regulations.

EASEMENT FOR UTILITIES

The developer shall provide necessary utility easements to accommodate water mains, sanitary sewer mains, storm drain lines, and private utilities to serve the lots.

LEGAL AND PHYSICAL ACCESS

Legal and physical access to the site is available from various streets and avenues. Access may change based on the future development. These are all existing roads that are currently in City limits and are maintained by the City of Great Falls. There are no projected negative impacts to traffic patterns and volumes in the area.

AN AMENDED PLAT OF
LOT 1A, BLOCK 400, OF THE AMENDED PLAT OF LOTS 1-14, BLOCK 399, LOTS 1-14, BLOCK 400, THIRD ADDITION TO GREAT FALLS TOWNSITE, AND LOTS 1-11, BLOCK 733, LOTS 1-14, BLOCK 734, LOTS 8-14, BLOCK 735, LOTS 1-14, BLOCK 745, LOTS 1-10, BLOCK 746, TENTH ADDITION TO GREAT FALLS TOWNSITE, AND LOTS A, 8-9, BLOCK 1, LOTS 6-9, BLOCK 8, RESURVEY OF HUY'S ADDITION, INCLUDING THOSE PORTIONS OF THE STREETS AND ALLEYS VACATED BY ORDINANCE NO. 656, 776, 1021, 1031, 2019, AND RESOLUTION NO. 8839, AND
LOTS 1-7, BLOCK 735, LOTS 5-10, BLOCK 736, OF THE TENTH ADDITION TO GREAT FALLS TOWNSITE, INCLUDING THOSE PORTIONS OF THE VACATED 17TH STREET SOUTH AND 4TH ALLEY SOUTH RIGHT OF WAY. LOCATED IN THE NW1/4, NE1/4, SW1/4, AND SE1/4 OF SECTION 7, T20N, R4E, P.M.M., CITY OF GREAT FALLS, CASCADE COUNTY, MONTANA

CURRENT LANDOWNER: GREAT FALLS PUBLIC SCHOOLS

CERTIFICATE OF CONSENT

I(we), the undersigned property owner(s), do hereby certify that I(we) have caused to surveyed and platted into lots, blocks, and easements, the following described tract of land in the City of Great Falls, Cascade County, Montana, to-wit:

A tract of land being Lot 1A, Block 400, of the Amended Plat of Lots 1–14, Block 399, Lots 1–14, Block 400, Third Addition to Great Falls Townsite, and Lots 1–11, Block 733, Lots 1–14, Block 734, Lots 8–14, Block 735, Lots 1–14, Block 745, Lots 1–10, Block 746, Tenth Addition to Great Falls Townsite, and Lots A, 8–9, Block 1, Lots 6–9, Block 8, Resurvey of Huy's Addition, including those accumulated proportions of the vacated streets and alleys, by Ordinance No. 656, 776, 1021, 1031, 2019, and Resolution No. 8839, and Lots 1–7, Block 735, Lots 5–10, Block 736, of the Tenth Addition to Great Falls Townsite, including those portions of the vacated 17th Street South and 4th Alley South right–of–way, located in the NW1/4, NE1/4, SW1/4, and SE1/4 of Section 7, Township 20 North, Range 4 East, P.M.M., City of Great Falls, Cascade County, Montana, and being more particularly described as follows:

Beginning at the intersection of the Northerly right–of–way line of 5th Avenue South and the Easterly right–of–way line of 18th Street South; thence North 01°42'18" East along said Easterly right–of–way line, a distance of 320.97 feet to the intersection of the Southerly right–of–way line of 4th Avenue South; thence North 01°40'08" East along the Westerly edge of the vacated 4th Avenue South right–of–way, decreed by Resolution No. 8839, a distance of 80.00 feet to the intersection of the Northerly right–of–way line of 4th Avenue South; thence North 88°18'42" West along the Southerly edge of the vacated 18th Street South right–of–way, decreed by Ordinance No. 1021 a distance of 80.00 feet to the intersection of the Westerly right–of–way line of 18th Street South; thence North 88°18'42" West along the Northerly right–of–way line of 4th Avenue South, a distance of 390.34 feet to the centerline of 17th Street South; thence North 88°12'28" West along said Northerly right–of–way line of 4th Avenue South, a distance of 189.97 feet to the Southwest corner of Lot 10, Block 736, Tenth Addition to Great Falls Townsite; thence North 01°40'15" East along the Westerly boundary line of said Lot 10 and and the Westerly Boundary Line of Lot 5, Block 736, Tenth Addition to Great Falls Townsite, a distance of 321.41 feet to the Northwest corner of said Lot 5 and being a point on the Southerly right–of–way line of 3rd Avenue South; thence South 88°14'21" East along said Southerly right–of–way line, a distance of 189.98 feet to the centerline of 17th Street South; thence South 88°16'38" East along said Southerly right–of–way line, a distance of 390.11 feet to the Northeast corner of Lot 7, Block 735, Tenth Addition to Great Falls Townsite and being a point on the Westerly right–of–way line of the vacated 18th Street South; thence North 01°37'57" East along said vacated Westerly right–of–way line, a distance of 40.00 feet to the centerline of 3rd Avenue South; thence South 88°16'38" East along said centerline, a distance of 40.00 feet to the centerline of the vacated 18th Street South; thence North 01°37'57" East along said centerline, a distance of 361.28 feet to the Southerly right–of–way line of 2nd Avenue South; thence South 88°15'44" East along said Southerly right–of–way line, a distance of 429.80 feet; thence South 88°16'46" East along said Southerly right–of–way line, a distance of 390.38 feet to the Westerly right–of–way line of 20th Street South; thence South 01°39'00" West along said Westerly right–of–way line, a distance of 361.22 feet; thence South 01°40'08" West along said Westerly right–of–way line, a distance of 401.23 feet; thence South 01°39'32" West along said Westerly right–of–way line, a distance of 360.92 feet to the Northerly right–of–way line of 5th Avenue South; thence North 88°16'11" West along said Northerly right–of–way line, a distance of 390.02 feet; thence North 88°17'16" West along said Northerly right–of–way line, a distance of 390.09 feet to the Point of Beginning and containing 25.392 acres, along with and subject to any existing easements.

The above described tract of land is to be known and designated as AN AMENDED PLAT OF LOT 1A, BLOCK 400, OF THE AMENDED PLAT OF LOTS 1–14, BLOCK 399, LOTS 1–14, BLOCK 400, THIRD ADDITION TO GREAT FALLS TOWNSITE, AND LOTS 1–11, BLOCK 733, LOTS 1–14, BLOCK 734, LOTS 8–14, BLOCK 735, LOTS 1–14, BLOCK 745, LOTS 1–10, BLOCK 746, TENTH ADDITION TO GREAT FALLS TOWNSITE, AND LOTS A, 8–9, BLOCK 1, LOTS 6–9, BLOCK 8, RESURVEY OF HUY'S ADDITION, INCLUDING THOSE PORTIONS OF THE STREETS AND ALLEYS VACATED BY ORDINANCE NO. 656, 776, 1021, 1031, 2019, AND RESOLUTION NO. 8839, AND LOTS 1–7, BLOCK 735, LOTS 5–10, BLOCK 736, OF THE TENTH ADDITION TO GREAT FALLS TOWNSITE, INCLUDING THOSE PORTIONS OF THE VACATED 17TH STREET SOUTH AND 4TH ALLEY SOUTH RIGHT OF WAY, City of Great Falls, Cascade County, Montana, and the public easements shown on said plat are hereby granted and donated to the use of the public forever.

Dated this _____ day of _____, A.D., 2022.

GREAT FALLS PUBLIC SCHOOLS

Printed Name _____

State of Montana)

: ss

County of Cascade)

On this _____ day of _____, 2022, before me, the undersigned, a Notary Public for the State of Montana, personally appeared, _____, known to me to be the person who executed the Certificate of Ownership. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

_____(Notarial Seal)

Notary Public for the State of Montana

Residing at _____

My commission expires _____

CERTIFICATE OF EXCLUSION

I(we), the undersigned property owner, do hereby certify that this accompanying plat is excluded from subdivision review, pursuant to ARM 17.36.605(3), stating "Aggregations of parcels are not subdivisions subject to review, except that an aggregation is subject to review under 76–4–130, MCA, if any parcel included in the aggregation has a previous approval issued under Title 76, chapter 4, Part 1, MCA", and ARM 17.36.605(2)(c), stating "a parcel that will be affected by a proposed boundary line adjustment, if the parcel has existing facilities for water supply, wastewater disposal, storm drainage, or solid waste disposal that were not subject to review, and have not been reviewed, under Title 76, chapter 4, part 1, MCA, and if: (i) no facilities other than those previously approved exist or will be constructed on the parcel; (ii) existing facilities on the parcel complied with state and local laws and regulations, including permit requirements, which were applicable at the time of installation and (iii) the local health officer determines that existing facilities are adequate for the existing use".

CERTIFICATE OF EXEMPTION

I(we), the undersigned property owner, do hereby certify that this accompanying plat is exempt from subdivision review, pursuant to Section 76–3–207(1)(f) M.C.A., stating "aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas", and pursuant to Section 76–3–207(1)(d) M.C.A., stating "for five or fewer lots within a platted subdivision, the relocation of common boundaries".

CERTIFICATE OF PUBLIC WORKS DIRECTOR

I, Paul Skubinna, Public Works Director for the City of Great Falls, Montana, do hereby certify that I have examined the accompanying plat of the AN AMENDED PLAT OF LOT 1A, BLOCK 400, OF THE AMENDED PLAT OF LOTS 1–14, BLOCK 399, LOTS 1–14, BLOCK 400, THIRD ADDITION TO GREAT FALLS TOWNSITE, AND LOTS 1–11, BLOCK 733, LOTS 1–14, BLOCK 734, LOTS 8–14, BLOCK 735, LOTS 1–14, BLOCK 745, LOTS 1–10, BLOCK 746, TENTH ADDITION TO GREAT FALLS TOWNSITE, AND LOTS A, 8–9, BLOCK 1, LOTS 6–9, BLOCK 8, RESURVEY OF HUY'S ADDITION, INCLUDING THOSE PORTIONS OF THE STREETS AND ALLEYS VACATED BY ORDINANCE NO. 656, 776, 1021, 1031, 2019, AND RESOLUTION NO. 8839, AND LOTS 1–7, BLOCK 735, LOTS 5–10, BLOCK 736, OF THE TENTH ADDITION TO GREAT FALLS TOWNSITE, INCLUDING THOSE PORTIONS OF THE VACATED 17TH STREET SOUTH AND 4TH ALLEY SOUTH RIGHT OF WAY, and the survey it represents, find that same conforms to regulations governing the platting of lands and presently platted adjacent land, as near as circumstances will permit, do hereby approve the same.

Dated this ____ day of _____, 2022.

PAUL SKUBINNA, Public Works Director

City of Great Falls, Montana

CERTIFICATE OF CITY COMMISSION

I, Gregory T. Doyon, City Manager of the City of Great Falls, Montana, do hereby certify that the accompanying plat of the AN AMENDED PLAT OF LOT 1A, BLOCK 400, OF THE AMENDED PLAT OF LOTS 1–14, BLOCK 399, LOTS 1–14, BLOCK 400, THIRD ADDITION TO GREAT FALLS TOWNSITE, AND LOTS 1–11, BLOCK 733, LOTS 1–14, BLOCK 734, LOTS 8–14, BLOCK 735, LOTS 1–14, BLOCK 745, LOTS 1–10, BLOCK 746, TENTH ADDITION TO GREAT FALLS TOWNSITE, AND LOTS A, 8–9, BLOCK 1, LOTS 6–9, BLOCK 8, RESURVEY OF HUY'S ADDITION, INCLUDING THOSE PORTIONS OF THE STREETS AND ALLEYS VACATED BY ORDINANCE NO. 656, 776, 1021, 1031, 2019, AND RESOLUTION NO. 8839, AND LOTS 1–7, BLOCK 735, LOTS 5–10, BLOCK 736, OF THE TENTH ADDITION TO GREAT FALLS TOWNSITE, INCLUDING THOSE PORTIONS OF THE VACATED 17TH STREET SOUTH AND 4TH ALLEY SOUTH RIGHT OF WAY, was duly examined and approved by the City Commission of the City of Great Falls, Montana, at its regular meeting held on the _____ day of _____, _____.

GREGORY T. DOYON, City Manager

City of Great Falls, Montana

CERTIFICATE OF GREAT FALLS PLANNING BOARD

We, the undersigned, Peter Fontana, President of the Great Falls Planning Board, City of Great Falls, Montana, and Craig Raymond, Secretary of said Great Falls Planning Board, do hereby certify that the accompanying plat of AN AMENDED PLAT OF LOT 1A, BLOCK 400, OF THE AMENDED PLAT OF LOTS 1–14, BLOCK 399, LOTS 1–14, BLOCK 400, THIRD ADDITION TO GREAT FALLS TOWNSITE, AND LOTS 1–11, BLOCK 733, LOTS 1–14, BLOCK 734, LOTS 8–14, BLOCK 735, LOTS 1–14, BLOCK 745, LOTS 1–10, BLOCK 746, TENTH ADDITION TO GREAT FALLS TOWNSITE, AND LOTS A, 8–9, BLOCK 1, LOTS 6–9, BLOCK 8, RESURVEY OF HUY'S ADDITION, INCLUDING THOSE PORTIONS OF THE STREETS AND ALLEYS VACATED BY ORDINANCE NO. 656, 776, 1021, 1031, 2019, AND RESOLUTION NO. 8839, AND LOTS 1–7, BLOCK 735, LOTS 5–10, BLOCK 736, OF THE TENTH ADDITION TO GREAT FALLS TOWNSITE, INCLUDING THOSE PORTIONS OF THE VACATED 17TH STREET SOUTH AND 4TH ALLEY SOUTH RIGHT OF WAY, has been submitted to the said Great Falls Planning Board, for examination by them and was approved at its regular meeting held on the _____ day of _____, _____.

Peter Fontana, President

Great Falls Planning Board

Craig Raymond, Secretary

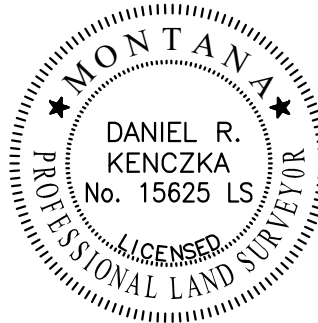
Great Falls Planning Board

CERTIFICATE OF SURVEYOR

I, the undersigned, Daniel R. Kenczka, Professional Land Surveyor, Montana Registration No. 15625LS, do hereby certify that I supervised this Plat of the AN AMENDED PLAT OF LOT 1A, BLOCK 400, OF THE AMENDED PLAT OF LOTS 1–14, BLOCK 399, LOTS 1–14, BLOCK 400, THIRD ADDITION TO GREAT FALLS TOWNSITE, AND LOTS 1–11, BLOCK 733, LOTS 1–14, BLOCK 734, LOTS 8–14, BLOCK 735, LOTS 1–14, BLOCK 745, LOTS 1–10, BLOCK 746, TENTH ADDITION TO GREAT FALLS TOWNSITE, AND LOTS A, 8–9, BLOCK 1, LOTS 6–9, BLOCK 8, RESURVEY OF HUY'S ADDITION, INCLUDING THOSE PORTIONS OF THE STREETS AND ALLEYS VACATED BY ORDINANCE NO. 656, 776, 1021, 1031, 2019, AND RESOLUTION NO. 8839, AND LOTS 1–7, BLOCK 735, LOTS 5–10, BLOCK 736, OF THE TENTH ADDITION TO GREAT FALLS TOWNSITE, INCLUDING THOSE PORTIONS OF THE VACATED 17TH STREET SOUTH AND 4TH ALLEY SOUTH RIGHT OF WAY, and platted same as shown on the accompanying plat and as described in accordance with the provisions of the Montana Subdivision and Platting Act, Sections 76–3–101 through 76–3–614, M.C.A., and Cascade County.

Dated this _____ day of _____, A.D., 2022

Daniel R. Kenczka, Montana Reg. No. 15625LS



CERTIFICATE OF COUNTY TREASURER

I, Diane C. Heikkila, County Treasurer of Cascade County, Montana, do hereby certify that I have examined the records covering the areas included in the accompanying plat of the AN AMENDED PLAT OF LOT 1A, BLOCK 400, OF THE AMENDED PLAT OF LOTS 1–14, BLOCK 399, LOTS 1–14, BLOCK 400, THIRD ADDITION TO GREAT FALLS TOWNSITE, AND LOTS 1–11, BLOCK 733, LOTS 1–14, BLOCK 734, LOTS 8–14, BLOCK 735, LOTS 1–14, BLOCK 745, LOTS 1–10, BLOCK 746, TENTH ADDITION TO GREAT FALLS TOWNSITE, AND LOTS A, 8–9, BLOCK 1, LOTS 6–9, BLOCK 8, RESURVEY OF HUY'S ADDITION, INCLUDING THOSE PORTIONS OF THE STREETS AND ALLEYS VACATED BY ORDINANCE NO. 656, 776, 1021, 1031, 2019, AND RESOLUTION NO. 8839, AND LOTS 1–7, BLOCK 735, LOTS 5–10, BLOCK 736, OF THE TENTH ADDITION TO GREAT FALLS TOWNSITE, INCLUDING THOSE PORTIONS OF THE VACATED 17TH STREET SOUTH AND 4TH ALLEY SOUTH RIGHT OF WAY, and find that the current taxes have been paid.

Dated this _____ day of _____, A.D., 2022

County Treasurer, Cascade County, Montana

BASIS OF BEARING:
GRID NORTH, MONTANA STATE PLANE COORDINATE SYSTEM, ESTABLISHED WITH SURVEY QUALITY GPS

PURPOSE OF SURVEY:
1. TO AGGREGATE AND ADJUST COMMON BOUNDARY LINES BETWEEN LOTS WITHIN A CITY OF GREAT FALLS PLATTED SUBDIVISION, INCLUDING THOSE ACCUMULATED PROPORTIONS OF THE VACATED STREETS AND ALLEYS.
2. TO RETRACE THE EXISTING BOUNDARIES OF LOTS WITHIN A CITY OF GREAT FALLS PLATTED SUBDIVISION, INCLUDING THOSE ACCUMULATED PROPORTIONS OF THE VACATED STREETS AND ALLEYS.



Board Meeting Date: Dec. 28, 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, public comment, Board 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 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 2022 (current) Federal Fiscal Year (FFY).

On August 24, 2021, the Planning Advisory Board approved the FFY 2022 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. 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, the Transit District, 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 the Transit District. The contracts are attached for Board review and action. If these contracts are approved, City staff will ensure that implementation complies with all requirements.

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 \$100,202 of Federal funding.

Attachments:

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

SECTION 5303 PLANNING CONTRACT #112068**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 \$467,811 from the Federal Transit Administration (FTA) under FAIN #MT220000 through Section 5303 of the Federal Transit Act for the Federal Fiscal Year of 2022 (October 1, 2021 – September 30, 2022), 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, 2021 to September 30, 2022. Pre-award authority to incur project costs is 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	\$100,202
20 Percent Local Match and IDC	<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. 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 9.66% for fiscal year 2022 (July 1, 2021 to June 30, 2022). 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 Mont. Code Ann 2-18-501, *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 2.9 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 actions (including costs and attorney fees) 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 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: [FTA Master Agreement v28 \(dot.gov\)](https://www.fta.gov/FTA-Master-Agreement-v28-dot-gov). 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 sub-recipient has read and understands 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 Non-Discrimination and Disability accommodation 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 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: _____
Rob Stapley, Administrator
MDT-Rail, Transit and Planning Division

Date: _____ 2021

GREAT FALLS PLANNING BOARD

By: _____

Printed Name: _____

Title: _____

Date: _____ 2021

APPROVED FOR CIVIL RIGHTS CONTENT

DocuSigned by:
Patricia Schwinden
By: _____
CDF2B6A0A2C34EC...

Date: 9/23/2021 _____ 2021

Office of Civil Rights

SUB-RECIPIENT ATTORNEY (optional)

By: _____

Date: _____ 2021

APPROVED FOR LEGAL CONTENT

DocuSigned by:
Carol Grell Morris
By: _____
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Date: 9/23/2021 _____ 2021

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 _____, 2022, 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, 2021 to September 30, 2022. 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 9.66% for fiscal year 2022 (July 1, 2021 to June 30, 2022). 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

(including costs and attorney fees) 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: [FTA Master Agreement v28 \(dot.gov\)](#). 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 Non-Discrimination and Disability accommodation 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.

- 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.