



**Item:** MOU between City and Upper/Lower River Road Water and Sewer District (ULRRWSD) for Service District #3

**From:** Bill Walters, Senior Planner

**Initiated By:** ULRRWSD

**Presented By:** Michael Haynes, Planning Director

**Action Requested:** City Commission approve Memorandum of Understanding

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (approve/deny) the Memorandum of Understanding between the City and Upper/Lower River Road Water and Sewer District for Service District #3 and authorize the City Manager to execute the agreement.”

2. Mayor calls for a second, discussion, inquiries from the public and calls the vote.

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**Staff 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 #3.

**Background:** The City has been involved in discussions with the 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.

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.

Annexation of Service District #1 of the ULRRWSD was approved by the City Commission on March 6, 2007, and the annexation of Service District #2 was approved March 10, 2009.

This MOU sets forth general conditions for water and sewer connections to Service District #3 from City utilities and the subsequent annexation of the 34 existing dwellings in the District to the City. The ULRRWSD and the property owners in Service District #3 will be responsible for paying the costs of the water and sewer infrastructure to serve District #3 which is estimated at \$1,378,000. The ULRRWSD will move to receive bids and construct improvements in 2010 immediately followed by annexation.

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 the landowners, in Service District #3, 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 of Service District #3 upon receiving the necessary petitions immediately following construction.
2. No service line will be connected until a service agreement and annexation petition are received from the property owner.
3. 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 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.

**Concurrences:** Public Works, Fiscal and Planning Department staffs have primarily been involved in the review of the attached MOU which is very similar to the MOUs previously approved for Service Districts #1 & 2.

**Fiscal Impact:** The MOU will eventually lead to the annexation of Service District #3 which will result in expanded service responsibilities for the City. However, the costs associated with these additional services should be offset by the expanded tax base.

**Alternatives:** The City Commission could disapprove the MOU, but that would reflect a significant change in direction as previously exhibited through support of MOUs for Service Districts #1 & 2 and create a serious dilemma for the ULRRWSD.

**Attachments/Exhibits:**

1. Memorandum of Understanding
2. Vicinity Map

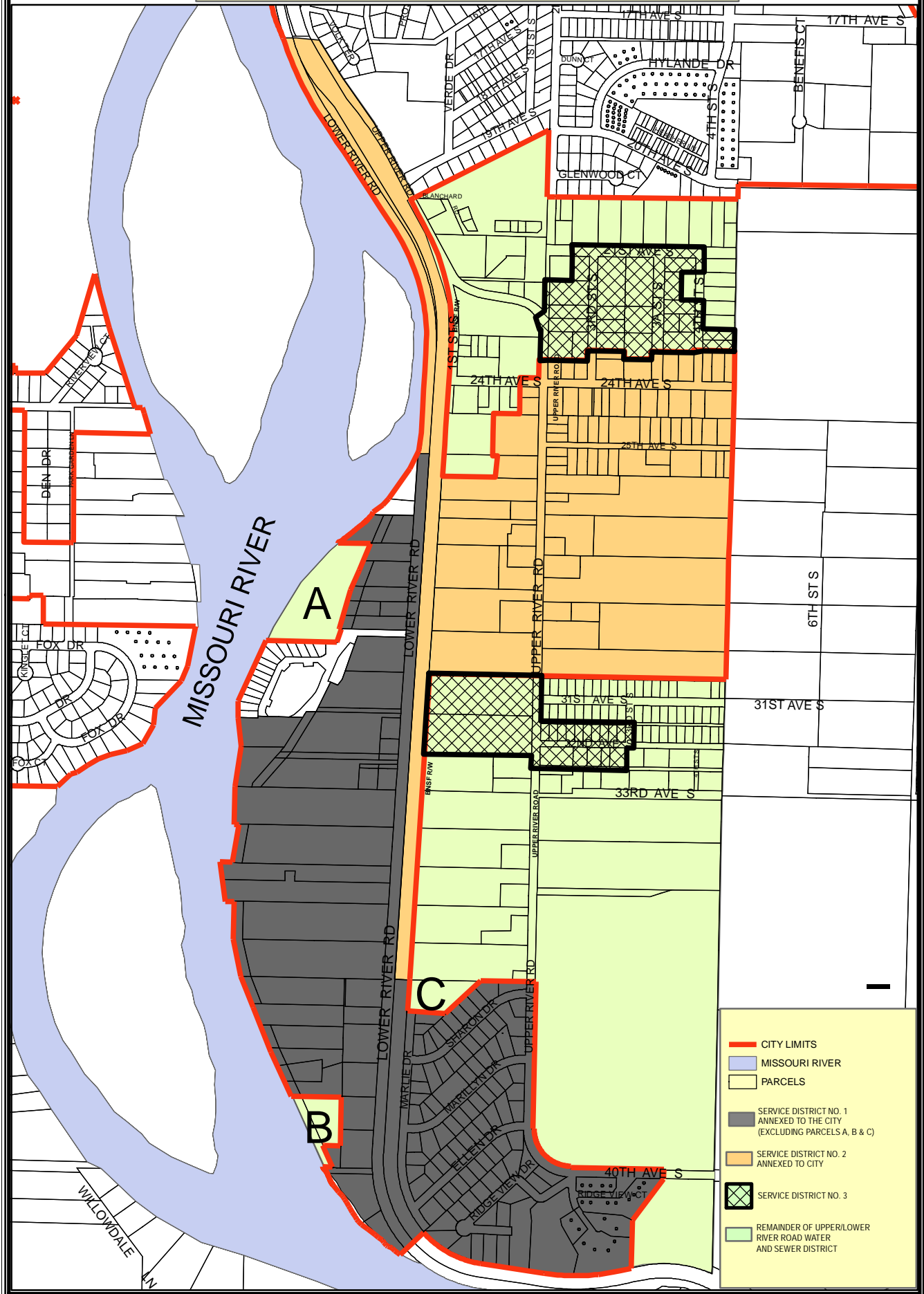
Cc: Jim Rearden, Public Works Director  
Dave Dobbs, City Engineer

Mike Rattray, Community Development Director  
John Stephenson-Love, 300 Central Ave, 7<sup>th</sup> Floor

# SERVICE DISTRICT NOS. 1, 2 AND 3

Upper/Lower River Road

Water & Sewer District



# MEMORANDUM OF UNDERSTANDING

## UTILITY CONNECTION CONDITIONS

Between

UPPER/LOWER RIVER ROAD WATER AND SEWER DISTRICT  
Service District No. 3

And

CITY OF GREAT FALLS, MONTANA

This agreement is made and entered into this 5<sup>th</sup> day of November, 2009, 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 and to Service District No. 2 which have both been annexed to the City of Great Falls, and is now preparing to provide water and sewer service to the residents of Service District No. 3; and

WHEREAS, neither public water nor sewer service is available to the residents of Service District No. 3; 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. 3 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, 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. 3 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. 3 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 portions of the District shown on Exhibits A-1 and A-2 shall be Water and Sewer Service District No. 3 (herein Service District No. 3). The District has been awarded grants for sewer and water improvements, which can be used for Service District No. 3 and on November 3, 2009, voters in Service District No. 3 approved the issuance of bonds to provide the remaining funds required for construction of the Project. Construction will be completed in 2010. This Memorandum of Understanding shall apply to Service District No. 3 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 fit each particular Service District.

Section 3. Petition for annexation. The owner of each parcel of land in Service District No. 3 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. The District will provide the City with a legal description and exhibit of the Service

District No. 3 boundaries for annexation purposes prior to awarding the contract for construction of improvements for Service District No. 3.

Section 4. City Water and Sewer Contracts. Once water or sewer service is available in Service District No.3, neither replacement drain fields nor other drinking water systems will be allowed within Service District No. 3. 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. 3 not signing an appropriate water or sewer service agreement will still be assessed or charged for the Service District No. 3 Improvements.

Section 5. Zoning; Legal Non-Conforming Use. Once the property in Service District No. 3 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. 3 upon substantial completion of the Improvements and acceptance by the City. The District shall require that the Improvements be subject to a two-year warranty from the contractor. 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. 3 in accordance with the method of financing used to construct the Improvements. The City will provide administrative services to Service District No. 3 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 and has reimbursed the City an additional \$83,300 of this amount as part of the costs of the water and sewer improvements constructed in Service District No. 2. The remaining reimbursement shall be prorated among the Service Districts within the District based on Equivalent Dwelling Units (EDU's). The pro rata share for Service District No. 3 is determined to be \$23,495.

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 the percentage of EDU's in that phase in comparison to the total number of EDU's in the District. Reimbursement to the City for previous construction of South Interceptor sewer main, Schedule IV, Section One (1) through the District will not be required.

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 storm drain fee for Service District No. 3 is calculated to be \$8,240 based on 32.96 acres. 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. The City will not require residents of Service District No. 3 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. Nothing herein obligates the City to upgrade or improve roadways within the District.

Section 10. Life Safety Code Inspection, Expense.

10.1. 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 11. City Contributions.

11.1. 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.

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

Section 12. Permits and Connections

12.1 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.

12.2 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.

12.3 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.

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

### Section 13. City Water and Sewer Ordinances Applicable

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 11.

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. 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 16. 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 17. 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.

*By the City of Great Falls:*

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Greg Doyon, City Manager

*By the District:*

  
\_\_\_\_\_  
John Stephenson-Love, President

Attest: \_\_\_\_\_

Attest:   
