

CITY OF GREAT FALLS, MONTANA

AGENDA # 29

A G E N D A R E P O R T

DATE July 16, 2002

ITEM: RECIPROCAL GRANT AND ABANDONMENT OF EASEMENTS – ON YOUR WAY, INC. NW BYPASS – O.F. 1317

INITIATED BY: PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION

ACTION REQUESTED: APPROVE RECIPROCAL GRANT AND ABANDONMENT OF EASEMENTS

PRESENTED BY: JIM REARDEN, PUBLIC WORKS DIRECTOR

RECOMMENDATION: Staff recommends that the easement document be approved and executed.

MOTION: “I move the City Commission approve the reciprocal grant and easement abandonment between Howard Wheatly (On Your Way, Inc.) and the City of Great Falls, and authorize the City Manager to execute the document.”

SYNOPSIS: An existing 8-inch water main is located within five feet of an existing building now occupied by the On Your Way convenience store at 11th Street Northwest and the Northwest Bypass. The existing easement for this water main is dated July 2, 1968. City Engineering staff wants to install a new and larger (12-inch) replacement main further away from the building for safety considerations. Howard Wheatly has agreed to grant the new easement and abandon the old easement.

BACKGROUND: The City Engineers office prepared the water main replacement documents. The relocation of the water main should eliminate potential problems of excavation close to the existing structure. The new easement contains a provision that precludes construction of any building or permanent structure within the twenty-foot wide easement.

Attachments: Reciprocal Grant and Abandonment of Easement Document

RECIPROCAL GRANT AND ABANDONMENT OF EASEMENTS

THIS INDENTURE is made by and between the City of Great Falls, a municipal corporation of the State of Montana, Cascade County, Montana (“City”) and Howard Wheatly of 349 Fox Drive, Great Falls, MT 59404 (“Wheatly”).

Abandonment of Easement

In consideration of the easement granted herein, the City does hereby convey, remise, release, and forever quitclaim unto Wheatly all of the City’s rights, title, and interest in and to the following described easements:

As recorded on Reel 51, Document No. 7925: a strip of land in Star Tract, an Addition to the City of Great Falls, Cascade County, Montana, more particularly described as follows: A strip of land Twenty (20) Feet wide, lying Ten (10) Feet either side of a center line parallel to and ten feet (10’) West of the center line of Eleventh Street Northwest produced North from the North right-of-way line of that state highway known as Secondary Route 521 – Northwest By-pass to the South right-of-way line of the Chicago, Milwaukee, St. Paul, & Pacific Railroad right-of-way, all as shown on the map attached to the original grant and made a part hereof.

TOGETHER with all tenements, hereditaments, and appurtenances thereto to have and to hold, all and singular, unto Wheatly and their heirs, successors, and assigns forever.

Grant of Easement

In consideration of the City’s abandonment of the above easement, Wheatly hereby convey, transfer, and grant unto the City a perpetual right-of-way and easement twenty foot (20’) in width for the installation, maintenance, enlarging, reducing, or removal of underground utility lines, together with all necessary appurtenances thereto, in, under, through, and across the real property hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of said utility lines. The centerline of the easement herein granted is described as follows and on Exhibit A attached hereto:

Beginning at a point on the north right-of-way line of State Route 521, and the center line of 11th Street Northwest of West Great Falls Addition to Great Falls, Cascade County, Montana, produced north, said point being N 0° 03’ W 277.6 feet, from a concrete monument at the intersection of the center lines of 11th Street Northwest and 8th Avenue Northwest of said West Great Falls Addition; thence N 89° 56’ 30” W 20 feet, along said north right-of-way line to the true point of beginning; thence N 0° 03’ W 136 feet to the South right-of-way line of the Chicago, Milwaukee, St. Paul, and Pacific Railroad right-of-way.

The following covenants and conditions attach and pertain to the foregoing grant of easement:

1. In the event of any excavation within the easement for the purpose of maintenance or repair, the City or its agents shall backfill and/or restore the surface to its previously existing condition.

2. Wheatly shall not make or construct any building or other permanent improvement, except paving, on the land covered by the easement, and the land shall be kept free of any such permanent obstruction that would impair the maintenance or operation of the underground utilities.

3. The City shall indemnify and hold Wheatly harmless from any and all claims, demands, and liability arising out of the existence of the underground utilities on the easement.

4. This grant of easement shall run with the land and shall be binding upon and shall inure to the benefit of the City and its successors and assigns.

IN WITNESS WHEREOF, the parties have set their hands and seals on the _____ day of June, 2002.

CITY OF GREAT FALLS, Montana

By _____
John W. Lawton, City Manager

STATE OF MONTANA)
) :ss
COUNTY OF CASCADE)

This instrument was acknowledged before me on the _____ day of June, 2002, by John W. Lawton, known by me to be the City Manager of the City of Great Falls, Montana.

IN WITNESS WHEREOF, I set my hand and Notarial Seal on the day and year first above written.

Notary Public for the State of Montana
Residing at _____
My commission expires _____

ATTEST:

APPROVED FOR LEGAL CONTENT:

Peggy Bourne, City Clerk

David V. Gliko, City Attorney

Howard Wheatly

STATE OF Montana)
) :ss
COUNTY OF CASCADE)

This instrument was acknowledged before me on the _____ day of June, 2002, by Howard Wheatly.

IN WITNESS WHEREOF, I set my hand and Notarial Seal on the day and year first above written.

Notary Public for the State of Montana
Residing at _____
My commission expires _____

