

AGENDA REPORT

DATE November 3, 2004

ITEM Revised MOU Between the City of Great Falls and Upper/Lower River Road Water and Sewer District (ULRRWSD) for Service District #1, O.F. 1354

INITIATED BY ULRRWSD

ACTION REQUESTED Approve Memorandum of Understanding

PRESENTED BY Cheryl Patton, Assistant City Manager

RECOMMENDATION: It is recommended that the City Commission approve the Revised Memorandum of Understanding (MOU) with Upper/Lower River Road Water and Sewer District for Service District #1, O.F. 1354.

MOTION: I move the City Commission approve the Revised Memorandum of Understanding between the City and Upper/Lower River Road Water and Sewer District for Service District #1 and authorize the City Manager to execute the agreement.

SYNOPSIS: The City has been involved in discussions with City County Health Department and residents of the Upper/Lower River Road area since 1996 concerning the significant groundwater and drinking water quality problems experienced by the area. A water and sewer district was formed by the residents to determine the most cost effective method of correcting the situations and providing utility service.

This revised MOU outlines a phased approach to financing and installing water and sewer lines to be connected to City utility systems. Annexation to the City of Great Falls is proposed to occur after each phase of the improvements are installed. Service District #1 will construct both water and sewer utility lines with annexation expected by the end of 2005.

Estimated construction cost to the district is \$7,900,000. Phase one, for Service District #1 is estimated at \$2,600,000. The MOU proposes the City commit \$1,000,000 of CDBG funds to assist the low/moderate income residents of the district with the costs of the utility extensions. The portion of the CDBG funds estimated for Service District #1 is \$332,000. City CDBG Housing programs for owner occupied and rental rehab assistance are recommended for eligible properties with code improvements or to cover the cost of utility service lines.

BACKGROUND: While the Upper/Lower River Road area is not currently within the corporate limits of the City of Great Falls, the area and its residents are considered part of our

community. An income survey was completed in January of 2003. This survey documented that 58% of the District households are low/moderate income by HUD definition.

Over the last several years, the District has investigated several ways to provide acceptable water and sewer service to the area. The most affordable alternative is for the district property owners to annex into the City of Great Falls and receive municipal water and sewer service. The cost of extending the municipal utility lines is the responsibility of the District.

The City is willing to assist the District in providing an affordable method for landowners to proceed with the project. The project involves the District incurring debt to finance the required utilities, and with the understanding that the landowners, in Service District #1, agree to annex to the City of Great Falls upon completion of construction of both water and sewer lines the City is proposing:

1. To allow annexation to the Service District #1 upon receiving the necessary petition.
2. To allow the entire district to construct improvements by phases. The first phase will be water and sewer improvements for Service District #1, which is at the southerly end of the District.
3. To assist in lessening the financial burden for the system improvements by agreeing to provide \$1,000,000 of CDBG assistance to the district with Service District #1 estimated to receive \$332,000.
4. To make available CDBG rehabilitation programs to assist in service line extensions or to meet code deficiencies.
5. No service line will be connected until a service agreement and annexation petition are received from the property owner.
6. To explore creating a tax increment – Urban Renewal District and pledging to capture 60% of any increment for district improvements.
7. To delay other normal city annexation requirements until debt service for water and sewer have been met. District residents understand that while the City will maintain roads within newly annexed territory, capital improvements will be delayed until such time as the property owners are willing to bear the expense of bringing the roadways up to acceptable city standards.

The public health and safety issues of the area support the City deviating from its established annexation policies. Annexation will occur by phase when utility lines have been extended by the District. The City of Great Falls will receive additional tax base, increased water and sewer utility revenues, increased population by some estimated 400 households when the whole district is annexed, and increased development potential.

Attachment: MOU for Service District #1, ULRRWSD

CC: ULRRWSD Board

Lyle Meeks, Neil Consultants
Jim Rearden, Director of Public Works
David Dobbs, City Engineer
Ben Rangel, Director of Planning

Mike Rattray, Director of Community Development

MEMORANDUM OF UNDERSTANDING

UTILITY CONNECTION CONDITIONS

Between

**UPPER/LOWER RIVER ROAD WATER AND SEWER DISTRICT
Service District No. 1**

And

CITY OF GREAT FALLS, MONTANA

This agreement is made and entered into this ____ day of _____, 2004, by and among the City of Great Falls, Montana, a municipal corporation organized under the laws of the State, hereinafter referred to as the City, and the Upper/Lower River Road Water and Sewer District, Montana, a duly organized and incorporated county water and sewer district, hereinafter referred to as the District (collectively, the “Parties”).

WHEREAS, the City currently owns and operates a municipal water system and a municipal sewer system (the “City Utilities”); and

WHEREAS, District and City have a mutual interest in improving water quality, resolving public health issues, removing sources of groundwater contamination, and improving the tax base of the community; and

WHEREAS, neither public water nor sewer system is available to the residents of the District; and

WHEREAS, District and City have worked together in an attempt to provide affordable water and sewer service to District residents; and

WHEREAS, the District and the City have determined that the most cost effective manner of providing water and sewer services to serve the District is for the District to finance and install water and sewer lines and related necessary improvements to connect to the City’s water and sewer systems (the Water Improvements and the Sewer Improvements, collectively, the “Project”); and

WHEREAS, the City’s stated policy is to require annexation as a condition precedent to the provision of City Utilities; and

WHEREAS, the Parties have developed a preliminary plan to assist in financing water and sewer improvements with Grant and Low Interest Loan funds; and

WHEREAS, the Parties recognize the Project must be affordable to low and moderate income residents who make up 58% of the District population; and

WHEREAS, in an effort to encourage the construction of the Project and make it more affordable, the City is willing to modify its annexation requirements and make its City Utilities available to the residents of the District on terms the District deems favorable and as set forth in this agreement; and

WHEREAS, the District Board has held public meetings and accepted input from District residents, and has taken this input into consideration.

WITNESSETH:

IN CONSIDERATION OF THE PERFORMANCE OF THE TERMS AND CONDITIONS, THE PARTIES HERETO MUTUALLY AGREE AS FOLLOWS:

Section 1. Purpose. The purpose of this agreement is to set forth general conditions for utility connection of the Upper and Lower River Road Water and Sewer District to the City Utilities and the subsequent annexation of properties in the District to the City. It is mutually agreed that more specific and detailed conditions will be set forth in an Interlocal Agreement between the Parties.

Section 2. The Improvements. The District has determined that the most affordable and feasible method for bringing water and sewer service to the District is to create a number of "Service Districts" within the District and to bring water and sewer service to the Service Districts in phases. The Board has determined that a portion of the District designated as the South Area shall be Water and Sewer Service District #1 (herein Service District #1). A map showing the boundaries of Service District #1 is attached and incorporated herein. The District has been awarded grants for sewer and water improvements, which can be used for Service District #1 and received approval from voters in Service District #1 for bond issuance in August of 2004. Construction will be completed in 2005. This Memorandum of Understanding shall apply to Service District #1 but the Board intends to create additional water and sewer Service Districts and obtain funding for water and sewer construction in such additional Service Districts. Thus, it is contemplated that this Memorandum of Understanding shall apply to water and sewer projects for such additional Service Districts, with such changes as are necessary to sections 7, 12.2, 14, and 15 to fit each particular Service District.

Section 3. Petition for annexation. The owner of each parcel of land in Service District No. 1 which is to receive a water or sewer connection shall sign, as a condition to receiving city water or sewer service, a petition requesting annexation and waiving the right of protest of annexation which agreement shall be recorded and shall bind all heirs, successors, and assigns thereof.

Section 4. City Water and Sewer Contracts. Once water or sewer service is available in Service District #1, neither replacement drain fields nor other drinking water systems will be allowed within Service District #1. Individual irrigation wells are allowable, if no cross connection occurs between irrigation and public water mains. No service lines will be connected to the City's sewer or water system until the City has received executed water and sewer service agreements from the owners of the properties to be served. Property owners in Service District #1 not signing an appropriate water or and sewer service agreement will still be assessed or charged for the Service District #1 Improvements.

Section 5. Zoning; Legal Non-Conforming Use. Once the property in Service District #1 is annexed to the City, the City will zone the property consistent with the existing suburban residential and other mixed land uses in the area. All existing commercial, multifamily, and light industrial uses, which were legally established under zoning in effect at the time of annexation will be allowed to continue.

Section 6. Ownership, Operation and Maintenance. The City will assume ownership of the Improvements in Service District #1 upon substantial completion of the Improvements and acceptance by the City. The City will be responsible for the operation and maintenance of the Improvements, at citywide standard rates per user. The City will bill each user directly for the costs of operations and maintenance. The City will give legal notice of any proposed rate increase. The capital costs of the Project will be payable separately by the users or property owners in Service District #1 in accordance with the method of financing used to construct the Improvements. The City will provide administrative services to Service District #1 at no additional cost, for accounts management, billing, and debt service collection as appropriate.

Section 7. Reimbursements.

7.1. The District agrees to reimburse the City for Harold Mora for \$36,522 and for Roy Volk for \$92,320, per their annexation agreements, and to the City for the cost of an eight (8) inch equivalent water main (\$170,456) not to exceed \$299,298 total. This reimbursement shall be prorated among the Service Districts within the District based on population. The pro rata share for Service District #1 is determined to be a minimum of \$132,000. Subsequently created Service Districts shall bear their respective pro rata shares until the City is reimbursed the total sum of \$299,298 for all phases. Reimbursement for each phase will be determined by percentage of taps in that phase in comparison to total number of taps in District.

7.2. Reimbursement to the City for previous construction of South Interceptor sewer main, Schedule IV, Section One (1) through the District will not be required. The District will reimburse the City for the 15-inch sewer pipe in Lower River Road made at the rate of \$6.24 per lineal foot of pipe between the Mora south property line to the connection to the South Interceptor (\$8,736). This total amount shall be reimbursed from funds used to construct the Improvements in Service District #1.

Section 8. Parkland and Storm Drain Fee.

8.1. The City will waive the Parkland dedication requirement as well as payment in lieu of Parkland dedication associated with the annexation of the District property to the City. Pleasant View Park will convert from County ownership to city ownership. The existing Pearson Addition Lagoon will be removed and the park will be reclaimed and regraded via “dry land” seeding under the Service District #1 project. The District will pay the costs of doing so.

8.2. Upon annexation of Service District #1 to the City, the District will pay the standard storm drain fee (\$250 per acre). The City agrees to the extent possible to use such storm sewer fees to construct and install storm drainage facilities in Service District #1.

Section 9. No Waiver of Right to Protest Other Special Improvement Districts. The City will not require residents of Service District #1 to waive their right of protest for future special improvement districts for roadway, street lighting, and storm drain improvements.

Section 10. Tax Increment Financial District. Subsequent to annexation of the entire District the City may create a Tax Increment Financing (TIF) District with the same boundaries as the District if there is a finding that the District meets the requirements of the Urban Renewal statutes for the State of Montana, and if there is a finding that TIF District creation would be of benefit to the District residents. A maximum of sixty (60%) percent of tax increment revenues would be used to reduce debt service for the Improvements, or to defray costs of other future public improvements in the District.

Section 11. Life Safety Code Inspection, Expense.

11.1. The City will conduct life safety code inspections of all mobile home parks in Service District #1. Mobile home court owners will then have until the date of annexation to make necessary improvements for code compliance. Upon annexation, mobile home courts shall be subject to City code enforcement ordinances. Mobile home court owners are encouraged to apply to the City’s CDBG rental improvement fund for assistance in financing any required improvements.

11.2. The City will utilize no interest “deferred payment” CDBG housing rehab funds to assist income eligible residents in meeting life safety codes and / or constructing utility service lines.

Section 12. City Contributions.

12.1. The City will bear the cost of over-sizing of all water and sewer pipelines in the District that are required for future growth to the south, east and west of the District as determined by the City.

12.2. The City of Great Falls will provide a minimum of \$1 million in City CDBG funds to defray costs of construction of the improvements for HUD eligible Service District residents. The amount of funds which shall be applied to Service District #1 shall be based upon the percentage of HUD eligible residents who reside within the boundaries of Service District #1, estimated to be \$332,000. The remainder of the \$1 million in City CDBG funds shall be distributed to HUD eligible Service District residents in subsequently created Service Districts on a similar proportional basis.

12.3. The City will endorse and support all District efforts for funding of the Project.

Section 13. Permits and Connections

(a) The District, through its general contractor, will obtain a water service permit and a general plumbing permit from the City as specified by current City ordinance for each property to be served. This will cover the cost of the corporation, curb stop and box.

(b) A licensed plumbing contractor will install water service lines from the main through the curb box. Each individual property owner will employ a licensed plumbing contractor to obtain necessary permits from the City to extend the service from the curb box to the house. The City retains the right of inspection and approval of water service lines.

(c) Each individual sewer connector to the District's sewer main, while it is under the jurisdiction of the District, will obtain a City general plumbing permit for extension of the service line from the property line to the building. The City will then inspect the sewer service line from the property line to the house connection. No other City permits will be required for sewer service. The District will inspect main line and service piping within the public easements and rights of way consistent with city inspection policy.

Section 13.1 The District will enact an ordinance specifying that users of water and sewer service within the District shall be subject to applicable city water and sewer ordinances.

Section 14. Debt for District Improvements.

14.1. The District shall be responsible for paying the costs of the Improvements, except as provided in Section 13.

14.2. The District has submitted the question of incurring indebtedness to its voters as required by law.

14.3. The District Board has determined that bonded indebtedness shall be repaid from special assessments based on an equal method of assessment (the equivalent dwelling unit method). The District will enact ordinances and resolutions as may be required for the repayment of District debt, including ordinances that will require that new subdivisions or users who obtain

new or additional water and/or sewer service after original construction and who have not contributed to the capital costs of the Improvements shall pay a pro-rata share of the costs of the Improvements.

Section 15. Pearson Addition and South Ridge Condominiums. The District will reimburse the City for inspecting the existing Pearson Addition sewer collection system and the South Ridge Condominium wastewater outfall collection line (approximately 300 feet in length), and determine if repairs are needed to said systems. It is the intent of the parties for the City to assume ownership, maintenance, and operation of these systems upon annexation if the systems are found acceptable.

Section 16. Other Public Systems. The remaining privately owned systems that are designated Public Systems by the Montana Department of Environmental Quality (the mobile home court systems, and South Ridge Condominiums exclusive of the 300 foot long outfall line) shall remain in private ownership, but will connect to the City Utilities in public rights of way or easements.

Section 17. Individual Annexation. The annexation conditions and concessions of this Memorandum will not apply to individual properties within the District wishing to annex prior to or separate from overall District annexation. The City will administer such annexations in accordance with standard City policies and procedures.

Section 18. Reimbursements to District residents. Future users who connect to District financed water and sewer main extensions will pay a connection fee equal to the pro-rated cost of the project improvements, even after annexation. Connection fee revenues shall be utilized in the best interest of overall water and sewer district residents, as determined by the District Board.

By the City of Great Falls:

By the District:

John W. Lawton, City Manager

John Stephenson-Love, President

Attest: _____

Attest: _____