



**City Commission Meeting Agenda
2 Park Drive South, Great Falls, MT
Commission Chambers, Civic Center
November 19, 2019
7:00 PM**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL / STAFF INTRODUCTIONS

AGENDA APPROVAL

CONFLICT DISCLOSURE / EX PARTE COMMUNICATIONS

PROCLAMATIONS

1. Small Business Saturday and Adoption Day.

PETITIONS AND COMMUNICATIONS

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

2. Miscellaneous reports and announcements.

NEIGHBORHOOD COUNCILS

3. Miscellaneous reports and announcements from Neighborhood Councils.

BOARDS AND COMMISSIONS

4. Miscellaneous reports and announcements from Boards and Commissions.
5. Reappointment to the Mansfield Center for the Performing Arts Advisory Board.
6. Reappointment/Appointment to the Ethics Committee.

CITY MANAGER

7. Miscellaneous reports and announcements from City Manager.

CONSENT AGENDA

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

8. Minutes, November 5, 2019, Commission Meeting.
9. Total Expenditures of \$4,041,821 for the period of October 17, 2019 through November 6, 2019, to include claims over \$5000, in the amount of \$3,794,803.
10. Contracts List.

11. Grants List.
12. Lien Release List.
13. Set a public hearing to consider a lease agreement of City owned property located in the Community Recreation Center with A Child's World, LLC for December 3, 2019.
14. Set a public hearing for December 3, 2019 to consider a lease of property within Wadsworth Park with the Missouri River Shooters Association.

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

PUBLIC HEARINGS

OLD BUSINESS

NEW BUSINESS

15. River Drive South Trail Connection Agreements with the Montana Department of Transportation and the River's Edge Trail Foundation to initiate the River's Edge Trail Connector project along River Drive South. *Action: Approve or not approve the Agreements. (Presented by Craig Raymond)*

ORDINANCES / RESOLUTIONS

16. Resolution No. 10322, Adopting City of Great Falls Commission Rules of Conduct and Procedure of Commission Meetings. *Action: Adopt or deny Res. 10322. (Presented by Sara Sexe)*

CITY COMMISSION

17. Miscellaneous reports and announcements from the City Commission.
18. Commission Initiatives.

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.

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



Item: Reappointment to the Mansfield Center for the Performing Arts Advisory Board

From: City Manager's Office

Initiated By: City Commission

Presented By: City Commission

Action Requested: Reappoint one member to the Mansfield Center for the Performing Arts Advisory Board

Suggested Motion:

1. Commissioner moves:

"I move that the City Commission Reappoint _____ for a three-year term through December 31, 2022."

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

Staff Recommendation: It is recommended that the City Commission reappoint Grant Harville for a three-year term.

Summary: Grant Harville was appointed to the Mansfield Center for the Performing Arts Advisory Board in December 2017 to fill a partial term through December 31, 2019. He is eligible and interested in serving another full term.

Terms for Kelly Manzer and Allen Lanning are also set to expire on December 31, 2019. Ms. Manzer is not eligible for reappointment as she has served two full terms. Mr. Lanning was not at the last meeting so the Board is waiting until the next meeting to discuss recommendation for reappointment when he is in attendance.

The City began advertising on the City's Website for the vacancy left by Ms. Manzer.

Background:

The Civic Center Advisory Board was created in 1997 and was amended by Ord. 2928 in February of 2006 to change the name to the Mansfield Center for the Performing Arts Advisory Board. The Board acts in an advisory capacity to the City Commission and the City Manager on matters related to the successful operation of the Civic Center as the Mansfield Center for the Performing Arts and public

meeting rooms. The Board consists of five to seven members with an attempt to have representation from the areas of performing arts, conventions and meetings, and civic leaders.

Continuing members of this board are:

Larry Gomoll	3/05/2019 – 12/31/2021
Christina Horton	10/3/2018 – 12/31/2020
Nancy Clark	11/7/2017 – 12/31/2021
Patty Holmes-Myers	1/1/2016 – 12/31/2021
Allen Lanning	1/ 6/2015 – 12/31/2019
Kelly Manzer	1/1/2014 – 12/31/2019

Alternatives: The Commission could chose to not reappoint Mr. Harville and direct staff to begin advertising for the position.

Concurrences: During the Mansfield Center for the Performing Arts Advisory Board Meeting on October 11, 2019, the Board voted unanimously to recommend reappointment of Mr. Harville.



Item: Reappointment/Appointment to the Ethics Committee.

From: City Manager's Office

Initiated By: City Commission

Presented By: Sara Sexe, City Attorney

Action Requested: Reappoint one member and appoint an Alternate Member to the Ethics Committee for three-year terms.

Suggested Motion:

1. Commissioner moves:

"I move that the City Commission reappoint _____ to a three-year term through December 31, 2022 and appoint _____ as an Alternate Member to the Ethics Committee for a three-year term through December 31, 2022."

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

Summary:

When the Ethics Committee was created, Carmen Roberts was appointed to an initial two-year term from January 2, 2018 through December 31, 2019. She is eligible and interested in serving another term.

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

2.21.080 Committee Membership.

A. Subject to the provisions provided in Subsection (B.) of this part, the Committee shall consist of three (3) members and one (1) alternate member, who shall be appointed and ready to serve in the event that a Committee member is unable or unavailable to serve. The members and alternate shall be appointed by the City Commission for not more than three (3) consecutive, three-year terms. Members shall be qualified electors and residents of the City. Members shall not be City employees. As is reasonably possible, the members shall have experience and or training in the following:

1. Public administration;

2. Governmental operation;
3. Political practices; or
4. Legal practice.

B. The first appointee to the Great Falls Ethics Committee shall serve an initial term of three (3) years, the second appointee shall serve an initial term of two (2) years, and the third appointee shall serve an initial term of one (1) year. Following the expiration of these initial terms, the provisions of Subsection (A.) of this part shall apply.

City Staff began advertising for the new alternate position on the City Website in June and received two applications for consideration.

Background:

The Ethics Committee was established through Ordinance 3169 and adopted by the City Commission on October 17, 2017. The Initial Ethics Committee Members were appointed in January 2018 to staggered terms.

- Carl Rostad was appointed to serve an initial three-year term through December 31, 2020.
- Carmen Roberts was appointed to a two-year term through December 31, 2019 and
- Katrina Stark was appointed to a one-year term through December 31, 2018.

Katrina Stark was recommended for reappointment during the Ethics Committee meeting on November 7, 2018 and reappointed for her first full three-year term by the City Commission on November 20, 2018. She will serve on the Board until December 31, 2021.

The purpose of the Ethics Committee is to ensure that all City officers and employees are performing their duties in compliance with the provisions of Montana Code Annotated, Title 2, Chapter 2 and the provisions of the Official Code of the City of Great Falls (OCCGF) Title 2, Chapter 21.

Committee Duties listed below were also clarified and amended through Ordinance 3201 on June 18, 2019:

2.21.100 Committee duties.

The Committee shall meet and be presented testimony regarding matters referred to it. When considering an ethics complaint, the Committee shall determine whether a complaint appears to be substantiated based on the information and testimony presented. If the Committee determines that a complaint appears to be substantiated, it may refer the matter to the Cascade County Attorney, or to the supervisor of a public employee who may be the subject of the complaint, for disposition. The Committee shall make written findings of its decision, which will be filed with the City Clerk.

Concurrences:

The Ethics Committee met on November 6, 2019 and recommended reappointment of Ms. Roberts and the appointment of John Hackwith, both for three-year terms.

Alternatives:

The Commission could choose not to reappoint Ms. Roberts or not to appoint one of the applicants and ask City Staff to continue advertising for one or both of the positions.

Attachments/Exhibits:

Application – John Hackwith

Application – Tysen K. Sigglin



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


RECEIVED

DEC 14 2017

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

CITY MANAGER

Board/Commission Applying For: <i>CITY OF GREAT FALLS ETHICS COMMITTEE</i>		Date of Application: <i>14 DEC. 2017</i>
Name: <i>JOHN HACKWITH</i>		
Home Address: <i>3025 5TH AVE. S.</i>		Email address: <i>jPhboats@YAHOO.COM</i>
Home Phone: <i>(406) 454-3777</i>	Work Phone: <i>(406) 781-8223</i>	Cell Phone: <i>(406) 781-8223</i>
Occupation: <i>LAW ENFORCEMENT</i>	Employer: <i>U.S. GOVERNMENT</i>	
Would your work schedule conflict with meeting dates? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (If yes, please explain)		
Related experiences or background: <i>U.S. NAVY SPECIAL WARFARE COMBAT CREWMAN - US NAVY INTELLIGENCE SPECIALIST - EMT - MONTANA STATE TROOPER 6+ YEARS - SWORN FEDERAL OFFICER 9+ YEARS - STRONG TIES TO GREAT FALLS, BORN IN OLD DECONES HOSPITAL 1972.</i>		
Educational Background: <i>U.S. NAVY/MARINE CORPS INTELLIGENCE TRAINING CENTER MONTANA HIGHWAY PATROL ACADEMY - EMT COURSE FEDERAL LAW ENFORCEMENT TRAINING CENTER</i>		
IF NECESSARY, ATTACH A SEPARATE SHEET FOR YOUR ANSWERS TO THE FOLLOWING:		
Previous and current service activities: <i>SEE PG. 3</i>		
Previous and current public experience (elective or appointive): <i>SEE PG. 3</i>		
Membership in other community organizations: <i>SEE PG. 3</i>		

Have you ever worked for or are you currently working for the City of Great Falls? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, where and when?	
Do you have any relatives working or serving in any official capacity for the City of Great Falls? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, who, which department, and relationship?	
Have you ever served on a City or County board? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, what board and when did you serve?	
Are you currently serving on a Board? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, which board?	
Please describe your interest in serving on this board/commission? <i>SEE PG. 3</i>	
Please describe your experience and/or background which you believe qualifies you for service on this board/commission? <i>SEE PG. 3</i>	
Additional comments: <i>[Faint handwritten text]</i>	
Signature 	Date: <i>14 DEC. 2017</i>

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

Return this form to:

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

Fax:
(406) 727-0005

Email:
kartis@greatfallsmt.net

City of Great Falls Ethics Committee
Addendum to application
John Hackwith

Previous and current service activities:

I am a Navy veteran. Before my Law Enforcement career, I spent 6 years in the U.S. Navy in Special Warfare as a Special Warfare Combat Crewman (SWCC). My Navy Rating designation was that of Intelligence Specialist which included adjudication and maintenance of a level 4, Top Secret, SCI (Sensitive Compartmented Information) security clearance. This involved an extensive background investigation spanning over 9 months.

Previous and current public experience (elective or appointive):

I have worked as a sworn Law Enforcement Officer for just under 16 years, both at the State and Federal levels. I was a Montana State Trooper from 2001 to 2007, and a Federal LEO from 2007 to 2016. A line of duty injury caused me to leave Law Enforcement before I intended to do so.

Membership in other community organizations:

I have maintained a level of service to the Great Falls community from an early age. During my teenage years I spent 5 years as a Civil Air Patrol Cadet. In my twenties, I joined the Elks Lodge. I served a term on the GFSSC Public Relations Committee. Although not a board member, in recent years, I have lent my efforts and support to the Police Community Foundation in preparation for their annual gala.

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

I believe I would bring a unique perspective to this committee. Having served as a Law Enforcement Officer for the lion's share of 16 years, I have a great deal of experience observing, evaluating, predicting, and restraining human behavior. In fact, those abilities were a matter of day to day survival. Police officers are not trained or expected to simply read, interpret and apply the law. Anyone who can read can do that. Police officers are empowered and expected to evaluate the facts and circumstances of each individual situation, and then arrive at a lawful and just resolution to that particular situation. Every set of facts has its own merits and peculiarities, and must be evaluated accordingly in order to ensure that the outcome is not only compliant with policy and law, but also just, under the circumstances. In short, do the right thing, at the right time, for the right reasons.

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

As a Special Warfare Combat Crewman I had to interpret and follow very specific rules of engagement and observe very strict mission parameters. As a U.S. Navy Intelligence Specialist, I was entrusted with the highest levels of classified and compartmented information. As a Law Enforcement Officer, I was expected to know, interpret, and apply the law, and maintain the "higher standard" of conduct expected of those wearing the uniform. I was also charged with maintaining the privacy and dignity of the people with whom I dealt professionally. I am also a Law Enforcement Firearms and Use of Force Instructor. In this capacity I was responsible for training and evaluating those in my detachment on the proper application of force in the accomplishment of lawful objectives.



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

RECEIVED

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

OCT 17 2019

Board/Commission Applying For: Great Falls Ethics Committee		Date of Application: CITY MANAGER 10/16/19
Name: Tylen K. Sigglin		
Home Address: 809 49th St. N Great Falls MT 59405		Email address: tylensigglin@gmail.com
Home Phone: N/A	Work Phone: 406-761-8333	Cell Phone: 208-695-8444
Occupation: Secretary	Employer: Montana Electric Cooperatives	
Would your work schedule conflict with meeting dates? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> (If yes, please explain) Work M-F 8-5; not sure when meeting dates are		
Related experiences or background: In National Honors Society & Student Gov in high school (3 years). Working as minute taker for MECA committee meetings. Understand governmental operation & political practices.		
Educational Background: Meridian Technical High School - 4.0 gpa (3 years) INSPIRE Connections Academy - 4.0 gpa (1 year) Western Governors Uni. - 4.0 gpa (1 year)		
IF NECESSARY, ATTACH A SEPARATE SHEET FOR YOUR ANSWERS TO THE FOLLOWING:		
Previous and current service activities: Idaho Food bank volunteer (3 years) National Honors Society (3 years) National Junior Honors & Society (3 years) Skills USA (2 years)		Student gov. (3 years)
Previous and current public experience (elective or appointive): No public experience but interested in my local government.		
Membership in other community organizations: None, moved here recently.		

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

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

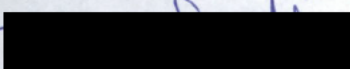
Have you ever served on a City or County board? Yes No If yes, what board and when did you serve?

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

Please describe your interest in serving on this board/commission?
After reading the description, I felt like this committee would be a great way to get into local government. I understand it is for an alternate member but I would love to participate.

Please describe your experience and/or background which you believe qualifies you for service on this board/commission?
I worked on Student Gov., NHS, & SkillsUSA. I think my experience with these 3 projects helped me form a great set of ethics. I think it is important to make sure our local government serves with compliance to accurately represent the community.

Additional comments: *I'm very passionate about local government & State government and I would really like the chance to follow that passion. Thank you for reviewing my application, please give me a call if you have questions!*

Signature 	Date: <i>10/16/19</i>
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If you are not selected for the current opening, your application may be kept active for up to one year by contacting the City Manager's office. Should a board/commission vacancy occur within 30 days from the last City Commission appointment, a replacement member may be selected from citizen interest forms submitted from the last advertisement. For more information, contact the City Manager's office at 455-8450.

Return this form to:

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

Fax:
(406) 727-0005

Email:
kartis@greatfallsmt.net

JOURNAL OF COMMISSION PROCEEDINGS
November 5, 2019

Regular City Commission Meeting

Mayor Bob Kelly presiding

CALL TO ORDER: 7:00 PM

Commission Chambers Room 206

PLEDGE OF ALLEGIANCE

ROLL CALL/STAFF INTRODUCTIONS: City Commission members present: Bob Kelly, Bill Bronson, Mary Sheehy Moe, Owen Robinson, and Tracy Houck. Also present were the Deputy City Manager Chuck Anderson; Deputy City Clerk Darcy Dea; Public Works Director Jim Rearden; Planning and Community Development Director Craig Raymond; Finance Director Melissa Kinzler; Fire Chief Steve Hester; City Attorney Sara Sexe; and, Police Chief Dave Bowen.

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

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS: None.

PETITIONS AND COMMUNICATIONS

1. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Kevin Westie, 602 35th Street North, expressed concern with regard to the second use of the Tax Increment Financing (TIF). Mayor Kelly pointed out that TIF is an item on the Agenda and can be discussed at that time.

Referring to sustainability, Mr. Westie commented that increasing the amount of solar energy requirements causes more problems by increasing the solar depletion.

NEIGHBORHOOD COUNCILS

2. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

None.

BOARDS & COMMISSIONS

3. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS FROM BOARDS AND COMMISSIONS.

Commissioner Robinson reported that the Complete Count Committee for the Census 2020 will be hiring part-time employees from January through April, 2020.

CITY MANAGER

4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

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Deputy City Manager Chuck Anderson reported on the following:

- City Manager Greg Doyon is attending the Association of Defense Communities (ADC) Defense Policy Forum in Washington DC.
- Registration for the second City 101 Class is open and currently there are five applications.
- McKinstry began work on November 5th to replace the basement air handlers at the Library and work should be completed by mid-December.
- City Manager Doyon, Deputy City Manager Anderson, Planning and Community Development Director Craig Raymond and Public Works Director Jim Rearden met about the CM Russell Museum Campus expansion.
- City offices will be closed Monday, November 11th for Veterans Day.

CONSENT AGENDA.

5. Minutes, October 15, 2019, Commission Meeting.
6. Total Expenditures of \$4,904,259 for the period of September 25, 2019 through October 23, 2019, to include claims over \$5000, in the amount of \$4,434,081.
7. Contracts List.
8. Accept the State Hazmat Team Sustainment Financial Assistance Program Funds in the amount of \$40,000.00 over the next two years to sustain the City's Hazmat team's equipment and supplies.
9. Award a contract in the amount of \$238,262.00 to United Materials of Great Falls for the Jaycee Park – Pickleball, Basketball, and Pavilion Improvements Project, and authorize the City Manager to execute the agreements. **OF 1740.2**
10. Approve Change Order No. 1 in the amount of \$18,825.63 for the Great Falls Animal Shelter Cattery Addition and authorize the City Manager to execute the necessary documents. **OF 1673**
11. Approve final payment for the Lower Southside Water Main Replacement – Phase III project, to United Materials of Great Falls, Inc. in the amount of \$72,145.65, and \$728.74 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments. **OF 1465.2**
12. Approve final payment for the Public Works Facilities Repairs project, to EJ Carpentry, LLC in the amount of \$24,517.50, and \$247.65 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments. **OF 1733**

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Commissioner Robinson moved, seconded by Commissioner Houck, that the City Commission approve the Consent Agenda as presented.

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

Motion carried 5-0.

PUBLIC HEARINGS

13. **I.) RESOLUTION 10320, ANNEXING LOTS 4-6, BLOCK 10 OF FINLAY'S SUPPLEMENT TO PROSPECT PARK ADDITION, AND THE ADJOINING RIGHT-OF-WAY OF 15TH STREET SOUTH AND 22ND ALLEY SOUTH.**
II.) ORDINANCE 3210, ASSIGNING R-3 SINGLE-FAMILY HIGH DENSITY ZONING AND A NON-ADMINISTRATIVE PLAT TO AGGREGATE THE SUBJECT PROPERTIES.
III.) AMENDED PLAT, AGGREGATING THE SUBJECT PROPERTIES DESCRIBED AS LOTS 1-6, BLOCK 10 OF FINLAY'S SUPPLEMENT TO PROSPECT PARK ADDITION.

Planning and Community Development Director Craig Raymond reported that the subject properties proposed for annexation are legally described as Finlay's Supplement to Prospect Park Addition, Lots 4-6, Block 10 and the adjoining right-of-way of 15th Street South and 22nd Alley South. The applicant currently owns six lots, three of which are located within City limits, and three that are still in County jurisdiction. The properties are served by City water and a septic tank that is located on the County parcels.

The ultimate goal of the owner was to sell the property wholly in the City as opposed to a fragmented jurisdictional problem, which creates confusion for owners, insurance companies, and emergency services. Since that time the original owner signed the annexation petition, and was able to sell the property. The new owner is requesting that the annexation process continue as scheduled.

Although the City is only providing water service to the properties and street services are minimal, no new development is being proposed that would stress City service levels. Due to the fact that a City sewer main is several blocks away and cannot be feasibly extended at this time, staff is willing to support a petition for annexation without immediate connection to the City sewer system. However, such a connection would need to be made in the future when the relatively new septic system eventually is not functional.

Staff finds that the requested R-3 zoning is appropriate due to the existing conditions of the surrounding properties which are already located in the City limits and are consistently zoned R-3. At the conclusion of a public hearing held on September 24, 2019, the Zoning Commission recommended that the City Commission approve the establishment of R-3 Single-family High Density zoning for the subject properties with conditions.

Travis Manus, Century 21 Real Estate, 2205 6th Avenue North, explained that he purchased the property prior to the foreclosure date in order to keep the annexation process moving forward. Mr.

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Manus further explained that he will hold the property for 90 days to meet FHA “flip” requirements and sell it to the original purchasers.

Mayor Kelly asked if the Commission had any questions of staff or the applicant.

Commissioner Moe received clarification that changing ownership will not have any affect with regard to going back through the Planning Board.

Mayor Kelly declared the public hearing open.

No one spoke in support of or opposition to Resolution 10320, Ordinance 3210 and the Amended plat.

Mayor Kelly closed the public hearing and asked the will of the Commission.

Commissioner Bronson moved, seconded by Commissioner Moe, that the City Commission adopt Resolution 10320 to annex Lots 4-6, Block 10 of Finlay’s Supplement to Prospect Park Addition, and the adjoining right-of-way of 15th Street South and 22nd Alley South and approve the accompanying Findings of Fact/Basis of Decision, and the Improvement Agreement; all subject to the Conditions of Approval being fulfilled by the applicant.

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

Motion carried 5-0.

Commissioner Moe moved, seconded by Commissioner Bronson, that the City Commission adopt Ordinance 3210 to assign R-3 Single-Family High Density zoning and the accompanying Findings of Fact/Basis of Decision.

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

Motion carried 5-0.

Commissioner Bronson moved, seconded by Commissioner Moe, that the City Commission approve the amended plat aggregating the subject properties legally described as Lots 1-6, Block 10 of Finlay’s Supplement to Prospect Park Addition, and the accompanying Findings of Fact/Basis of Decision, subject to the Conditions of Approval being fulfilled by the applicant.

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Mayor Kelly expressed appreciation to the Planning and Community Development department and Mr. Manus for working together with regard to the sewer main moving forward.

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

Motion carried 5-0.

14. ORDINANCE 3209, APPROVING AN URBAN RENEWAL PROJECT (BUFFALO CROSSING PROJECT) AND ASSOCIATED INFRASTRUCTURE IMPROVEMENTS IN THE WEST BANK URBAN RENEWAL AREA AND AUTHORIZING FINANCING OF INFRASTRUCTURE IMPROVEMENTS WITH TAX INCREMENT REVENUE.

Planning and Community Development Director Craig Raymond reported that the West Bank Urban Renewal and Tax Increment Financing (TIF) District was adopted by the City Commission in 2007 and encompasses property on the west bank of the Missouri River on either side of the Central Avenue West Bridge. Within the West Bank Urban Renewal TIF District is the recently approved Buffalo Crossing subdivision that includes the existing Barrel Building and six lots that were approved for subdivision by the City Commission on July 3, 2018. The purpose of creating the West Bank TIF was to address blighted conditions that had diminished the environmental, economic, and cultural conditions of the West Bank area over time in order to foster economic development, job creation, and improve overall environmental quality of the area.

The applicant, Holman Grain, has submitted a TIF application for \$350,600 of TIF funds to address the following improvements to the Buffalo Crossing Addition:

- 1) \$74,000 for demolition of existing structures. The applicant is seeking TIF funds to demolish an existing loading dock on the south side of the Barrel Vault Building as well as buildings on the west side of Bay Drive.
- 2) \$140,000 to relocate overhead power lines from the east side of Bay Drive to the west side of Bay Drive.
- 3) \$81,000 towards Bay Drive sidewalk and landscaping. The City requires certain public improvements to the City right-of-way as development occurs. The owners have committed to landscaping and sidewalks within the right-of-way before development occurs to improve the streetscape of the property.
- 4) \$27,600 for River's Edge Trail public access.
- 5) \$28,000 for civil engineering fees.

The \$350,600 of TIF funds being requested is still a small percentage of the total cost of the project, which is estimated to be \$18,900,694 when all six lots are fully developed. If this request is approved, the relocation of the overhead power lines and the demolition of the existing building will occur this year with all other public improvements taking place over the Spring and Summer of 2020.

After thorough review and evaluation of the project and infrastructure improvements, City staff has determined:

- No persons will be displaced from their housing by the project or the infrastructure improvements.
- The Project and the infrastructure improvements substantially satisfy the review criteria of the funding application process and meet the purpose and goals of the State Law, the District and Plan.
- The infrastructure improvements constitute public improvements in accordance with the Act.

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

There are adequate funds in the West Bank TIF District to fund the applicant's request. However, the City Commission approved a \$350,000 disbursement to West Bank LLC. Based on that, staff's recommendation is still to approve this request but with a phased approach.

Subject to City Commission approval, staff envisions the following funding sequence:

- \$350,000 of immediate payment to West Bank LLC.
- Approximately \$242,000 of reimbursement payment to the Buffalo Crossing applicant upon completion of Phase I improvements (power line relocation and demolition work). The payment would occur after the City's 2019 TIF fund payment in December.
- Approximately \$108,600 of reimbursement payment to the Buffalo Crossing applicant upon completion of Phase II improvements (trail access, Bay Drive sidewalk/landscaping). Payment would occur after the City's 2020 mid-year TIF fund payment.

Mayor Kelly asked if the applicant was present and wished to provide any additional comments regarding the application.

Lyle Meeks, 6125 Upper Highwood Creek Road, Highwood, MT, NCI Engineering, representing the applicant, Holman Grain, noted that there are over 50 properties in this Tax Increment District that contribute to the TIF fund. Mr. Meeks explained that the applicant has "skin in the game" by putting front-end costs into the Buffalo Crossing Project to relocate power lines and demolish buildings before requesting reimbursement. There are no requirements that the Buffalo Crossing Project be 100 percent complete in advance before requesting reimbursements. The West Bank Project is a bonded project and is greater in scale than the Buffalo Crossing Project. Mr. Meeks added that the applicant is motivated to make something happen and the Buffalo Crossing Project has great opportunity.

Mayor Kelly asked if the Commissioners had any questions of staff or the applicant.

Referring to the map on page 181 of the agenda packet, Commissioner Robinson received clarification that there is a crosswalk between First Street Southwest and Second Street Southwest on Bay Drive.

Mayor Kelly declared the public hearing open.

No one spoke in support of Ordinance 3209.

Speaking in opposition to Ordinance 3209 was:

Steve Beaumont, 3409 2nd Avenue South, inquired if the overhead power lines could be relocated underground.

Linda Caricaburu, 2801 4th Avenue North, partner in West Bank LLC, commented that development would not be happening in the West Bank area without the West Bank TIF District. She commented that the Buffalo Crossing Addition is great news and would continue the economic

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stimulus to the area initiated by the West Bank Landing Developments; however, she expressed concern about fairness with regard to the different requirements for distribution of funds for the Buffalo Crossing Project. As developers, Ms. Caricaburu explained that she and Mr. Talcott took a tremendous risk by putting money upfront for the development of West Bank Landing and noted that they still have loans against the TIF money that is owed to them. The interest on the loans will continue because the Buffalo Crossing Project is taking money that they could use to put towards getting the bonding capacity for the West Bank Landing Projects.

Ms. Caricaburu added that the applicants for the Buffalo Crossing Project are inexperienced developers who do not have financing or any new businesses committed and are not receiving any new tax revenue to put into the district. Ms. Caricaburu requested that if there is some urgency for the development of the Buffalo Crossing Project, that a clawback provision be added in the Development Agreement allowing funds to be returned to the TIF District if the development fails.

Kevin Westie, 602 35th Street North, commented that a first-time developer using TIF funds for development takes on a greater risk than a second developer. He concurred with a previous speaker with regard to adding a clawback provision in the Development Agreement.

Brad Talcott, 2801 4th Avenue North, expressed support of the success for the Buffalo Crossing Project and noted that the development would benefit West Bank and the City; however, he expressed the same concerns as the previous speaker, Linda Caricaburu. Mr. Talcott clarified that the West Bank Development debt ratio of 1.25 that he provided at a previous Commission meeting was incorrect and the correct debt ratio is 1.4.

Jolene Schalper, Great Falls Development Authority (GFDA), 405 3rd Street Northwest, expressed support of the Buffalo Crossing Project and commented that \$17.2 million in financing is available for the project. Ms. Schalper expressed concern with regard to the amount of money owed to West Bank Landing and encouraged the City to issue the bond to West Bank Landing so they can pay back the GFDA loans.

Referring to a previous speaker's inquiry, Mr. Meeks responded that there is no room to bury the overhead power lines underground on the west side of Bay Drive.

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

Commissioner Bronson moved, seconded by Commissioner Robinson, that the City Commission adopt Ordinance 3209 and approve the submitted Development Agreement pertaining to the Buffalo Crossing Urban Renewal Project.

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Bronson commented that he appreciates the concerns of the West Bank Landing developers; however, he expressed concern that the City could be perceived as favoring one developer over another if the Buffalo Crossing project is turned down. Commissioner Bronson requested that Holman Grain take into consideration all of the concerns expressed tonight and

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pointed out that there is an expectation that the project move forward upon approval of the agreement.

Referring to page 179 of the agenda packet, Commissioner Houck received clarification that the requested first payment of \$700,000, as well as the second payment of \$350,000, has been paid back to West Bank Landing. She inquired if a clawback provision has ever been involved with regard to a TIF allocation for the City.

Erin McCrady of the Dorsey & Whitney law firm, responded that she is unaware of a clawback provision being involved in a TIF allocation for the City of Great Falls.

Commissioner Moe inquired about the opponents who had concerns with regard to the fairness and treatment of the two developments.

Ms. McCrady responded that the Buffalo Crossing applicant's request for a smaller amount, as well as the completion of Phase I improvements enhancing the value of the property, heavily weighed in on the justification for funding phase I before full construction being completed.

Commissioner Moe inquired about the time-sensitivity for the approval of the Buffalo Crossing Project.

Mr. Meeks responded that the applicant is currently negotiating with an entity with regard to refinancing other properties in order to make the Buffalo Crossing Project work.

Commissioner Moe asked Mr. Talcott to explain his "win-win" comment.

Mr. Talcott replied that the City should return the bonding for the West Bank Project and the remaining funds could be available for the Buffalo Crossing Project.

City Attorney Sexe explained that Section 3.1 in the Development Agreement deals with diligent completion and funding assurances by the developer and section 6.1 has an indemnification provision. There are elements that could be utilized to obtain money back for violation of the covenants in the Development Agreement.

Mayor Kelly inquired about the 140 percent debt ratio for the West Bank Landing Development.

Finance Director Melissa Kinzler replied that as the debt ratio is paid down, it is easier to get to the 140 percent of the debt service.

Ms. McCrady explained that there are two series of bonds outstanding for the TIF district. The first is owned by public bond holders and they have first claim on all revenue. The second claim on revenue would be any Development Agreement reimbursement obligations that the City entered into. The bond documents make it clear that that debt service payments have to happen before any other funds go out. She explained that the agreement with Mr. Talcott would be the second claim on funds. The City can set a priority as to where the funds go after payment to the bond holders but currently no priority has been set. Ms. McCrady further explained that the way all of the existing

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agreements are drafted, after the public bond holders, all interested parties have an equal claim on funds.

Mayor Kelly expressed support with regard to the language about the “need to perform” being in the Development Agreement. He requested Mr. Meeks notify the applicants that they need to understand that if the commitment comes forward, the City expects action to take place, and to take into consideration all of the concerns that were discussed tonight.

Mayor Kelly explained that if the funds are not dispersed to Mr. Talcott as requested, they do nothing to help the coverage situation unless the funds are used to buy down the principal debt that is owed. Mr. Talcott’s debt service and debt that he currently has would be reassessed in June, 2020 to see if they meet the threshold for bonding.

Planning and Community Development Director Raymond pointed out that the City has invested monies in other projects in the past that were not necessarily a 100 percent certainty.

Mayor Kelly inquired if there is an opportunity to work with Mr. Talcott with regard to assisting him with reducing the timeline on his current debt.

City Manager Anderson replied that opportunities to work with Mr. Talcott will be examined.

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

Motion carried 3-2 (Commissioners Moe and Houck dissenting).

OLD BUSINESS

15. CREATIVE MURAL/LOGO DESIGN AND PAINTING OF THE GORE HILL WATER TOWER – REQUEST FOR COST PROPOSALS (RFP) (OF 1625.9).

Public Works Director Jim Rearden reported that the construction activity associated with this project should have minimal impacts on the citizens. It is not anticipated that any roads will need to be closed and the water tower should be able to remain fully functional during the painting process. City engineering staff will perform contract administration duties associated with this project, but staff recommends that the City enter into a Professional Services Agreement with a consultant firm, that has experience with projects of this nature, to provide construction inspection services and offer technical assistance.

Per the recommendation of the manufacturer that provided the materials associated with the current coating system, the contract documents require the painting of the mural/logo to wait until the spring of 2020 to be installed so that the existing coating can cure. The contract documents also state that the Notice to Proceed will be issued no later than July 1st, 2020, unless written approval is provided by both the owner and the contractor. The Contractor will have ninety calendar days to complete the project from the date of the Notice to Proceed.

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The end of the two year warranty that is currently in place for the construction of the water tower and the coating system on the metal water storage tank at the top of the concrete pedestal is December 17, 2020. The sealant for the concrete pedestal was applied this summer and the two year warranty will extend into July of 2021. Should a warranty issue associated with the water tower arise after a mural is painted on it, staff may not be able to identify which entity would be responsible for correcting the issue.

Two bids, each with three design options, were received and opened for this project on September 18, 2019. The bids for this project ranged from \$55,000.00 to \$144,000.00.

Commissioner Moe moved, seconded by Commissioner Robinson, that the City Commission award a contract in the amount of \$55,000.00 to Cameron Moberg for design option number one for the Creative Mural/Logo Design and Painting of the Gore Hill Water Tower, and authorize the City Manager to execute the construction contract documents.

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

Written correspondence was received from **Jeanne Anderson**, urging the Commission to approve the suggested mural design for the new water tower on Gore Hill and opined that it would be an asset for the City.

John Hubbard, 615 7th Avenue South, received clarification that contributions would be the funding source for painting the logo on the water tower. He expressed opposition to using any taxpayer funds for the logo.

Commissioner Bronson requested clarification about the funding source for the logo design.

City Attorney Sexe responded that the Great Falls Area Community Foundation would be the repository for donations and staff is working on a Memorandum of Understanding.

Commissioner Bronson received clarification that once the project is completed, Cameron Moberg would be paid the contracted amount regardless of the amount of donated funds, and there is an 18 month waiting period to determine if sufficient money will be raised from donations to pay off the contract.

Public Works Director Rearden explained that the end of the two-year warranty for the basin is December, 2020. Since it is difficult to paint the basin in the winter, the two-year warranty will extend into July, 2021. Director Rearden further explained that Cameron Moberg provided electronic mail indicating that he would hold his pricing until spring of 2021.

Mayor Kelly received clarification that there are no Federal Aviation Administration (FAA) requirements that require the water tower basin to be painted a certain color.

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Deputy City Manager Chuck Anderson received clarification that an alternate bid of approximately \$12,000 to provide block letters on the water tower tank probably would have come from the water fund.

Commissioner Robinson inquired if the City would be obligated to complete the project in July, 2021 if there were no other funds.

City Attorney Sexe responded that an escape clause could be incorporated into the agreement indicating that if there is no funding for the project, the City could back out of the agreement.

Commissioner Moe suggested that an escape clause be incorporated into the agreement indicating that if donated funds are not raised before a reasonable date, the City could opt to back out of the agreement.

Commissioner Houck suggested that the ongoing upkeep of the logo on the water tower be considered when asking the community to raise money for the project.

Mayor Kelly inquired if there was any capital commitment from Mr. Moberg.

Director Readon responded that currently Mr. Moberg has a \$5,500 bid bond and if a contract is awarded the bid bond would be returned to him.

Mayor Kelly suggested that the agreement contain an escape clause, that taxpayer funds not be utilized, and that an effort be made to raise the total amount needed for the project.

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

Motion carried 4-1 (Commissioner Bronson dissenting).

NEW BUSINESS

ORDINANCES/RESOLUTIONS

CITY COMMISSION

16. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Mayor Kelly announced that he will not be in attendance at the November 19th Commission meetings and Commissioner Bronson will be the Mayor Pro Tempore. There has been a lot of feedback from the community about the Commission Initiative from a previous meeting with regard to street parking for abandoned trailers, and Mayor Kelly commented that staff is moving forward with finding a solution to rectifying the problem.

Commissioner Bronson announced that the Veterans Day ceremony at the Montana Veterans Memorial will be at 11:00 on November 11th.

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Commissioner Moe expressed appreciation to Erin McCrady for being in attendance and answering difficult questions with regard to Agenda Item 14.

17. **COMMISSION INITIATIVES.**

None.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Moe moved, seconded by Mayor Kelly, to adjourn the regular meeting of November 5, 2019, at 8:45 p.m.**

Motion carried 5-0.

Mayor Bob Kelly

Deputy City Clerk Darcy Dea

Minutes Approved: November 19, 2019



ITEM: \$5,000 Report
 Invoices and Claims in Excess of \$5,000

PRESENTED BY: Finance Director

ACTION REQUESTED: Approval with Consent Agenda

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

TOTAL CHECKS ISSUED AND WIRE TRANSFERS MADE ARE NOTED BELOW WITH AN ITEMIZED LISTING OF ALL TRANSACTIONS GREATER THAN \$5000:

ACCOUNTS PAYABLE CHECK RUNS FROM OCTOBER 24, 2019 - NOVEMBER 6, 2019	3,982,179.04
MUNICIPAL COURT ACCOUNT CHECK RUN FOR OCTOBER 17, 2019 - OCTOBER 31, 2019	59,641.50
TOTAL: \$	4,041,820.54

SPECIAL REVENUE FUND

911 SPECIAL REVENUE

CENTURYLINK	OCTOBER 2019 CHARGES	5,848.81
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STREET DISTRICT

GREAT FALLS SAND & GRAVEL	ASPHALT	68,542.08
DEPARTMENT OF TRANSPORTATION	PARK DR/4TH AVE N PED CROSSING (SPLIT AMONG FUNDS)	1,912.93
JAMES TALCOTT CONSTRUCTION INC	OF 1733.5 PW FACILITY IMPROVEMENT (SPLIT AMONG FUNDS)	21,483.69

PARK & RECREATION SPECIAL REVENUE

DEPARTMENT OF TRANSPORTATION	PARK DR/4TH AVE N PED CROSSING (SPLIT AMONG FUNDS)	1,912.94
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NATURAL RESOURCES

TILLERAAS LANDSCAPE NURSERY	TREES FOR BLVD REPLANT AGRICULTURE & HORTICULTURE	24,025.00
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DEBT SERVICE

WEST BANK TID BONDS

WEST BANK LLC	DEVELOPMENT AGREEMENT REIMBURSEMENT	350,000.00
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ENTERPRISE FUNDS

WATER

NORTHWEST PIPE FITTINGS	OF 1494.6 WATER MAIN CROSSING UNDER THE UPPER MISSOURI	6,442.85
ELECTRICAL CONSULTANTS INC	WONDERWARE RENEWAL	15,097.68
KUGLIN CONSTRUCTION	OF 1730.9 MISC CURB RECONSTRUCTION (SPLIT AMONG FUNDS)	1,094.40
THATCHER CO OF MONTANA	CHEMICALS	5,323.86
STATE OF MONTANA	OF 1494.6 1% TAX WATER AMIN CROSSING UNDER THE UPPER MISSOURI RIVER	7,640.69
AE2S INC	OF 1637.1 WTP FILTRATION IMPROVEMENT	77,435.89
THE HDD COMPANY INC	OF 1494.6 WATER MAIN CROSSING UNDER THE UPPER MISSOURI	1,070,926.87

SEWER

STANTEC CONSULTING INC	OF 1633.7 WWTP ELECTRICAL DIST. EVALUATION & REHABILITATION	36,385.10
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STORM DRAIN

KUGLIN CONSTRUCTION	OF 1730.9 MISC CURB RECONSTRUCTION (SPLIT AMONG FUNDS)	17,820.00
DEPARTMENT OF TRANSPORTATION	PARK DR/4TH AVE N PED CROSSING (SPLIT AMONG FUNDS)	1,912.93
CASCADE COUNTY TREASURER	TAXES FOR WESTSIDE FLOOD DISTRICT PARCEL	27,073.32

SANITATION

JAMES TALCOTT CONSTRUCTION INC	OF 1733.5 PW FACILITY IMPROVEMENT (SPLIT AMONG FUNDS)	38,184.40
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CIVIC CENTER EVENTS

GREAT FALLS COMMUNITY CONCERT ASSOCIATION	20-2 BALL IN THE HOUSE SETTLEMENT	7,699.38
ROZ100, INC	20-30 MOSCOW BALLET SETTLEMENT	24,458.78

INTERNAL SERVICES FUND

HEALTH & BENEFITS

MONTANA MUNICIPAL INTERLOCAL AUTHORITY	INSURANCE DEDUCTIBLES & PREMIUMS	861,103.50
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INFORMATION TECHNOLOGY

DELL MARKETING LP	6 OPTIPLEX 7071 ERS FOR 911 CENTER	6,033.00
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CENTRAL GARAGE

GREAT FALLS OVERHEAD DOOR	OF 1733.3 PW DOOR REPLACEMENT PHASE 2 (SPLIT AMONG FUNDS)	13,186.76
MOUNTAIN VIEW CO-OP	FUEL	28,628.70
JAMES TALCOTT CONSTRUCTION INC	OF 1733.5 PW FACILITY IMPROVEMENT (SPLIT AMONG FUNDS)	99,234.95

INTERNAL SERVICES FUND (CONTINUED)

PUBLIC WORKS ADMINISTRATION

GREAT FALLS OVERHEAD DOOR	OF 1733.3 PW DOOR REPLACEMENT PHASE 2 (SPLIT AMONG FUNDS)	12,247.18
JAMES TALCOTT CONSTRUCTION INC	OF 1733.5 PW FACILITY IMPROVEMENT (SPLIT AMONG FUNDS)	97,702.98

TRUST AND AGENCY

COURT TRUST MUNICIPAL COURT

CITY OF GREAT FALLS	FINES & FORFEITURES COLLECTIONS	48,623.68
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PAYROLL CLEARING

STATE TREASURER	MONTANA TAXES	54,261.00
ICMA RETIREMENT TRUST	EMPLOYEE CONTRIBUTIONS	8,258.07
FIREFIGHTER RETIREMENT	FIREFIGHTER RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	57,163.13
STATEWIDE POLICE RESERVE FUND	POLICE RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	71,318.25
PUBLIC EMPLOYEE RETIREMENT	PUBLIC EMPLOYEE RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	143,429.91
US BANK	FEDERAL TAXES, FICA & MEDICARE	233,376.65
AFLAC	EMPLOYEE CONTRIBUTIONS	9,670.98
LABORERS INTERNATIONAL UNION	EMPLOYEE CONTRIBUTIONS	32,346.06
WESTERN CONF OF TEAMSTERS	EMPLOYEE CONTRIBUTIONS	19,195.66
MONTANA OE - CI TRUST FUND	EMPLOYEE CONTRIBUTIONS	29,043.00
NATIONWIDE RETIREMENT SOLUTIONS	EMPLOYEE CONTRIBUTIONS	16,314.58
STATE OF MONTANA	3RD QUARTER UNEMPLOYMENT TAX	30,133.37

UTILITY BILLS

NORTHWESTERN ENERGY	TRANSMISSION CHARGES FOR AUG 2019	15,988.72
NORTHWESTERN ENERGY	OCTOBER 2019 SLD CHARGES	85,529.59
NORTHWESTERN ENERGY	SEPT 2019 WATER PLANT CHARGES	10,791.81

CLAIMS OVER \$5000 TOTAL: \$ 3,794,803.13

COMMUNICATION TO THE CITY COMMISSION

DATE: November 19, 2019

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

PRESENTED BY: Darcy Dea, Deputy City Clerk

ACTION REQUESTED: Ratification of Contracts through the Consent Agenda

MAYOR’S SIGNATURE: _____

CONTRACTS LIST

	DEPARTMENT	OTHER PARTY (PERSON OR ENTITY)	PERIOD	AMOUNT	PURPOSE
A	Public Works Park & Recreation	Faast Fire Extinguishers Inc.	11/19/2019- 12/31/2022	Services as needed range from \$4 to \$12; \$27.50 to \$110 per replacement fire extinguisher depending on size; spring brackets range from \$10 to \$30; hydro test \$12; chemical replacement \$100	Fire Extinguisher Maintenance Agreement for the Public Works and Park & Recreation Departments

B	Public Works	Cascade County Weed Management District	Annual	Each party responsible for their own funding	Annual Cooperative Agreement and Noxious Weed Management Plan
C	Public Works/ Engineering	Blum Holdings LLC	Permanent	\$1.00	Utility Easement located in Lot 4 of the Great Bear No. 2 Subdivision – Phase I, located in the Northwest Quarter of Section 30, T21N, R4E, P.M.M. OF 1658.1
D	Great Falls Police Department	Superior Cleaning	11/19/2019- 11/06/2020	\$55 per week	Professional Services Agreement for general cleaning once a week at the Great Falls Police Department
E	Park and Recreation	Williamson Fencing & Sprinklers	11/19/2019- 04/30/2020	\$24,961	Agreement to replace dugouts and backstop on Field # 6 at the Multi Sports Complex OF 1063.7

COMMUNICATION TO THE CITY COMMISSION

DATE: November 19, 2019

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

PRESENTED BY: Darcy Dea, Deputy City Clerk

ACTION REQUESTED: Ratification of Grants through the Consent Agenda

MAYOR’S SIGNATURE: _____

GRANTS

	DEPARTMENT	OTHER PARTY (PERSON OR ENTITY)	PERIOD	GRANT AMOUNT REQUESTED	CITY MATCH	PURPOSE
A	Park & Recreation	Great Falls Association of Realtors	FY 2020	\$5000	NA	Placemaking Grant Application – Level 2 (Circle of Giving) for creating a seating plaza and paver walkway at West Bank Park along the River’s Edge Trail and a memorial to Doug Wicks on the center circle and adding shrubbery

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

**AGENDA: 12
DATE: November 19, 2019**

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

PRESENTED BY: Darcy Dea, Deputy City Clerk

ACTION REQUESTED: Ratification of Lien Releases through the Consent Agenda

MAYOR’S SIGNATURE: _____

LIEN RELEASES

	DEPARTMENT	OTHER PARTY (PERSON OR ENTITY)	PERIOD	FUND	AMOUNT	PURPOSE
A	Finance Department	Michael K. Lewis	Current	Hazard Removal Fund - 4510	\$5,410	Full Release of Resolution #10314 for levying and assessing the cost of forceable abatement of nuisance property at 2311 4 th Avenue SW – Lot 3B, Block 2, Sunset S 179.75’ of E/2 LT 3



Item: A Child’s World, LLC Lease Agreement
From: Park and Recreation Department
Initiated By: Park and Recreation Department
Presented By: Steve Herrig, Park & Recreation Director
Action Requested: Set Public Hearing to consider a lease agreement of City owned property located in the Community Recreation Center with A Child’s World, LLC for December 3, 2019.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (set/not set) a public hearing to consider a lease agreement of City owned property located in the Community Recreation Center for A Child’s World, LLC for December 3, 2019.”

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

Staff Recommendation: Staff recommends the City Commission set a public hearing for December 3, 2019 for the A Child’s World, LLC Lease Agreement.

Summary: A Child’s World, LLC desires to enter into a lease for the portion of the City property located within the Community Recreation Center for the purposes of operating a day care.

Background: The lease provides an area on the lower level of the Community Recreation Center to operate a day care. It includes access to the outside play area and gymnasium upon availability. The lease is for three years with a monthly rate of \$1500.

Lessee agrees to maintain the leased premises, including the building and improvements, and all appurtenances, in good condition and repair by conducting ordinary day-to-day maintenance and repair. Lessee agrees to maintain the property in a functional condition, inspect premises on a regular basis to determine any hazardous conditions, which may exist, and take immediate action to correct such conditions if they exist.

The City agrees to maintain the foundation of the building, all structural components, concrete slabs, exterior walls and façade, roof, ceiling and all utility lines serving the premises. The City also agrees to

provide maintenance, repair and snow removal of the parking lots and sidewalks adjacent to the leased premises.

The City of Great Falls Park and Recreation Department has held an agreement with A Child's World Day Care for use of an area in the Community Recreation Center since November of 2003.

As required by Title 3, Chapter 4, OCCGF, before final consideration of a lease of City property, the City Commission shall hold a public hearing. Bids were not solicited for this lease since the previous lease allowed for an extension of the agreement, which has been requested by A Child's World LLC.

Fiscal Impact: The lease provides a consistent revenue source for the Community Recreation Center as per lease amounts listed above.

Alternatives: The alternative would be to deny the Lease Agreement with A Child's World, LLC.

Attachments/Exhibits: A Child's World, LLC Lease Agreement

LEASE AGREEMENT

This Agreement, made and entered into this 1st day of January, 2020, by and between the CITY OF GREAT FALLS, a municipal corporation, P.O. Box 5021, Great Falls, Montana 59403-5021, hereinafter called "City" and A Child's World, LLC, 801 2nd Ave. No., Great Falls, MT 59401, hereinafter called "Lessee."

WHEREAS, Lessee desires to enter into a lease for a portion of City property (hereafter Property) for the purpose of providing a child care services center for citizens and visitors to the City of Great Falls, a public purpose, and;

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

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

WITNESSETH:

The City, for and in consideration of the lease amounts to be paid and the agreement to be performed by lessee, does hereby lease, and let unto the Lessee that area of the Community Recreation Center and adjacent office space in the lower level of the Community Recreation Center, located at 801 2nd Ave. No., Great Falls, MT 59401, along with access to the outside play area and gymnasium upon availability, as determined by the City (Property). Other than the property identified herein to which this Agreement applies, the City shall retain the exclusive use of the remainder of the Community Recreation Center, without interference from Lessee.

TERM OF LEASE

The term of the lease will be for three (3) years effective 1st day of January, 2020 and expiring the 31st day of December, 2022. Upon completion of the initial term of the agreement, the City, at its sole discretion, may terminate the lease, or if requested by Lessee thirty (30) days prior to expiration, may, in its sole discretion, grant an extension of this agreement, with any conditions and covenants of this agreement, including but not limited to the rental amount, to be negotiated.

Notwithstanding the above term of lease, this lease is terminated if the Lessee's use of the Property ceases to be for a public purpose, in such event, the use of the Property immediately reverts to the City of Great Falls. Further, the agreement may be terminated prior to the expiration of the above term of lease by either party giving written notice to the other of not less than sixty (60) days.

LEASE DEPOSIT

Upon execution of the previous lease agreement, the Lessee provided a lease deposit in the amount of one month's lease payment. Upon execution of this lease agreement, the City will continue to hold the previously collected lease deposit. This deposit shall serve as a credit against damage, unpaid rents, and any other charges reasonably owed by Lessee at the

conclusion of this lease or immediately upon Lessee's default. If damages exceed the deposit, Lessee remains responsible for such damage, unpaid rent or other reasonable charges.

RENTAL

In consideration therefore, the Lessee agrees to pay to the City the sum of \$1500.00 per month for the term of the lease agreement. Said rental payments will commence on the effective date of this agreement, payable on or before 15th day of each month thereafter during the term of the lease. Said rental includes compensation for all utilities, including electricity, water, gas, or other utilities servicing the Property, which will be evaluated and determined annually, starting January 2020. If Lessee's payments are not made in a timely manner, a monthly finance charge of 1.5% will be applied to any balance over 15 days past due.

ACCEPTANCE OF CONDITION

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

COVENANTS OF THE LESSEE

The Lessee hereby covenants and agrees that the Lessee will:

1. Use and occupy said Property in a careful and proper manner and not commit any waste therein;
2. Generally abide by Lessee's estimated hours of operation, 7:00 a.m. to 6:30 p.m. Monday through Friday; if Lessee desires access during times which the Community Recreation Center is closed, Lessee must arrange for access with the Community Recreation Center Supervisor;
3. Conduct criminal background checks on all its employees to ensure that its employees are appropriate for their position;
4. Not use or occupy said Property for any unlawful purpose, and will conform to and obey all present and future laws, ordinances, and all rules and regulations of all governmental authorities or agencies, respecting the use and occupation of the premises, including but not limited to the requirements of the City/County Health Department;
5. Provide copies of all Health Department reports to the City within 10 days of Lessee's receipt;
6. Procure, supply and post in City-designated locations, all permits and licenses required to operate its business;

7. Pay all bills, taxes, assessments, debts and obligations incurred by Lessee as a result of operations under this Agreement;
8. Not use the Property for any purpose other than for providing child care services, without written consent of Landlord;
9. All storage of material and equipment by Lessee shall be within the described premises;
10. All shared entryways and hallways in the Community Recreation Center shall be clear of all items which may obstruct access;
11. Not assign the lease, nor sublet said Property, nor any part thereof, without the written consent of the City;
12. Not use or occupy said Property, or permit the same to be used or occupied, for any purpose deemed extra hazardous on account of fire or otherwise;
13. To not make any signage, alterations, changes, remodeling or capital improvements to the Property, without prior written permission signed by the City Park and Recreation Director, and in addition thereto, shall make such changes at Lessee's cost, in compliance with the law and by obtaining all permits required for such work under City ordinance. Approval for such proposed work shall not be unreasonably withheld. Any such alterations or additions shall be the sole responsibility of the Lessee, inclusive of any and all financial, material, or labor considerations and will become the property of the City upon termination of this or any subsequent lease;
14. Permit the City to enter upon the said premises at all reasonable times to examine the condition of same;
15. Ensure that routine janitorial, trash removal, and cleaning is effectively accomplished at its cost;
16. Be responsible for all damage to property, public or private, that may be caused by Lessee's operations in the performance of this agreement; and
17. Leave Property at the expiration or prior to termination of this lease and any extension thereof in as good condition as received, except for reasonable wear and tear.

REPAIRS AND MAINTENANCE

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

Maintenance by City. Notwithstanding the paragraph above, City agrees to maintain the foundation of the building, all structural components, concrete slabs, exterior walls and façade, roof, ceiling and all utility lines serving the premises regardless of the cost of repairs. City also agrees to provide maintenance, repair and snow removal of the parking lots and sidewalks adjacent to the leased premises. Otherwise, City shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the leased premises or any improvements thereon. Notwithstanding the above, City shall not be responsible for repairs

or maintenance resulting from the negligence of Lessee, its employees, agents, or invitees, which shall be the sole responsibility of Lessee.

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

MUTUAL COVENANTS:

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

1. If the Lessee pays the rental as herein provided, and keeps, observes and performs all of the other covenants of this lease, the Lessee may, peaceably and quietly, have, hold and enjoy the said premises for the term aforesaid;
2. This lease and all the covenants and provisions herein contained shall inure to the benefit of and be binding upon the successors and assigns of the parties and the public hereto; provided, however, that no assignment by, from, through or under the Lessee in violation of any of the provisions hereof shall vest in the assigns any right, title or interest whatsoever;
3. The City is not and never shall be liable to any creditor of Lessee or any claimant against the estate or property of Lessee for any debt, loss, contract or other obligation of Lessee. The relationship between the City and Lessee is solely that of landlord and tenant, and does not and never shall be deemed a partnership or joint venture.
4. City's interest in and to said leased premises shall not be subject to or permitted to become subject to any lien or claims from or arising out of the use and occupation of the leased premises by Lessee. If and in the event such liens or claims arise or occur, Lessee shall promptly and forthwith cause the same to be released or discharged to the extent that the interest of the City is encumbered thereby.

INSURANCE REQUIREMENTS

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

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

Lessee is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Lessee is not authorized to represent the City or otherwise bind the City in any dealings between Lessee and any third parties. Lessee shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Lessee shall maintain workers' compensation coverage for all members and employees of Lessee's business, except for those members who are exempted as independent contractors under the provisions of §39-71-401, MCA. Lessee shall furnish City with copies showing one of the following: (1) proof of registration as a registered contractor under Title 39, Chapter 9, MCA; (2) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (3) proof of exemption from workers' compensation granted by law for independent contractors.

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

INDEMNIFICATION

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

NONDISCRIMINATION

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

DEFAULT AND TERMINATION

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

others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement.

ENFORCEMENT

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

INVALIDITY

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

WAIVER

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

EFFECT OF LESSEE'S HOLDING OVER

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

BINDING EFFECT

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

NOTICE

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

ENTIRE AGREEMENT

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

APPLICABILITY

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

CITY OF GREAT FALLS,

A CHILD’S WORLD LLC,

Gregory T. Doyon, City Manager

By: _____
(signature)

(printed name)

ATTEST:

Its: _____
Title or Office

Lisa Kunz, City Clerk

(SEAL OF THE CITY)

APPROVED FOR LEGAL CONTENT:

Sara R. Sexe, City Attorney



Item: Wadsworth Park Lease – Missouri River Shooters
From: Park & Recreation Department
Initiated By: Steve Herrig, Park & Recreation Director
Presented By: Steve Herrig, Park & Recreation Director
Action Requested: Set a public hearing for December 3, 2019 for the lease of property within Wadsworth Park with the Missouri River Shooters Association.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission set a public hearing for December 3, 2019 for the lease of property within Wadsworth Park with the Missouri River Shooters Association.”

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

Staff Recommendation: Staff recommends the City Commission set a public hearing for December 3, 2019, to consider approval of the lease of property within Wadsworth Park with the Missouri River Shooters Association.

Summary: Missouri Rivers Shooters Association is requesting to enter into an additional five-year lease with an option to renew for use of the shooting range facility within Wadsworth Park. The lessee will be responsible for a \$240 annual fee, utilities, and day-to-day maintenance.

Background: As required by Title 3, Chapter 13, OCCGF, before final consideration of lease of City Property, the City Commission shall hold a public hearing to receive comment regarding such a lease.

The Missouri River Shooters Association has requested the City continue their leases for Wadsworth Park. The five year lease includes an annual fee of \$240. The lease is for a term of five years with an option to renew for an additional five years at the City’s sole discretion. Both the City and the Lessee have the option to terminate the lease with sixty (60) days written notice.

On December 1, 1998 the City Commission approved Resolution 8973, Wadsworth Park Master Plan. It was recommended at that time that “all existing leases continue in Wadsworth Park, renewable on a year to year basis, until the City is ready to begin actual physical implementation of the Master Plan”.

Currently there is no funding available for capital improvements in Wadsworth Park.

Prior to the completion of the Wadsworth Park Master Plan, the leases for use of Wadsworth Park were five (5) year leases. In 2000, those leases were all renewed on a year to year basis up to a maximum of five (5) years. In 2006, the City Commission approved a two year lease with the Missouri River Shooter Association, with an automatic two year renewal. In 2010 the city commission approved a five year lease, with an option to renew for an additional five years at the city's sole discretion. Since there is no immediate identifiable funding source for improvements to Wadsworth Park, staff is recommending five year leases with a five year renewal option.

Fiscal Impact: The annual lease payment will go to the General Fund.

Alternatives: The alternative would be to not approve the lease and require the group to find other options to conduct their activities.

Attachments/Exhibits: Missouri River Shooters Lease

WADSWORTH PARK LEASE

This lease, made and entered into this _____ day October, 2019 by and between the Missouri River Shooter Association of Great Falls, Montana, hereinafter referred to as "Lessee" and the City of Great Falls, a municipal corporation of the State of Montana, hereinafter referred to as "City";

WHEREAS, the City owns and possesses land, known as Wadsworth Park;

WHEREAS, the City deems it to be in the public interest to promote recreation of all types including indoor shooting in its park system under the rules and regulations and conditions as hereinafter set forth;

WHEREAS, the Lessee is an organization existing for the purpose of promoting community interest in indoor shooting and desires to secure a portion of said Wadsworth Park land, indoor shooting range for the use of its members;

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

LEASE HOLD

The City, for and in consideration of the rents to be paid and the covenants to be performed by the Lessee, does hereby demise, lease, and let unto the Club the following described real estate, being a portion of Wadsworth Park, lying and being in the County of Cascade, State of Montana, particularly described as follows; beginning at a point on the west right-of-way line of the County Road known as 34th Street Northwest in the vicinity of Great Falls, Cascade County, Montana at which point the west boundary line of 34th Street Northwest intersects with the northerly boundary line of Sun River Road and being the true point of beginning, thence in a northerly direction along the west boundary line of 34th Street to a point which is approximately 490 feet from the southeast corner of Section Five (5) T20W, R3E; thence west to the easterly right-of-way line of Sun River Road; thence in a southeasterly direction along the northerly boundary line of Sun River Road to the point of beginning.

TERMS OF LEASE

The term of this lease shall be for five years commencing on the 1st day of November 2019 and continuing through the 30th day of September 2024, unless sooner terminated as hereafter provided; said lease may be renewed at the sole discretion of the City, for an additional five (5) years unless terminated upon sixty (60) days notice in writing by the Lessee or the City.

RENTAL

In consideration therefore, the Club shall pay the City Two Hundred Forty Dollars (\$20.00 for each month) on or before September 1st of each year.

COVENANTS OF LESSEE

The Lessee does hereby covenant and agree with the City that the Lessee will:

1. Use and occupy said premises in a careful and proper manner and keep the ground so leased free from rubbish and debris of every nature and description whatsoever;
2. Not use or occupy said premises for any unlawful purpose; and will conform to and obey all present and future laws, ordinances, and all rules and regulations of all governmental authorities or agencies, respecting the use and occupation of the premises;
3. Not assign the lease, nor sublet said premises, nor any part thereof, without the written consent of the City;
4. Not use or occupy said premises, or permit the same to be used or occupied, for any purpose deemed extra hazardous on account of fire or otherwise;
5. Make no alterations or additions in or to said premises without the written consent of the City;
6. Permit the City to enter upon the said premises at all reasonable times to examine the condition of same;
7. Pay for the use and maintenance of utility services on the premises, including gas, electricity, water, and sanitation, if applicable;
8. Conduct ordinary day-to-day maintenance so as to keep both the interior and exterior of the premises in a good state of repair; further provided that all maintenance shall be to the satisfaction of the City's Park and Recreation Director;
9. Indemnify and save the City harmless from and against any loss, damage, and liability occasioned by, growing out of, or arising or resulting from any default hereunder, or any tortious or negligent act on the part of the lessee, its members, agents or employees; and for such purpose lessee shall procure and maintain in full force and effect during the term of their agreement, insurance in a reliable company or companies with a minimum policy limit of \$1,000,000 single limit per occurrence; \$2,000,000 aggregate property damage per occurrence; The city shall be named as an additional insured party on the policy to be evidenced by a certificate of insurance presented to the Park and Recreation Director on or before October 1st, of each year;
10. Agree to leave the premises at the expiration or prior to termination of this lease and any renewal thereof in as good a condition as received, except for ordinary and reasonable wear and tear, damage by the elements and damages whereof the City is compensated by insurance or otherwise.

11. Lessee agrees that the premises shall not be used in any manner that would discriminate against any person or persons on the basis of sex, sexual orientation, marital status, age, physical or mental handicap, race, creed, religion, color or national origin.

MUTUAL COVENANTS

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

1. If the Lessee shall pay the rental as herein provided and shall keep, observe, and perform all of the other covenants of this lease by Lessee to be kept, performed and observed, Lessee shall and may, peaceably and quietly, have, hold, and enjoy the said premises for the term aforesaid;
2. The premises are a portion of Wadsworth Park, which is owned and held by the City of Great Falls for the use and benefit of the general public, and that should the City determine that said premises are needed for any other purpose whatsoever, to be used by the general public or for public good, the City shall have the right and privilege of canceling and terminating this lease upon giving to Lessee sixty (60) days notice in writing of it's intention so to cancel and terminate this lease;
3. If Lessee shall at any time be in default in the payment of rent herein reserved, or in performance of any of the covenants or provisions of the lease, and Lessee shall fail to remedy such default within ten (10) days after written notice thereof from the City, it shall be lawful for the City to enter upon the premises, and again, repossess and enjoy the same as if this lease had not been made, and thereupon this lease and everything herein contained on the part of the City to be done and performed shall cease and terminate, without prejudice, however, to the right of the City to recover from the Lessee all rent due up to the time of such entry; in the case of any such default and entry by the City, the City may relet said premises for remainder of said term for the highest rent obtainable and may recover from Lessee any deficiency between the amount so obtained and the rent herein reserved.
4. This lease and all the covenants and provisions herein contained, shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto; provided, however, that no assignment by, from, through or under Lessee in violation of any of the provisions hereof shall rest in the assigns any right, title or interest whatsoever.

IN WITNESS WHEREOF, the parties hereto have caused their hands and seals to be fixed this day and year hereinabove written.

ATTEST

Lisa Kunz, City Clerk

Gregory T. Doyon, City Manager

*APPROVED FOR LEGAL CONTENT

Sara Sexe, City Attorney

Missouri River Shooters

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

Address

City, State, Zip Code



Item: River Drive South Trail Connection Agreements
From: Andrew Finch, Planning & Community Development
Initiated By: Montana Dept. of Transportation/River's Edge Trail Foundation
Presented By: Craig Raymond, Planning & Community Development Director
Action Requested: Approve Agreements

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (approve/not approve) the Agreements with the Montana Department of Transportation and the River's Edge Trail Foundation to initiate the River's Edge Trail Connector project along River Drive South.”

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

Staff Recommendation: Approve the River's Edge Trail Connector project agreements.

Summary: At the City Commission Work Session on June 21, 2016, the Commission heard a presentation from Planning and Community Development staff on a proposed project to construct a segment of River's Edge Trail along River Drive South, from Broadwater Bay north to Electric City Water Park. After staff presentation and discussion, Commissioners expressed support for the proposal and directed staff to work with the Montana Department of Transportation (MDT) and River's Edge Trail foundation to design and fund the project. The attached agreements formalize project scope, maintenance responsibilities and financial contributions that will ultimately lead to construction of the project.

Background: Since the 2016 City Commission Work Session, staff has coordinated with the local Metropolitan Planning Organization and MDT to commit federal Congestion Mitigation and Air Quality (CMAQ) funds to construct the project, with the required 13.42% match to be provided locally by the River's Edge Trail Foundation.

The project has been programmed with the Montana Department of Transportation, and requires an agreement with the City in order to proceed. In order to commit the required matching funds, City staff has prepared an agreement with the River's Edge Trail Foundation to formalize that commitment. The time that has elapsed since the 2016 meeting with the City Commission was necessary to allow the Foundation to raise the required matching funds.

Significant Impacts

The projected cost of the project, taking into account inflation and MDT's indirect costs, is currently \$1,976,257 for all phases of development. Of that cost, 86.58% (\$1,711,043) will be provided by the Federal CMAQ program. The River's Edge Trail Foundation has secured donations and financial commitments for the projected \$266,000 in match.

The City of Great Falls Park & Recreation Department will be responsible for maintenance of the project upon completion, as part of the River's Edge Trail System, and has the manpower and equipment to do so.

The construction of this segment of trail will eliminate the circuitous route through the Police Station parking lot, a currently dangerous location due to the potential for conflicts between vehicles and bicyclists/pedestrians. This route is also confusing to visitors and new users, and is difficult to navigate. The new segment will be a straight, direct connection, effectively "filling the gap" between the hotels, parks and neighborhoods on the south side of Downtown Great Falls and other destinations along the River's Edge Trail.

Project Work Scope

This project will include approximately 2,200 feet of shared use trail (bicycle and pedestrian) on the west side of River Drive South adjacent to the Missouri River (see attached Map Exhibit). Some portions of the trail will extend into the River, and initial plans call for a river wall to be constructed. The portions of the project that involve the river wall do make the project more complicated to design, fund, and construct.

Because of the source of funding, the project will be developed by the Montana Department of Transportation, with input along the way by the City of Great Falls. Potential concerns include review by regulatory environmental agencies (because the project is proposed on the river side of River Drive), as well as the trail's proximity to the railroad (the trail will go under and abut the railroad bridge).

Fiscal Impact: The River's Edge Trail Foundation has secured donations and financial commitments for the projected \$266,000 in match. However, because actual project costs are not completely known, there may be a need for the City to consider providing matching funds for the project as development proceeds and the design is further along. At this time, no source of funds from the City has been identified.

Alternatives: The City Commission may elect to not approve the agreements. If so, the project will not proceed.

Concurrences: The Park & Recreation Department, Legal Department, Montana Department of Transportation and River's Edge Trail Foundation concur with the attached agreements.

Attachments/Exhibits:

- 1) Funding Agreement Between City of Great Falls and the Montana Department of Transportation for the River's Edge Trail Project
- 2) Memorandum of Agreement Regarding Funding for the River Drive South Segment of the River's Edge Trail Between River's Edge Trail Foundation, Inc. and City of Great Falls, Montana
- 3) Map Exhibit – River Dr. S. Trail Connection

JULY 31, 2019

**FUNDING AGREEMENT BETWEEN
CITY OF GREAT FALLS AND THE MONTANA DEPARTMENT OF
TRANSPORTATION FOR THE RIVER'S EDGE TRAIL PROJECT**

This Memorandum of Understanding (MOU) by and between the City of Great Falls, herein after CITY, and the Montana Department of Transportation, herein after MDT, establishes the funding and commitments for the new construction of the RIVER'S EDGE TRAIL CONNECTOR in GREAT FALLS, UPN 9762000 (PROJECT).

WITNESSETH

This project is in the City of Great Falls beginning approximately 200 feet south of the Broadwater Bay exit and intended to follow the riverbank, crossing the Missouri River with a retaining structure under the railroad bridge, and connecting to the existing trail at the city water park entrance. The intent is to construct the path off-system, outside of River Drive (U-5205) right-of-way. The proposed work for the use of Congestion Mitigation and Air Quality (CMAQ) funds, as requested by the CITY in a letter dated March 19, 2019, includes the construction of a new shared-use path paralleling River Drive. The overall project length is approximately 2,200 linear feet.

WHEREAS, the current estimated cost for all phases is approximately \$1,976,257 including indirect costs; and,

WHEREAS, it appears that by Fiscal Year 2021 or beyond, sufficient Great Falls Metropolitan Planning Organization (MPO) CMAQ funds will be available to construct UPN 9762000; and,

WHEREAS, the MDT is responsible for assuring the planning, design, approvals and environmental clearances, construction and maintenance of state and federally-designated highway system facilities provide for the benefit of the traveling public in a safe and efficient manner in accordance with Title 23 United States Code (USC) and related federal regulation and guidance and Title 60, Montana Code Annotated (MCA); and,

WHEREAS, the MDT and Federal Highway Administration (FHWA) will participate in the development and construction of project upon agreement by the CITY to the conditions set forth; and,

WHEREAS, the CITY agrees this PROJECT is and will remain the Great Falls' MPO CMAQ funding priority until constructed; and

WHEREAS, the identification of duties and responsibilities will be mutually agreed upon between the parties and is essential to the overall development of this PROJECT.

NOW THEREFORE, the signatory parties set forth below the fundamental duties and responsibilities necessary for this PROJECT.

I. PROJECT DESCRIPTION

The intent of the PROJECT is to construct a new shared-use path off-system, outside of River Drive (U-5205) right-of-way, from approximately 200 feet south of the Broadwater Bay exit and

follow the riverbank, crossing the Missouri River with a retaining structure under the railroad bridge, and connecting to the existing trail at the city water park entrance. The overall project length is approximately 2,200 feet.

II. PROJECT DEVELOPMENT

MDT will develop the PROJECT including engineering analysis, public involvement, design, environmental documentation, clearances, plans preparation, acquisition of all appropriate permits, and the provisions of other services required to complete the preconstruction phase.

This is not a commitment by the MDT to build River's Edge Trail Connector, as the "no-build" alternate must be considered a viable alternate at every stage of development. It is a commitment by MDT to proceed with the development of the project as long as it is desired by all parties, and the necessary allocations of City and federal-aid funds are available.

III. FUNDING

A. All Parties:

It is understood and agreed between the parties that: 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 defined by 2 CFR Part 200, Appendix VII. MDT's current indirect cost rate is 10.4% for fiscal year 2020 (July 1, 2019 to June 30, 2020). For this PROJECT, MDT billings to the CITY will include a charge for the indirect costs at the current fiscal year indirect cost rate. This amount will be applied toward the total PROJECT contribution of the CITY. 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.

1. Current PROJECT cost estimate for all phases is \$1,976,257, this includes IDC and inflation. The CITY will be responsible for providing the required match (13.42%) for all costs associated with the project.
2. Agree and understand that the PROJECT will not be programmed for the construction phase until a funding package for all improvements, including contingencies and overruns, is in place to MDT's satisfaction.

B. CITY:

1. Agrees to and acknowledges its responsibility for all costs associated with the PROJECT.
2. Will provide any necessary local and associated indirect costs to MDT within thirty (30) days of billing. MDT will not submit programming requests to FHWA for individual project phases until the required matching funds and funds for costs in excess of available federal funds, if any, have been transferred to MDT.
3. Will transfer funding for non-federal/non-state provided costs for the PROJECT within thirty (30) days of MDT billing.

4. Agrees to and acknowledges its responsibility for all costs associated with the PROJECT in excess of available Great Falls' CMAQ funds.
5. Is responsible for 100% of non-federal aid eligible costs and payback of state and federal funds expended on the PROJECT if required.
6. Agrees, if the CITY terminates PROJECT development at any time, it will reimburse MDT for any and all costs incurred by MDT, including any required payback of Federal funds already expended on the PROJECT, up to the date of stoppage.
7. Will develop a comprehensive financial plan, for MDT review and approval, for the PROJECT. The financial plan must address sources of funds in the event of unanticipated cost overruns. This financial plan must be approved before MDT will request programming for the construction phase of the PROJECT. This financial plan must demonstrate that all components of the PROJECT, will be completed and operationally consistent with the recommendations of the environmental documents described in the Environmental section of this agreement.

C. MDT:

1. Will allocate available CITY and Great Falls' CMAQ funds for all phases of this PROJECT.

IV. CONTRACT AWARD ADMINISTRATION

A. CITY:

1. CITY will pay MDT immediately upon receipt of an invoice from MDT. If payment is not received by MDT within 30 days of the date of the invoice, project will not be advertised and interest on the unpaid amount will accrue at the rate of 10% per year and continue to accrue until paid in full.
2. Payment will be coordinated through MDT's Administration Division and will be provided to MDT in the form of a single check to be deposited and credited to this project.
3. Checks must be made payable to the "Montana Department of Transportation" and sent to:

Montana Department of Transportation
Attention: Collections
P.O. Box 201001
Helena, MT 59620-1001

The contact for billing and accounting questions for the MDT shall be:

Deann Willcut
Special Projects Accountant
PO Box 201001
Helena, MT 59620-1001

The contact for billing and accounting questions for the CITY will be:

Andrew Finch, Sr. Transportation Planner
Planning & Community Development Dept.
City of Great Falls
P. O. Box 5021
Great Falls, MT 59403

4. If the federal government requires a reimbursement or return of any federal funds because a PROJECT doesn't advance due to CITY's failure to make any scheduled payment, the CITY agrees it will reimburse MDT for those federal funds within thirty (30) days of billing.

B. MDT:

1. Will provide a detailed breakdown of all estimated PROJECT costs and bill the CITY accordingly for local contribution necessary to complete the funding package. The locals will be billed in advance for construction of the PROJECT no more than (60) days before bid opening.
2. Will bid, award and administer the construction contract for the PROJECT once a complete funding package is in place, in accordance with typical MDT procedures, including obtaining concurrence of award from FHWA.
3. Will not let the PROJECT contract without the CITY's concurrence if the bid price exceeds the available funds or exceeds the engineer's estimate by more than 10%. If the CITY does not concur the PROJECT will not be awarded, since the CITY is also responsible for the cost increase. If the CITY does concur, the PROJECT will be awarded, and the CITY will be billed accordingly.

C. All Parties:

1. Understand it is possible the PROJECT estimate may be exceeded once construction is begun, and any change orders, increases, or unforeseen expenses above available CMAQ funding will be borne by CITY. It is agreed that the CITY does not have the ability to veto or delay any change orders deemed necessary by MDT.
2. Understand the CITY will submit payment to the MDT within thirty (30) days of billing. If payment is not made within that thirty (30) day period, interest on the unpaid amount will accrue at the rate of 10% per year and continue to accrue until paid in full. If the CITY is billed for additional funds, MDT will not participate in any future funding agreements with the CITY until full payment, including interest, is received from the CITY.
3. Understand within six (6) months after the PROJECT has been finally accepted with the final costs submitted, the MDT will submit a final statement to the CITY. The final statement will be in the form of an invoice and provide details of any expenses that may be identified as "miscellaneous," billing the CITY for cost overruns, or it will be a check, for overpayment by the CITY. The CITY will submit payment to the MDT within thirty (30) days of billing. If payment is not made within that thirty (30) day period, interest on the unpaid amount will accrue at the rate of 10% per year and continue to accrue until paid in full. If the CITY is billed for

additional funds, MDT will not participate in any future funding agreements with the CITY until full payment, including interest, is received from the CITY.

V. **OTHER**

- A. Governing Law: The laws of the State of Montana will govern this agreement. Venue for litigation will be in Lewis and Clark County, State of Montana. In case of conflict between the obligation imposed by this Agreement and Montana law, then Montana law will control.
- B. Access and Retention of Records: The CITY agrees to provide the State, Legislative Auditor, or their authorized agents access to any records necessary to determine compliance with this Agreement. The CITY 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.
- C. Severability and Integration: If any single part or parts of this Agreement are determined to be void, the remaining parts will remain valid and operative. This Agreement, as written, expresses the total, final, and only agreement of the parties relevant to its subject matter. No provision, expressed 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 Agreement unless specifically provided within the written terms herein.
- D. Relationship of the Parties: Nothing contained in this MOU shall be deemed or construed, either by the parties hereto or by any third party, to create the relationship of principal and agent or create any partnership, joint venture, or other association between MDT and the CITY.
- E. Modification and Amendment: This MOU may be modified or amended, in writing, by the mutual consent of the parties involved up to and until award of the contracts for the PROJECT. Such changes may develop from engineering analysis, public input or federal statutory/regulatory changes.

MDT funding commitments cannot be changed without Transportation Commission approval.

- F. Complimentary Agreements: The signatories of this MOU may enter into separate agreements during the development of the proposed PROJECT. Any such agreements will not supersede this MOU.
- G. Termination: Both the MDT and the CITY agree to move in an efficient and expeditious manner toward development of the proposed PROJECT. Either party may terminate this agreement and all obligations hereunder, with 30-day notice in writing to the other party of the intention to do so. The MOU may not be terminated once a contract or contracts have been awarded for construction of the PROJECT.

If the CITY terminates PROJECT development at any time, it will reimburse MDT for any and all costs incurred by MDT, including any required payback of Federal funds already expended on the PROJECT, up to the date of stoppage.

- H. Indemnity: The CITY agrees to protect, defend, and indemnify the state, including MDT from any claims, losses, damages or causes of action, including attorney fees and costs, arising from, due to or allegedly due to the failure to perform or the negligent performance, errors or omissions of any of the duties and/or responsibilities of the CITY, their agents, employees, consultants or subcontractors as set forth in this agreement.

The state, including MDT, agrees to protect, defend and indemnify the CITY from any claims, losses, damages or causes of action, including attorney fees and costs, arising from, due to or allegedly due to the failure to perform or the negligent performance of any of the duties and/or responsibilities of the state including MDT as set forth in this agreement.

- I. Conflict of Interest: The CITY must disclose in writing any potential conflict of interest to the MDT in accordance with applicable Federal awarding agency policy.
- J. Mandatory Disclosures: The CITY must disclose, in a timely manner, in writing to the MDT all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.338, including suspension or debarment.
- K. Internal Controls: The CITY must establish and maintain effective internal controls that provide reasonable assurance to the MDT that the CITY is in compliance with Federal statutes, regulations, and terms and conditions of the Federal award.
- L. Non-Discrimination – The CITY will require that during the performance of any work arising out of this Agreement the CITY, for itself, assignees, and successors shall comply with all applicable non-discrimination regulation set forth in Attachment “A” attached hereto and made part of this Agreement. Additionally, MDT requires that any construction resulting from this Agreement must include appropriate pedestrian facilities that meet or exceed current MDT standards for accessibility as set forth by the United States Department of Justice 2010 ADA Standards for Accessibility Design, United States Access Board Proposed Guidelines for Pedestrian Facilities in the Public Right-of-Way (2011 PROWAG), and MDT’s detailed drawings, 608 series.

MONTANA DEPARTMENT OF TRANSPORTATION

By: _____
Montana Department of Transportation

Date: _____

Approved for Legal Content

Date: _____

Approved for Civil Rights Content

Date: _____

CITY OF GREAT FALLS

By: _____
Gregory T. Doyon, City Manager

Date: _____

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF THE CITY)

*** APPROVED AS TO FORM:**

By: _____
Sara R. Sexe, City Attorney

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

**ATTACHMENT A
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.

MEMORANDUM OF AGREEMENT

REGARDING FUNDING FOR THE RIVER DRIVE SOUTH SEGMENT OF THE RIVER'S EDGE TRAIL

Between

RECREATIONAL TRAILS, INC.
and
CITY OF GREAT FALLS, MONTANA

This agreement is made and entered into this ____ day of _____, 2019, by and among the City of Great Falls, Montana, hereinafter referred to as the "City", and the Recreational Trails, Inc., hereinafter referred to as the "Foundation" (collectively, the "Parties").

WHEREAS, the City is the owner of a majority of the Great Falls River's Edge Trail system (hereinafter referred to as the "Trail"); and

WHEREAS, the City is responsible for the maintenance and management of the Trail; and

WHEREAS, the Foundation is a non-profit organization with a mission to promote and support the Trail; and

WHEREAS, the Parties have a mutual interest in the completion of gaps in the Trail system, including the gap between Broadwater Bay and the Electric City Waterpark adjacent to River Drive (hereinafter referred to as "the Project"); and,

WHEREAS, the Great Falls Metropolitan Planning Organization has prioritized the Project as its top priority for use of Federal Congestion Mitigation and Air Quality (CMAQ) funds, made available through the Montana Department of Transportation (hereinafter referred to as "MDT"); and,

WHEREAS, the Project will be developed by MDT, upon execution of a Funding Agreement between the City and MDT.

NOW, THEREFORE, the Parties hereby mutually agree as follows:

Section 1. Purpose. The purpose of this agreement is to set forth conditions for the obligations and responsibilities of the Parties in regard to the construction and match for the Project, identified by MDT as "RIVER'S EDGE TRAIL CONNECTOR in GREAT FALLS, UPN 9762000", to be managed and built using 86.58% US Department of Transportation funds, made available through the Montana Department of Transportation's Congestion Mitigation and Air Quality program, and 13.42% matching funds provided locally.

Section 2. City's Obligations. The City will:

1. Perform local management responsibilities for the project, including processing necessary agreements, reviewing draft plans, tracking local expenses, and generally acting in a managerial capacity for local decisions relating to the project. All decisions made in conjunction with development of the project, in coordination with the Montana Department of Transportation (hereinafter, MDT), are the responsibility of the City.
2. Enter into a funding agreement with the MDT to ensure the required non-federal funding is provided.
3. Receive the funds from the Foundation and transfer said funds to MDT upon request.
4. Maintain the Project after construction.
5. Make its best efforts to notify the Foundation as far in advance as practicable regarding any due dates for any fund payments.

Section 3. Foundation's Obligations. The Foundation will:

1. Provide up to the lesser of 13.42% or \$266,000 of the total project cost as required non-federal matching funds, unless additional costs are owing as set forth in Section 4, Item 3. Current project estimates, including MDT's overhead and inflation, place the anticipated non-federal match at \$266,000.
2. Provide its share of the required match when requested by the City. Said match shall be provided within 15 days of the request to allow the City, in turn, to provide the matching funds to MDT within its required 30-day timeframe. The matching funds provided by The Foundation will be utilized first, before any other source of non-federal matching funds for the Project.

Section 4. Mutual Understanding and Obligations.

1. The Foundation has the financial wherewithal to secure and provide the committed matching funds, upon request by the City.
2. It is understood that the project cost and development timeline are under the control of MDT.
3. Should the project match exceed the \$266,000 stated in Section 3, Item 1, the Parties agree that it will be their mutual responsibility to secure all funds requested by the MDT relating to the project, and in a timely manner as mandated by the MDT.
4. The Project has numerous environmental and design challenges. The Parties understand the selected design may vary from initial design options. As well, the Parties understand the project may fail due to design challenges, environmental impact, railroad impact, fiscal infeasibility, or other reasons unknown at this time.
5. If, for any reason, it becomes clear that the project cannot proceed, the Parties agree and understand that the City will make its best effort to work with MDT and other third parties to limit additional Project expenditures. The Foundation will pay 13.42% of the Project expenditures actually incurred as of the date the project ceases even if the project is not completed. Any excess match held by the City will be returned to the Foundation.

By the City of Great Falls:

By the Foundation:

Bob Kelly
Mayor

Anders Blewett, President

Approved for Legal Content*

Approved by:

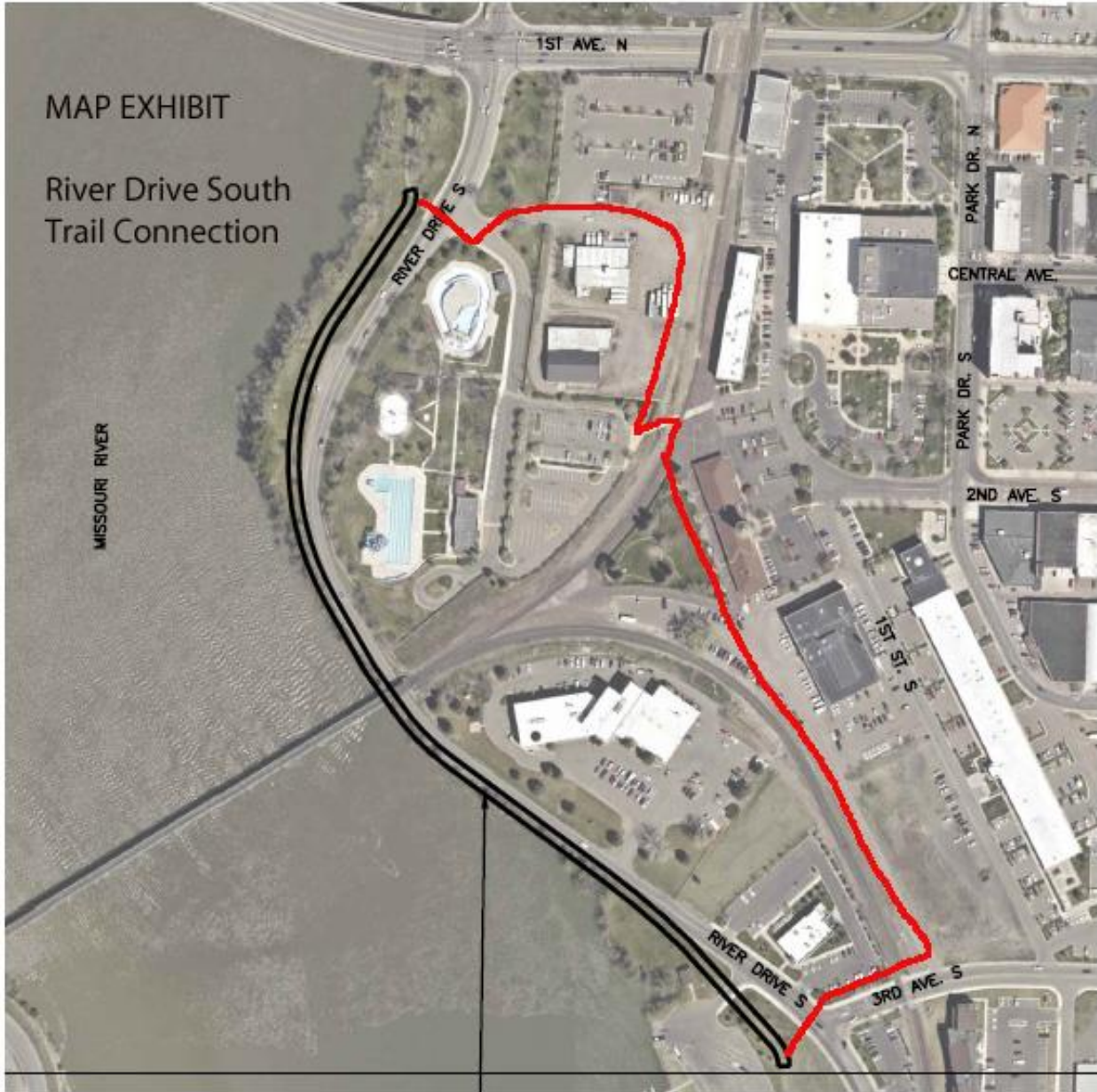
Sara R. Sexe, City Attorney

Counsel for Foundation

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

MAP EXHIBIT

River Drive South
Trail Connection



PROJECT LOCATION

Current Route in Red



Item: Resolution No. 10322, A Resolution Adopting City of Great Falls Commission Rules of Conduct and Procedure of Commission Meetings

From: Lisa Kunz, City Clerk and Sara Sexe, City Attorney

Initiated By: City Commission

Presented By: Sara Sexe, City Attorney

Action Requested: Adopt Resolution No. 10322

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 10322.”

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

Staff Recommendation: Staff recommends that the City Commission adopt Resolution 10322.

Summary: At the January 23, 2018 training session with Dan Clark, Director of the MSU Local Government Center, the Commission requested that staff draft rules of conduct and procedures specific to Great Falls’ form of government.

Staff reviewed adopted resolutions and ordinances, motions, minutes, Charter language, and state statutes and legal opinions to determine applicable and appropriate rule and procedure language to include into one reference document for current and future Commission members, City staff, and the public.

The draft document was presented at the October 15, 2019 work session. Thereafter, Commission member comments and suggestions were incorporated into two documents, Version 1 that contained clarifying and non-substantial edits and Version 2 that also included a substantial edit to meeting dates/times. Those draft documents were presented at the November 5, 2019 work session. After discussion, it was the consensus of the Commission to move forward with Version 1 for Commission consideration. Subsequent edits were made to the third paragraph of Rule 8.2 to clarify that, as the keeper of official records, the City Clerk or designee shall be provided copies of handouts at meetings that were not previously provided to City staff for inclusion with agenda packet material, Rule 8.5 to clarify proclamation presentations of the Commission, and Rule 8.8 to clarify routine items of the Consent Agenda.

Alternatives: The City Commission could deny adoption of Resolution No. 10322, or table action on this item to provide staff with suggested amendments.

Concurrences: City Manager, City Attorney, and the City Clerk

Attachments: Resolution No. 10322

RESOLUTION NO. 10322

A RESOLUTION ADOPTING CITY OF GREAT FALLS COMMISSION RULES OF CONDUCT AND PROCEDURE OF COMMISSION MEETINGS

WHEREAS, rules of procedure and public debate are to facilitate the transaction of public business in an orderly way; and

WHEREAS, Montana’s constitution and laws require that the local government decision making process be conducted openly and with reasonable opportunity for citizens to participate; and

WHEREAS, proper decorum for City Commission meetings requires management of time, place, and manner of public participation to facilitate the work of the governing body on all matters that impact the City; and

WHEREAS, Mont. Code Ann. § 7-3-4323 authorizes the Commission to determine its own rules and order of business; and

WHEREAS, throughout the years Commission rules and procedures have been adopted in various forms, in addition to those provided for in state statute or the Charter of the City of Great Falls; and

WHEREAS, the City Commission wishes to update and consolidate its rules and procedures pertaining to meetings into one reference document.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, that the City of Great Falls Commission Rules of Conduct and Procedure of Commission Meetings is adopted as set forth in Exhibit “A” attached hereto.

BE IT FURTHER RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, that Resolution Nos. 7057, 7058, 7621, 8065, 9997 and 10072 are hereby repealed.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana,
_____, 2019.

Bob Kelly, Mayor

ATTEST:

Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

Sara Sexe, City Attorney

City of Great Falls Commission Rules of Conduct and Procedure of Commission Meetings

Introduction: Rules of procedure and public debate are to facilitate the transaction of public business in an orderly way. These rules of procedure are intended to ensure that the Commission can accomplish its work efficiently, in full view of the public, and with reasonable opportunity for the public to participate in the deliberations and decisions of City government. Mont. Code Ann. § 7-3-4323 authorizes the Commission to determine its own rules and order of business.

The City Commission thus adopts these Rules of Conduct and Procedure of Commission Meetings this 19th day of November, 2019:

Rule #	Description	Page #’s	Rule #	Description	Page #’s
Rule 1	Meetings of the City Commission	2-3	8.7	<i>Miscellaneous Reports and Announcements of Neighborhood Councils, Boards and Commissions, and the City Manager</i>	
1.1	<i>Regular Meetings</i>		8.8	<i>Consent Agenda and Contracts List Items</i>	
1.2	<i>Special Meetings</i>		8.9	<i>Legislative vs. Quasi-Judicial Hearings</i>	
1.3	<i>Emergency Meetings</i>		8.10	<i>Public Hearings</i>	
1.4	<i>Executive Session/Closed Meetings</i>		8.10.1	<i>General Procedures in Conducting Public Hearings</i>	
1.5	<i>Work Sessions</i>		8.10.2	<i>Additional Public Hearing in Subdivision Applications</i>	
Rule 2	Notice	3-4	8.10.3	<i>Continuances, Additional Comment and Public Comment</i>	
Rule 3	Requirements of an Open Meeting	4	8.11	<i>Ordinances and Resolutions - Authority and Requirements</i>	
3.1	<i>Violation of the Open Meeting Laws</i>		8.11.1	<i>Ordinances</i>	
Rule 4	Parliamentary Authority	4	8.11.2	<i>Emergency Ordinances</i>	
Rule 5	Attendance	5	8.11.3	<i>Resolutions</i>	
Rule 6	Presiding Officer	5	8.12	<i>City Commission Miscellaneous Reports, Announcements and Initiatives</i>	
6.1	<i>Mayor</i>		Rule 9	Minutes	14-15
6.2	<i>Mayor Pro Tempore</i>		9.1	<i>Regular Meeting Minutes</i>	
Rule 7	Agenda Preparation	5-6	9.2	<i>Executive/Closed Session Minutes</i>	
Rule 8	Agenda – Order of Business	6-14	Rule 10	Public Participation	15-17
8.1	<i>Roll Call, Quorum and Voting</i>		Rule 11	Public Recording	17
8.2	<i>City Manager and Staff Attendance</i>				
8.3	<i>Conflict of Interest/Disclosure</i>				
8.4	<i>Ex Parte Communications</i>				
8.5	<i>Proclamations/Presentations</i>				
8.6	<i>Petitions and Communications</i>				

Rule 1. Meetings of the City Commission

1.1 Regular Meetings

The established regular meetings of the City Commission are held in the Commission Chambers Room 206, Civic Center, 2 Park Drive South, on the first and third Tuesdays of each month beginning at 7:00 o'clock p.m., except legal holidays and federal election days.

When the day affixed for any regular meeting of the Commission falls upon a day designated by law as a legal or national holiday, such meeting may be scheduled at the same hour on the next succeeding day which is not a holiday, rescheduled to the following week day and time if there are five weeks in the month, or the meeting may be canceled by the Commission.

Commission meetings that conflict with Election Day for the general election of federal public officials shall be held on Wednesday immediately following the date of the election.

1.2 Special Meetings

Special meetings of the City Commission may be called from time to time at the discretion of the City Manager in consultation with the City Commission, when business cannot be postponed, or other matters exist which require a special meeting. The notice shall specify the subject of the special meeting and the meeting shall be limited to that subject.

1.3 Emergency Meetings

In the event of an emergency situation, such as a storm, fire, explosion, community disaster, insurrection, act of God, or other potential destruction or impairment of City property or business that affects the health and safety of the residents, employees or the functions of the City, the City Manager may call a meeting to be convened by a majority of the Commission without providing two days' notice. The City Manager shall use reasonable efforts to inform the public of the emergency meeting and to provide an agenda.

1.4 Executive Session/Closed Meetings

An individual may request that the presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of the individual's privacy. If and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure, the meeting will be closed. Alternatively,

the right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

A meeting may be closed to discuss litigation strategy when an open meeting would have a detrimental effect on the litigating position of the City. The meeting may not be closed to discuss strategy to be followed in litigation in which the only parties are public bodies or associations.

By majority vote in a public meeting, the Commission may hold executive sessions as set forth above, upon the advice of the City Attorney or retained legal counsel. The motion and vote to go into executive session must be made in public, and the reason must be stated.

No vote or formal action shall be taken in executive session, except to return to public session.

After returning to public session and calling the meeting back to order, the presiding officer or designee shall generally report what was discussed in executive session. The presiding officer shall then, if appropriate, ask the will of the Commission, and call for the vote.

Minutes of closed meetings or executive sessions shall be maintained and sealed by the City Clerk.

1.5 Work Sessions

Work Sessions shall generally be held in the Gibson Room 212 of the Civic Center on the first and third Tuesdays of each month beginning at 5:30 p.m., except on legal holidays, federal election days, or when there exists no subject matter for a work session. Work Sessions are informal meetings, generally for the purpose of conducting in-depth presentations for upcoming regular meeting items, progress reports on current programs or projects, or exploration of subjects in more detail. All discussions and conclusions thereon shall be informational and no final action may be taken, but the Commission may give direction to staff regarding items to be scheduled for a future action. An opportunity will be provided for public comment on agenda items and matters not on the agenda but within the jurisdiction of the City Commission. The City Commission is not bound by Robert's Rules of Order during informal Work Sessions.

Rule 2. Notice

The schedule of regular meetings and work sessions of the Commission has been established and followed since 1981 as the first and third Tuesdays of every month at 5:30 and 7:00 o'clock p.m.

The agenda for the meeting is a legal document that, when posted, provides additional notice to the public that the Commission is planning to meet and to conduct the public's business at a certain time and place. To perform this legally required "notice" the agenda for all official meetings of the Commission (as set forth in *Rule 1, with the exception of Emergency Meetings*) should be posted on the City's website and Great Falls Civic Center posting board on the first floor of the Civic Center, 2 Park Drive South, at least two days prior to the meeting (usually in the afternoon on the Thursday preceding the regular work session and meeting), and must set forth the date, time, place and all items to be considered.

To receive notification at the time agendas are posted on the City's website, media representatives, as well as citizens who choose to do so, may subscribe to an email subscription under "Meeting Notifications" on the City's website, and can then access the agenda reports and supporting documents through the City's website.

Pursuant to Mont. Code Ann. § 7-1-4135, the City Commission designates as its official posting place the Great Falls Civic Center posting board and the City's website.

Rule 3. Requirements of an Open Meeting

All meetings of the Commission shall be open to the public, except for those portions of meetings in limited situations as set forth in Rule 1.4. The four essential elements in the Montana "open meeting" laws are:

- If a *quorum* of the Commission is convened by either the physical presence of the members or by means of electronic equipment; and
- The Commission will *hear, discuss or act* upon a matter over which it has supervision, control, jurisdiction or advisory power; then
- The meeting *must be open to the public*; and
- Minutes of the meeting must be kept and made available for public inspection.

3.1 Violation of the Open Meeting Laws

Any decision made in violation of the open meeting laws may be declared void by a district court having jurisdiction. A suit to void a decision must be commenced within 30 days of the date on which the plaintiff or petitioner learned, or reasonably should have learned, of the Commission's decision.

Rule 4. Parliamentary Authority

Meeting conduct, decorum, and procedures, not provided for in these rules, state statute or City ordinances, shall be guided by the latest edition of *Robert's Rules of Order*.

Rule 5. Attendance

Members of the Commission shall let the presiding officer and the City Manager’s office know when he/she will be absent from meetings. Absence from more than one-third (1/3) of the regular meetings in a calendar year without a health or medical excuse shall cause that member’s position on the City Commission to become vacant.

Rule 6. Presiding Officer

6.1 Mayor

The Mayor shall be recognized as the official head and representative of the City of Great Falls for the purpose of presiding at City Commission meetings and ceremonial functions. These functions of the Mayor shall not be construed as conferring executive, personnel, or administrative powers or functions upon the mayor.

The Mayor shall serve as a member of the Commission with all the rights and privileges of City Commissioners. The Mayor shall possess no veto power over actions taken by the Commission.

The presiding officer has the authority to preserve order at all meetings of the Commission, to enforce time limits on agenda items, and to enforce the rules of the Commission.

The presiding officer may request the assistance of the Police Chief or police officer to restore order at any meeting, or cause removal of any person from any meeting for disorderly conduct.

6.2 Mayor Pro Tempore

The Mayor Pro Tempore shall serve in the absence of the elected mayor. The Commission shall elect from amongst its members a Mayor Pro Tempore no later than one month after taking office. The Mayor Pro Tempore shall serve a term of two years, or until the Commission has held an election.

Rule 7. Agenda Preparation

The purpose of an agenda is to provide a framework within which a meeting can be conducted. The agenda for a meeting provides opportunity for public participation before a final decision is taken by the Commission that is of signification interest to the public, and includes Petitions and Communications allowing the public to comment on any public matter that is not on the agenda of the meeting and that is within the jurisdiction of the Commission. However, the Commission may not take action on any matter discussed unless specific notice of that matter is included on an agenda and public comment has been allowed on that matter.

The City Manager’s Office prepares agendas for each Commission meeting specifying the date, time and place of the meeting and a brief general description of each item to be considered by the Commission. The City Manager has adopted formats for agenda report cover sheets that includes the Department, staff person, action requested, suggested motion, findings of fact/bases for decision, summary and/or background information. City staff will assist the Commission at meetings in revising language of motions or findings, if necessary.

Rule 8. Agenda – Order of Business

The agenda shall be in substantially the following form:

- Call to Order
- Pledge of Allegiance
- Roll Call/Staff Introductions
- Agenda Approval
- Conflict Disclosure/Ex Parte Communications
- Proclamations/Presentations/Oaths of Office
- Petitions and Communications
- Miscellaneous Reports and Announcements:
 - Neighborhood Councils
 - Boards and Commissions
 - City Manager
- Consent Agenda
- Public Hearings
- Old Business
- New Business
- Ordinances/Resolutions
- City Commission Miscellaneous Reports and Announcements, and Initiatives
- Adjournment

The order of business may be adjusted by consent of the Commission, but items will not be added that require action without the required public notice.

8.1 Roll Call, Quorum and Voting

The City Clerk shall take roll call to establish that a quorum exists for the Commission to take legal actions as are necessary before it. Three members of the Commission shall constitute a quorum, and the affirmative vote of three members of the Commission, unless a greater number is required by law, shall be necessary to adopt or reject any motion, resolution, ordinance, or pass or fail any measure. Upon every vote, the ayes and nays shall be called and recorded in the minutes.

A Commission member who is not physically present at a meeting at the time a motion or action item is put to a vote cannot vote, unless that member is participating by

electronic means where both audio and visual public observation of that member can be accomplished. The Commission's preference is that members attend in person and electronic participation be infrequent. Members shall not be permitted to vote by a proxy vote or by written vote.

Members of the City Commission have a duty to vote in the affirmative or negative on each motion or action item duly placed before the Commission, unless a conflict of interest precludes the vote. A member may make a brief explanation of the reason why he or she voted in a particular way.

If a quorum is not present, the presiding officer may call a short recess to take measures to obtain a quorum, or adjourn the meeting.

8.2 *City Manager and Staff Attendance*

The City Manager or Deputy City Manager shall attend all Commission meetings unless excused. The City Manager, Deputy City Manager, or designee, attends Commission meetings to supplement needed facts and to advise on policy, problems and projects which may not have been established by an agenda report prepared in advance of the meeting.

The City Attorney, or attorney designee, shall attend all Commission meetings unless excused, and will, upon request, give a written or oral legal opinion during the meeting or at some time thereafter. The attorney shall decide all questions of interpretations of these rules and parliamentary questions that may arise at Commission meetings.

The City Clerk, or designee, is statutorily required to attend all meetings of the Commission, and is the keeper of official records that come before the Commission for consideration. If they are not previously provided to City staff for inclusion in agenda packets, handouts shall be provided to the City Clerk during the meeting.

Department Directors, or designees, shall attend meetings when that department has an agenda item to provide information and respond to questions, unless excused by the City Manager or Deputy City Manager.

8.3 *Conflict of Interest/Disclosure*

Elected officials of the City of Great Falls are public officers as defined by Mont. Code Ann. § Title 2, Chapter 2, and OCCGF 2.21.040 and, as such, shall comply with the codes of ethics as set forth therein.

Members of the Commission may rely upon the advice of the City Attorney as to whether the member has a conflict of interest pursuant to the law or OCCGF. Some questions regarding Commission member's conduct or participation may be referred to the Great Falls Ethics Committee. If the member is advised a conflict of interest

exists precluding participation on a matter, that member shall recuse himself/herself, and refrain from discussion and vote on the matter.

Prior to the presiding officer's calling the first action item on an agenda, members of the Commission shall disclose the nature of any private interest that creates a conflict relating to matters pending on the meeting's agenda.

8.4 *Ex Parte Communications*

"Ex Parte" communication means written or verbal communication regarding an issue of adjudicative nature, whether voluntary or occurring inadvertently, and defined as a private communication between a decision-maker (Commission member) and a party/person, and which is before the Commission for consideration.

Prior to the presiding officer's calling the first action item on an agenda, members of the Commission shall disclose ex parte communications which relate to matters pending on the meeting's agenda.

8.5 *Proclamations/Presentations*

Proclamations highlight important issues, events, civic-minded groups or individuals, or honor a group, situation or memorable occasion. Proclamations are part of the Mayor's ceremonial functions as set forth in the Charter of the City of Great Falls. The Mayor may share the ceremonial function of proclamations with the rest of the Commission by designating a willing Commissioner to read the proclamation during the ceremony, rotating this function among Commission members.

8.6 *Petitions and Communications*

The Petitions and Communications section of the agenda allows for public comment on any public matter that is not on the agenda of the meeting and that is within the jurisdiction of the Commission. However, the Commission may not take action on any matter raised during this portion of the agenda.

8.7 *Miscellaneous Reports and Announcements of Neighborhood Councils, Boards and Commissions, and the City Manager*

These portions of the agenda provide an opportunity for representatives of Neighborhood Councils or other Boards and Commissions to make miscellaneous reports and announcements. The City Manager also provides the Commission a brief update on City operations, events, or issues of interest to the community.

8.8 *Consent Agenda and Contracts List Items*

Consent Agenda items are those upon which typically no discussion should be necessary. The Consent Agenda, inclusive of Contracts, Grants and Lien Release Lists,

are used as part of the Commission meeting procedure to consolidate and dispose of routine items by one motion and vote. The Contracts List items include contracts or agreements less than the statutory threshold that require Commission pre-approval. Items may be pulled from the Consent Agenda for separate discussion and/or vote by any member of the Commission.

8.9 *Legislative vs. Quasi-Judicial Hearings*

The Commission typically operates as a policy-making or legislative body. In that capacity, the Commission gathers information at meetings, public hearings, from informal conversations with citizens and others, from memoranda prepared by City staff, and from other sources. These conversations or memoranda do not consist of ex parte communications; however, Commission members should urge citizens to make the communication where it will be part of the public record. The Commission then deliberates and implements a policy by enacting a law, ordinance, rule or regulation. This is a legislative process by which the Commission creates citywide policy that operates prospectively from the effective date of the item adopted.

The quasi-judicial public hearing is in sharp contrast to a legislative public hearing. It is a formal hearing, restricted by clear legal restraints. Quasi-judicial is akin to a court proceeding wherein the Commission is not setting new policy but applying policies expressed by an existing ordinance, law or regulation to past or present facts presented at a hearing. Ex parte communications with other than city staff in quasi-judicial hearings must be avoided, if possible. If such ex parte communications occur, the member shall disclose the content of the communication during the public hearing to insure that everyone at the meeting is aware of the content of the communication.

The initial adoption of a municipal zoning code is a reasonably good example of a purely legislative act by the governing body. However, when the governing body makes a policy decision that provides for the administration of an existing law or policy or applies an existing policy or law to a particular person or circumstance, it is performing a quasi-judicial function.

Whenever the Commission conducts a quasi-judicial hearing, the decision must be based only on information and evidence gathered at the hearing. The decision must be based upon substantial evidence. When the application or proposal is before the Commission, the final decision must be in writing and contain the reasons for the decision, such as the findings of fact that were relied upon for reaching this final decision.

8.10 *Public Hearings*

With the exception of those notices mandated by a time schedule established by federal or state law, or the OCCGF, the general notice of public hearing must be published twice, with at least six (6) days separating each publication, and must contain: the date, time, and place of the hearing or other action; a brief statement of the action to be

taken; the address and telephone number of the person who may be contacted for further information on the action to be taken; and any other information required by the specific section requiring notice by publication.

8.10.1 The general procedure in conducting a public hearing shall be as follows:

- A. The presiding officer shall announce the purpose and subject of, and open, the public hearing;
- B. The presiding officer shall ask the staff to present a staff report on the matter at issue;
- C. The presiding officer shall allow the applicant (either directly or through a representative) to provide a presentation. The applicant's presentation at the hearing is limited to ten minutes, subject to extension at the discretion of the presiding officer with the concurrence of the body;
- D. The body conducting the public hearing may adopt optional processes to allow for public questions for the purposes of understanding and clarification. If such processes are adopted, before requesting comments from proponents or opponents, the presiding officer will call for questions from the public, which will be accepted and answered in the following manner:
 - 1. All questions from the public shall be directed to the presiding officer; and
 - 2. After all questions have been presented to the presiding officer, the officer shall close the question period and request that the staff and/or the applicant provide responses to the questions;
- E. Members of the body conducting the public hearing may then direct questions to staff and/or to the applicant for the purposes of understanding and clarification of issues regarding the application;
- F. No member of the body or public shall express, or engage in, substantive opinions or discussion during the question periods;
- G. The presiding officer shall ask for comments, not questions, from the public who are in favor of the application;
- H. The presiding officer shall ask for comments, not questions, from the public who oppose the application;
- I. The presiding officer shall ask the applicant if the applicant wishes to submit additional information and/or respond to any comment made during the question or public comment periods. The applicant's submission or response is limited to five minutes, subject to extension at the discretion of the presiding officer with the concurrence of the body;
- J. The presiding officer shall close the public hearing;
- K. The presiding officer shall call for a motion regarding the application, and after the motion is seconded, the presiding officer shall call for discussion from the members of the body; and
- L. After the discussion by the members of the body, the presiding officer shall call for a vote.

8.10.2 Additional Public Hearing in Subdivision Applications

In subdivision applications, before a motion to approve, deny, amend, or otherwise act regarding an application, the body shall determine, under the provisions of Mont. Code Ann. §76-3-615(2)(b), whether the public comments or documents presented during the public hearing constitute new information which has not been previously submitted for public examination and comment.

- A. If the body determines that new information at the hearing meets the terms of Mont. Code Ann. §76-3-615(2)(b), the body may:
 - 1. Approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information if the governing body determines that the new information is either irrelevant or not credible; or
 - 2. Schedule, or direct City staff to schedule, a subsequent public hearing for consideration of only the new information that may impact the findings and conclusions that the body will rely upon in making its decision.
- B. An additional public hearing set according to this process suspends the time requirements for final decision during the time between the original and the subsequent public hearings.

8.10.3 Continuances, Additional Comment and Public Comment

- A. The applicant or applicant's representative may request a continuance during the proceedings and the body conducting the public hearing may grant the continuance upon a showing of good cause.
- B. A public hearing which has been formally closed may not be reopened. If after a public hearing has been closed, a seconded motion substantially deviates from the publicly noticed suggested motion, the presiding officer may offer an opportunity for additional public comment on the motion before final action;
- C. The body, upon motion and vote, may call for an additional public hearing, if the body determines that new, relevant and credible information has been presented during the public hearing which the public and/or the body has not had a reasonable opportunity to comment upon and/or to consider.
- D. A granted continuance or an additional public hearing suspends any time requirements for final decision during the time between the original and the subsequent public hearings.

8.11 Ordinances and Resolutions – Authority and Requirements

The City of Great Falls is a self-governing municipality. In accordance with the Montana Constitution, a local government with self-governing powers may exercise

any power not prohibited by the state constitution, law, or City Charter. These powers include, but are not limited to, the following powers granted to general power governments:

- Preserve peace and order and secure freedom from dangerous or noxious activities;
- Secure and promote the general public health and welfare;
- Provide any service or perform any function authorized or required by state law;
- Exercise any power granted by state law;
- Levy any tax authorized by state law for public or governmental purposes subject to Mont. Code Ann. § 15-10-420;
- Appropriate public funds;
- Impose a special assessment reasonably related to the cost of any special service or special benefit provided by the municipality or impose a fee for the provision of a service;
- Grant franchises; and
- Provide for their own organization and the management of their affairs.

Additionally, the City may provide any services or perform any functions not expressly prohibited by the Montana constitution, state law, or the City Charter. These services and functions include, but are not limited to, those services and functions which general power government units are authorized to provide and perform. If the City elects to provide a service or perform a function that may also be provided or performed by a general power government unit, it is not subject to any limitation in the provision of that service or performance of that function except such limitations as are contained in the City Charter, or in state law specifically applicable to self-government units.

All state statutes shall be applicable to the City of Great Falls until superseded by ordinance or resolution in the manner provided in state law, and subject to the limitations provided in state law.

The powers and authority of the City of Great Falls shall be liberally construed. Every reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of that power or authority.

8.11.1 Ordinances

An ordinance is an act adopted by the City Commission having effect only within the jurisdiction of the municipal government.

An ordinance is a municipal law that often imposes a sanction for violation. The Commission may impose fines and penalties for the violation of any City ordinance, but a fine or penalty may not exceed \$500 and imprisonment may not exceed six (6) months.

Each proposed ordinance shall be introduced in written or printed form and shall not contain more than one comprehensive subject which shall be clearly stated in the title except for codification and revision of ordinances. The enacting clause of all ordinances passed by the Commission shall be "BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA."

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section revised or amended.

An ordinance shall be read and adopted at two meetings of the City Commission not less than twelve (12) days apart. Except for an emergency ordinance, no ordinance shall be effective until thirty (30) days after the final passage thereof or upon the contingency provided for therein.

After the first reading, the ordinance must be posted and copies must be made available to the public. Ordinances are posted on the Great Falls Civic Center posting board and the Great Falls City website.

Ordinarily, an ordinance does not require a public hearing prior to final adoption. Ordinances that do require a public hearing include, for example, ordinances pertaining to zoning, some subjects within the Land Development Code, or some subjects of a political nature or of particular concern to the community that justify calling for a public hearing. In those instances, after first reading and acceptance, the Commission will set the ordinance for a public hearing at a subsequent Commission meeting. Unless otherwise specified in state or federal law, or other provisions of the OCCGF, notice of the public hearing must be published as set forth in these Rules.

All ordinances adopted by the Commission shall be signed by the Mayor or Mayor Pro-Tempore, and attested to and filed by the City Clerk.

8.11.2 Emergency Ordinances

In the event of an emergency, the City Commission may waive the second reading. An ordinance passed in response to an emergency shall recite the facts giving rise to the emergency and requires a four-fifths vote of the City Commission for passage. An emergency ordinance shall be effective on adoption and shall remain effective for no more than 90 days.

8.11.3 Resolutions

A resolution is a statement of policy by the City Commission or an order by the City Commission that a specific action be taken.

Each resolution shall be introduced in written or printed form and shall not contain more than one subject which shall be clearly stated in the title. The enacting clause of

all resolutions passed by the Commission shall be “BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA.”

No resolution or section thereof shall be revised or amended unless the new resolution contains the entire resolution or section revised or amended.

Resolutions shall be in effect from the date of passage by the Commission unless a delayed effective date is specified.

Resolutions may be submitted and adopted at a single meeting of the City Commission. Ordinarily, a resolution does not require a public hearing prior to adoption. Resolutions that do require a public hearing include, for example, resolutions establishing or changing fees, rates, charges or classifications imposed for services to its inhabitants and other persons served by the local government, annexations and other land use issues. The resolution is first typically added to the consent agenda to set the resolution for a public hearing at a subsequent Commission meeting. Unless otherwise specified in state or federal law, notice of the public hearing must be published as set forth in these Rules.

8.12 City Commission Miscellaneous Reports, Announcements and Initiatives

This portion of the agenda is for miscellaneous reports and announcements from the City Commission, as well as Commission initiatives and legislative initiatives when the State Legislature is in session, with the affirmative consent of three Commission members.

Rule 9 Minutes

9.1 Regular Meeting Minutes

Appropriate minutes of all meetings which are required by Mont. Code Ann. § 2-3-203 to be open must be kept and must be available for inspection by the public.

Pursuant to Mont. Code Ann. § 2-3-212, minutes must include without limitation: the date, time and place of the meeting; a list of the individual members of the Commission who were in attendance; the substance of all matters proposed, discussed, or decided; and, a record of votes taken.

Pursuant to Robert’s Rules of Order, minutes are a concise and official record of the proceedings of a meeting, not a verbatim transcript. The duty of the clerk is mainly to record what was “done” by the legislative body in the meeting, but not what was said by its individual members.

9.2 Executive/Closed Session Minutes

Pursuant to Mont. Code Ann. § 2-3-212(4): Any time a presiding officer closes a public meeting pursuant to Mont. Code Ann. § 2-3-203, the presiding officer shall ensure that minutes of the closed portion of the meeting are taken and kept in compliance with the requirements set forth in Section 9.1. The minutes from the closed portion of the meeting may not be made available for public inspection except pursuant to a court order.

Rule 10. Public Participation

Procedures for encouraging and assisting public participation, and established protocol and rules of decorum at public meetings held by the City Commission, are as follows:

1. Persons addressing the Commission shall come to the podium and provide for the record that person's name and address, and, if applicable, the person, firm or organization the person represents.
2. Speakers shall address their comments to the presiding officer and the Commission as a body and not to any individual member of the Commission or City staff.
3. Public hearings and public comment periods on agenda items, unless otherwise provided by law, are in the nature of advisory hearings before the Commission. They are held for the purpose of noticing legislative facts, and receiving expressions of public opinion on a question, including the views of interested parties.
4. During public hearings and public comment periods, speakers shall limit their address to the Commission on agenda items to five (5) minutes, unless further time is granted by the presiding officer with the concurrence of the Commission. During the petitions and communications portion of any meeting, speakers shall limit their address to the Commission to three (3) minutes, unless further time is granted by the presiding officer with the concurrence of the Commission.
5. Speakers shall keep their comments germane to the subject item on the agenda or, during petitions and communications, matters of significant public interest which are within the jurisdiction of the Commission. Public comment generally is not intended for a two-way dialogue between speaker(s), Commission member(s), and/or the City Manager or City staff; however, the presiding officer, with the concurrence of the Commission, may allow questions to be asked of or by speakers.

6. Speakers shall refrain from irrelevant or unduly repetitious communications or other behaviors, which disrupt, disturb or impede the orderly conduct of the meeting, or incite violence.
7. Speakers are prohibited from using vulgar, discriminatory, profane or impertinent speech, or personal attacks and personal accusations, which disrupt, disturb or impede the orderly conduct of the meeting, or incite violence.
8. Speakers and persons in the audience shall not delay or interrupt the proceedings or refuse to obey the orders of the presiding officer.
9. Audio/Visual (AV) equipment is reserved for City Commission deliberations for clarity and understanding of issues to make decisions on matters that impact the City. Citizens may submit data, views, or arguments, orally or in written form, to the Commission or City Clerk, prior to or during the meeting. Citizens wishing to submit written information while at podium shall place it on the table next to the podium, unless directed otherwise by the presiding officer.
10. Any person, including one with special needs, who may want to offer public comment on any matter, may provide a written statement for the record to the City Clerk for distribution to the Commission in lieu of offering oral comment. The time limits set forth above shall apply to any oral presentation or reading of any such written statement of testimony.
11. Objects that are deemed a threat or perceived to be a threat to persons at the meeting or the facility infrastructure are not allowed and the object, or the person possessing the object, may be subject to search for weapons and other dangerous materials. The Chief of Police or his designee(s) are authorized to remove items and/or individuals from the meeting rooms if a threat exists or is perceived to exist.
12. Speakers and persons in the audience shall refrain from creating, provoking or participating in any type of disturbance, which disrupts, disturbs or impedes the orderly conduct of City business or which incites violence, including but is not limited to, unwelcome physical contact, or verbal, physical or emotional abuse or intimidation.
13. Cell phones, pagers, smart phones or other electronic communication devices shall be put in silence mode during meetings. Persons who need to place or receive a telephone call are requested to leave the chambers for that purpose.

14. Anything other than a prepared statement by the speaker and/or related supporting documents or items is prohibited at the podium.
15. Failure to comply with the rules of decorum which disturbs, disrupts or impedes the orderly conduct of the meeting shall, at the discretion of the presiding officer, be ruled out of order, and may result in the speaker's removal from the podium, removal from the meeting and/or possible arrest.

Rule 11. Public Recording

Members of the public may not be prohibited from recording open meetings so long as that activity does not interfere with the conduct of the meeting. To provide for the orderly, safe and optimal use of video devices with minimal disturbance of the conduct of the meeting, the established protocol is as follows:

1. A video device may not be set upon a tripod or other portable mechanical stand in a location whereby the video device and the person operating, attending or manipulating the video device, does not allow for unobstructed passage by a person using any aisle with no less than three (3) feet in width, including aisles established by movable seating.
2. Video devices mounted on a tripod or other mechanical supports or needing the running of wires to be connected or used in conjunction with the video device should, if possible, be set up prior to the opening of the meeting to avoid interfering with the conduct of the meeting and impeding public members' ability to attend, observe, hear and participate in the meeting.
3. The operation of, attendance to, or manipulation of, a video device must be done as unobtrusively as possible and avoid producing unnecessary noise, commotion or distraction to other persons in attendance.