



Item: Memorandum of Understanding for Utility Connections and Fire Protection and Emergency Services for the Great Falls AgriTech Park, Phase 1, O. F. 1591

From: City Manager

Initiated By: Great Falls Development Authority

Presented By: Greg Doyon, City Manager

Action Requested: Consider and Approve Memorandum of Understanding

Suggested Motion:

1. Commissioner moves:

"I move the City Commission approve the Memorandum of Understanding with the Great Falls Development Authority for Utility Connections and Fire Protection and Emergency Services for the Great Falls AgriTech Park, Phase 1, O. F. 1591, and authorize the City Manager to execute the documents."

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

Staff Recommendation: Approve the Memorandum of Understanding.

Background:

Significant Impacts

This Memorandum of Understanding (MOU) was requested by the Great Falls Development Authority (GFDA) in order to expedite the development of the proposed industrial park with railroad access in the northeastern part of Great Falls, adjacent to 18th Avenue North and the proposed ethanol plant. The MOU sets forth the terms of obtaining water and sewer service as well as fire protection and emergency services prior to annexation to the City. It has been requested by the GFDA that annexation be delayed until near the end of development of individual lots in order to assist in obtaining funding for the infrastructure.

Workload Impacts

City staff members from Public Works / Engineering, Fire Rescue, and Planning and Community Development Departments generated this MOU. These departments will also be involved in implementation of the MOU's various terms and conditions.

Purpose

This MOU provides a framework for the development of the Great Falls AgriTech Park, Phase 1. The conditions for extending water and sewer utilities, as well as providing fire protection and emergency services, are elaborated. A significant amount of infrastructure, especially in the way of railroad track extension, will be required in order to bring this project on line. Some of the sources of funding may require that the land being developed not be annexed in order to be eligible for funding. Thus, annexation could be delayed under this agreement until well after the infrastructure (in particular, water and sewer main extensions) are completed. The agreement allows for the provision of water, sewer, and fire protection until the City annexes the property.

This MOU is modeled after other agreements used to extend utilities for the three phases of the Upper and Lower River Road Water and Sanitation District, as well as the Castle Pines subdivisions. The fire protection and emergency services sections of the MOU are similar to other agreements that the City has for unincorporated portions of Cascade County that receive City fire protection.

Concurrences:

The Great Falls Development Authority has reviewed the Memorandum of Understanding.

Fiscal Impact:

Great Falls Fire Rescue would receive revenue for providing fire protection and emergency services under this agreement. Since the lots of this subdivision will be annexed individually over a period of time, rather than all at once, annexation related fees would be higher, but stretched out over a longer period of time.

Alternatives:

The City Commission may choose not to enter into this Memorandum of Understanding, in which case the subdivision would have to be developed and annexed in a manner similar to other industrial developments.

Attachments/Exhibits:

1. Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

UTILITY CONNECTION CONDITIONS

And

FIRE PROTECTION AND EMERGENCY SERVICES CONDITIONS

Between

CITY OF GREAT FALLS, MONTANA

And

GREAT FALLS DEVELOPMENT AUTHORITY

This agreement is made and entered into this _____ day of _____, 2010, by and among the City of Great Falls, Montana, a municipal corporation organized under the laws of the State of Montana, hereinafter referred to as the "City", and the Great Falls Development Authority, a Montana nonprofit corporation organized under the laws of the State of Montana, hereinafter referred to as the "GFDA" (collectively, the "Parties").

WHEREAS, GFDA is formulating plans to develop an industrial park on a currently unincorporated site with the initial segment to be identified as Great Falls AgriTech Park Phase 1 (the "Subdivision"); and

WHEREAS, the City currently owns and operates a municipal water system and a municipal sewer system (the "City Utilities"), and maintains and operates a professional fire rescue department (the "GFFR"); and

WHEREAS, neither public water nor public sewer service is available to the Subdivision; and

WHEREAS, the Parties have a mutual interest in providing utility and fire protection services to the Subdivision and improving the tax base of the community; and

WHEREAS, it is GFDA's position that the most feasible and cost effective manner to provide water and sewer service to serve the Subdivision is for the GFDA to arrange financing and install water and sewer lines and related necessary improvements to connect to the City's water and sewer systems (the Water Improvements and 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, in an effort to encourage the construction of the Project, the City is willing to modify its annexation requirements; and

WHEREAS, GFDA is required under ordinance 2972 OCCGF 13.2.070 to utilize the City's Fire Rescue Department (GFFR) for fire protection services; and

WHEREAS, GFDA agrees to pay the City for fire protection services in the amount based on taxable valuation as determined by the Department of Revenue, and agrees to pay annual inflationary increases for services as determined by the City, and agrees to pay fees directly to the City once the agreement is initiated.

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 the City Utilities and fire protection in the Subdivision, and the subsequent annexation of parcels in the Subdivision to the City.

Section 2. The Project. The GFDA has determined that the most affordable and feasible method for extending water and sewer service to and within the Subdivision is to install the Project prior to annexation. This Memorandum of Understanding shall apply to Subdivision but the GFDA also intends to create subsequent phases as a part of Great Falls AgriTech Park. Thus, it is contemplated that the Memorandum of Understanding may apply to water and sewer projects and fire protection for such subsequent phases, with such changes as are necessary to fit each particular subsequent phase.

Section 3. Petition for annexation. The owner of each parcel of land in the Subdivision which is to receive utility service shall sign, as a condition to receiving City utility service, a petition requesting annexation and waiving the right of protest of annexation. The annexation petition and waiver must be received by the City prior to the start of on-site construction for the parcel requesting utility service.

Section 4. City Water and Sewer Contracts. Once water and sewer service is available in the Subdivision, no service lines will be connected to the City Utilities until the City has received executed water and sewer service agreements from the owner of the parcel to be served and all applicable utility service line tapping, connection and inspection fees have been paid. The executed water and sewer service agreements must be received and approved by the City prior to the start of on-site construction for the parcel requesting utility service.

Section 5. Ownership, Operation and Maintenance. Prior to construction of the Project, plans and specifications for the Project shall be provided for review by the City and the Montana Department of Environmental Quality ("DEQ"). No construction shall take place prior the approval of the plans and specifications by the City and DEQ. The Project shall be installed in compliance with the City's Inspection Policy for Privately Installed Public Infrastructure. The City will assume ownership of the Project improvements upon substantial completion of the Project and acceptance by the City. The City will be responsible for the operation and maintenance of the Project. The standard two year warranty on new construction shall apply.

Section 6. Storm Drain Requirements. GFDA shall prepare and submit to the City, within 30 days of plat approval, a storm drainage master plan for the Subdivision. Storm drainage improvements shall be installed in conjunction with the development of each parcel in conformance with City regulations. Upon annexation to the City, the portion(s) of the Subdivision being annexed shall pay the standard storm drain fee (\$250 per acre). Each parcel will be assessed monthly storm drain fees under the City Storm Drain Ordinance.

Section 7. Permits and Connections. The GFDA or the owner of each parcel of land in the Subdivision shall obtain a water service permit and a sewer permit from the City as specified by current City ordinance for each parcel to be served. These permits shall include the cost of the corporation, curb stop, curb box and meter. A licensed plumbing contractor shall be required for all water service line installations. GFDA or the owner shall employ a licensed plumbing contractor to obtain necessary permits from the City to extend the service from the main to the building. The City retains the right of inspection and approval of the water service lines. Each sanitary sewer connection shall obtain a City sewer permit for extension of the service line from the main to the building. The City shall inspect the sewer service line from the main to the building.

Section 8. The City agrees to provide fire protection and emergency services during the development of the Subdivision, pursuant to and in accordance with the terms of this agreement. GFFR shall provide the same type and quality of fire

protection and emergency services to the Subdivision as it does to other industrial customers it serves. Such services shall include, but not be limited to the following:

- A. Fire suppression: The GFFR agrees to combat structural fires, to suppress combustible, flammable, liquid and gas fires, and to address hazardous material fires and wild land / urban interface fires.
- B. Emergency medical services: The GFFR agrees to provide emergency medical response at the advanced life support level and to perform specialized extrication and disentanglement of injured persons.
- C. Hazardous materials: The GFFR is home to one of the six regional hazardous materials teams within Montana. GFFR agrees to use its substantial resources and expertise on any hazardous releases. Hazardous material incidents requiring technical mitigation are subject to additional fees set forth in separate GFFR fee schedules. Confined space rescue services for OSHA permitted entries can also be arranged for an additional fee.
- D. Fire prevention activities: The GFFR agrees to provide a proactive safety inspection program and to conduct safety training on site when requested by the GFDA or occupant.

Section 9. GFDA agrees to consult with, and obtain the approval of the GFFR, on the design of the development, for purposes of fire protection and emergency response. The parties agree that this includes compliance with applicable provisions of the National Fire Code, as directed by the GFFR.

Section 10. GFDA shall provide the GFFR with at least 30 days prior notice of the need for fire protection and emergency services in connection with the Subdivision.

Section 11. GFDA is not liable for any other GFFR expenses, other than those set forth herein, for the services provided under this agreement. Nothing herein shall be construed so as to create any personal liability on the part of any officer, director, employee or agent, or any public body which may be a party hereto, nor shall the agreement be construed as giving any rights or benefits hereunder to anyone other than the City and the GFDA.

Section 12. The GFFR shall be solely responsible for the quality of the fire protection and emergency services provided by it pursuant to this agreement.

Section 13. Fire protection and emergency services under this agreement shall terminate upon written notice from GFDA that the facility will not be built or at such time as annexation occurs.

Section 14. Notice: Any notice to the City required in this agreement shall be accomplished in writing by first-class mail and fax to the following individuals:

City Manager	Public Works Director	Fire Chief
City of Great Falls	City of Great Falls	City of Great Falls
P. O. Box 5021	P. O. Box 5021	P. O. Box 5021
Great Falls, MT 59403	Great Falls, MT 59403	Great Falls, MT 59403
Fax: 406-727-0005	Fax: 406-454-3439	Fax: 406-454-2454

Section 15. Term of Agreement: The initial term of this Agreement shall extend for a period ending July 20, 2013. At that time, renewal terms may be negotiated to the satisfaction of the Parties.

For the City of Great Falls:

(SEAL & ATTEST)

Gregory T. Doyon, City Manager

By _____
Lisa Kunz, City Clerk

APPROVED FOR LEGAL CONTENT:

James W. Santoro, City Attorney

For the Great Falls Development Authority:

Brett Doney, President