

AGENDA REPORT

DATE January 16, 2007

ITEM MOU Between the City of Great Falls and Upper/Lower River Road Water and Sewer District (ULRRWSD) for Service District #2, O.F. 1354.1

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 Memorandum of Understanding (MOU) with Upper/Lower River Road Water and Sewer District for Service District #2, O.F. 1354.

MOTION: I move the City Commission approve the Memorandum of Understanding between the City and Upper/Lower River Road Water and Sewer District for Service District #2 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 situation and providing utility service.

This MOU outlines phase 2, to finance and install water and sewer lines to be connected to City utility systems for District #2. Annexation to the City of Great Falls is proposed to occur after each phase of improvements are installed. Service District #2 will construct both water and sewer utility lines with annexation expected by the end of 2007.

Estimated construction cost for Service District #2 is \$1,600,000. The MOU proposes the City continue its \$1,000,000 commitment of CDBG funds to assist the low/moderate income residents of the whole district with the costs of the utility extensions. The portion of the CDBG funds estimated for Service District #2 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. Annexation will occur soon for Service District #1 whose improvements were completed in 2006.

An income survey was completed in January of 2003. This survey documented that 70% of the District #2 households are low/moderate income by HUD definition.

Over the last several years, the District's Board has investigated several ways to provide acceptable water and sewer service to the area. The most affordable alternative is for the 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's property owners.

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 #2, agree to annex to the City of Great Falls upon completion of construction of both water and sewer lines. Therefore, the City is proposing:

1. To allow annexation to the Service District #2 upon receiving the necessary petition immediately following construction.
2. To allow the entire district to construct improvements by phases. The second phase will complete water and sewer improvements for Service District #2.
3. To assist in lessening the financial burden for the system improvements by agreeing to provide up to \$1,000,000 of CDBG assistance to the whole district. Service District #2, based on its proportion of low/moderate income households, is estimated to receive \$332,000.
4. No service line will be connected until a service agreement and annexation petition are received from the property owner.
5. 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 #2, ULRRWSD

CC: ULRRWSD Board
Lyle Meeks, Neil Consultants
Jim Rearden, Director of Public Works
David Dobbs, City Engineer
Ben Rangel, Director of Planning
Bill Walters, Senior Planner
Mike Rattray, Director of Community Development

MEMORANDUM OF UNDERSTANDING

UTILITY CONNECTION CONDITIONS

Between

UPPER/LOWER RIVER ROAD WATER AND SEWER DISTRICT

Service District No. 2

And

CITY OF GREAT FALLS, MONTANA

This agreement is made and entered into this ____ day of _____, 2006, 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, the District has determined that the most feasible way to provide water and sewer service is to divide the District into Service Districts, and pursuant thereto the District has provided water and sewer service to Service District No. 1 which is currently being annexed to the City of Great Falls, and is now preparing to provide water and sewer service to the residents of Service District No. 2; and

WHEREAS, neither public water nor sewer service is available to the residents of Service District No. 2; 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 Service District No. 2 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 70% of Service District No. 2 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 Service District No. 2 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 water and sewer connections to Service District No. 2 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 shown on Exhibit A shall be Water and Sewer Service District No.2 (herein Service District No. 2). The District has been awarded grants for sewer and water improvements, which can be used for Service District No. 2 and anticipates receiving approval from voters in Service District No.2 for bond issuance in December of 2006. Construction will be completed in 2007. This Memorandum of Understanding shall apply to Service District No. 2 but the Board intends to create additional water and sewer Service District(s) 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. 2 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. The District will provide the City with the Certificate of Survey(s) and metes and bounds descriptions necessary to annex Service District No. 2 prior to awarding the contract for construction of improvements for District No. 2. Annexation of District No. 2 will be completed before connection of any parcels to City services.

Section 4. City Water and Sewer Contracts. Once water or sewer service is available in Service District No.2, neither replacement drain fields nor other drinking water systems will be allowed within Service District No. 2. 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 and all applicable utility service line tapping, connection and inspection fees have been paid. Property owners in Service District No. 2 not signing an appropriate water or sewer service agreement will still be assessed or charged for the Service District No. 2 Improvements.

Section 5. Zoning; Legal Non-Conforming Use. Once the property in Service District No. 2 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 No. 2 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 No. 2 in accordance with the method of financing used to construct the Improvements. The City will provide administrative services to Service District No. 2 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. The District has to date reimbursed the City \$132,000, due to Mora and Volk, of this amount as part of the construction costs of the water and sewer improvements constructed in Service District No. 1. The remaining reimbursement shall be prorated among the Service Districts within the District based on population. The pro rata share for Service District No. 2 is determined to be \$82,300.

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. In addition to the \$299,320 reimbursement referenced above, 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)

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.

8.2. Upon annexation of Service Districts 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 the Service Districts.

Section 9. No Waiver of Right to Protest Other Special Improvement Districts.

9.1. The City will not require residents of Service District No. 2 to waive their right of protest for future special improvement districts for roadway, street lighting, and storm drain improvements. It is mutually agreed and understood that the District will not be involved in formation of roadway, storm drain, lighting, or other Special Improvement Districts.

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 No. 2. 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.

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. \$332,000 of this amount has been spent to defray the costs of construction in Service District No. 1. The city CDBG contribution for Service District 2 shall be \$332,000.

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

Section 13. Permits and Connections

13.1. The District will obtain a water service permit and a sewer permit from the City as specified by current City ordinance for each property to be served. These permits may not include the cost of the corporation, curb stop and curb box as those materials may be part of the project.

13.2. A licensed plumbing contractor will be required for all water service line installations. 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.

13.3. Each individual sewer connector to the District's sewer main, while it is under the jurisdiction of the District, will obtain a City sewer 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.

13.4. The District will inspect main line and service piping within the public easements and rights of way consistent with City inspection policy.

13.5. 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 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. 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), shall remain in private ownership, but will connect to the City Utilities in public rights of way or easements.

Section 16. 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 17. 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.

Section 18. Annexation Survey. District shall cause to be prepared a certificate of survey of those segments of BNSF Right of Way and Lower River Road between that being annexed with Service District No. 1 and the Water Plant Addition and that segment of Upper River Road between the north boundary of the Water and Sewer District and the Water Plant Addition. District and City shall share in the expense of preparing said survey. District's proportionate share of the cost of said survey shall be based upon those segments of BNSF Right of Way and Lower River Road between that being annexed with Service District No. 1 and the north boundary of the Water and Sewer District projected westerly to the Missouri River. The City's proportionate share shall be based upon those segments of BNSF Right of Way, Lower River Road and Upper River Road between the north boundary of the Water and Sewer District projected westerly to the Missouri River and the Water Plant Addition.

Section 19. Monthly Storm Drain Fees. All lots in all Service Districts will be assessed monthly storm drain fees per "Land Use Classification Group E", regardless of land use or number of dwelling units on the parcel, under the City Storm Drain Ordinance for developed property that does not discharge to an underground storm drainage system. Changes can be made to the Land Use Classifications for a property or group of properties if underground storm drainage improvements are made or if the land use code for a property changes. It is mutually understood that if or when formal storm drain capital improvements are installed by the City, the user classifications may change.

Section 20. Haul of fill material to Pearson Addition Lagoon. The City of Great Falls will endeavor to ask their public works department and construction contractors for city projects to haul clean fill material to the Pearson Lagoon site on an "as available" basis for District spreading and processing in reclaiming the lagoon site.

By the City of Great Falls:

John W. Lawton, City Manager

Attest: _____

By the District:

John Stephenson-Love, President

Attest: _____