

RESOLUTIONS OF THE CITY OF HELENA, MONTANA

RESOLUTION NO. 19793

A RESOLUTION OF INTENTION TO CREATE A SPECIAL DISTRICT FOR LANDFILL MONITORING AND MAINTENANCE

WHEREAS, under the provisions of Title 7, chapter 11, part 10, MCA, the City may create special districts for any public or governmental purpose not specifically prohibited by law; and

WHEREAS, a city-wide special landfill monitoring and maintenance district is needed to control, attend to, maintain, monitor, protect, and care for the former city landfill that was closed officially on January 27, 2000, and is located north of West Lyndale Avenue, east of North Last Chance Gulch and Carroll College, and south of the Montana Rail Link railroad main line; and

WHEREAS, pursuant to §7-11-1007, MCA, the City Commission conducted a public hearing on November 15, 2010, concerning the creation of a proposed special district known as the Landfill Monitoring and Maintenance District; and

WHEREAS, the City Commission having considered the information provided at the public hearing held on November 15, 2010, approves the passage of this Resolution of Intention to Create a Special District.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE
CITY OF HELENA, MONTANA:**

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Section 1. INTENTION TO CREATE A SPECIAL DISTRICT: The City Commission intends to create a special district as described herein.

Section 2. NAME OF THE DISTRICT: The proposed name of the special district to be created is the Landfill Monitoring and Maintenance District.

Section 3. NECESSITY FOR THE DISTRICT: A special district is needed for the following maintenance and monitoring functions to be performed on and for the closed city landfill for protection of groundwater from contamination from pollutants, including methane, preserving and maintaining the cap on the landfill that prevents contaminants from entering into the air and neighboring soils, and generally complying with state and federal requirements for containment, monitoring, and control of closed city landfills.

Section 4. GENERAL DESCRIPTION OF TERRITORY: The special district includes all blocks, lots, parcels, and tracts contained within the corporate limits of the City of Helena as of November 15, 2010, except for city-owned open space property located in Township 9 North, Range 4 West, P.M.M.

Section 5. GENERAL CHARACTER OF IMPROVEMENTS: The general character of the maintenance is to control and monitor the closed city landfill by:

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A. Environmental monitoring and reporting to appropriate state and federal agencies for the presence of methane and contaminants in groundwater, air, and soil;

B. Operating and maintaining the methane gas extraction system;

C. Operating and maintaining the gas interception trench;

D. Operating and maintaining the groundwater extraction system; and

E. Generally caring for the landfill site, including but not limited to, inspection, maintenance, and protection of the landfill cap and drainage.

Section 6. ESTIMATE OF COSTS AND METHOD OF FINANCING: The initial estimated total cost for fiscal year 2012 (July 1, 2011 to June 30, 2012) is \$111,811. The initial estimated total assessment needed for fiscal year 2012 is \$111,811. The total costs may vary from year to year and may increase. The initial annual assessment for fiscal year 2012 is:

A. For each residential lot, parcel, or condominium unit, and vacant lot:

\$6.00 per lot, parcel, or unit.

B. For each commercial lot or parcel:

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- i. \$15.00 per lot or parcel having an impervious area of less than 10,000 square feet;
- ii. \$35.00 per lot or parcel having an impervious area of 10,000 square feet or more, but less than 50,000 square feet;
- iii. \$60.00 per lot or parcel having an impervious area of 50,000 square feet or more, but less than 100,000 square feet;
- iv. \$90.00 per lot or parcel having an impervious area of 100,000 square feet or more, but less than 250,000 square feet; and
- v. \$125.00 per lot or parcel having an impervious area of 250,000 square feet or more.

The assessment for each subsequent year will be set by the Commission after public notice and hearing based upon the proposed fiscal year budget to finance the Landfill Monitoring and Maintenance District program.

Section 7. SPECIAL REQUIREMENTS APPLICABLE TO THE DISTRICT: A residential lot or parcel is one that does not have more than four (4) residential units in one structure upon the lot or parcel. Vacant lots or parcels not used for commercial storage of business inventory and equipment are considered

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residential lots. Each individual residential condominium unit is considered a residential lot. Except for residential condominium units, a lot or parcel with more than four (4) residential units thereon is considered a commercial lot. The Commission finds that for residential properties the benefits derived from the landfill monitoring and maintenance district are substantially equivalent and the cost of the program is to be assessed equally to each residential lot, parcel, or condominium unit located within the special district. The Commission finds that for commercial properties the benefits derived from the landfill monitoring and maintenance district are best measured by the amount of the lot or parcel that contains impervious area developed for commercial use. Impervious area is the developed part of a lot or parcel that is impermeable to storm water infiltration, excluding rights-of-way and publicly owned streets, runways, and taxiways; privately-owned streets within licensed mobile home parks; and City-owned storm water facilities, water storage reservoirs, and public utility sites.

Section 8. ADMINISTRATION OF THE DISTRICT: The special district will be administered by the City Commission through the City Manager in accordance with the Helena City Charter and City Code.

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Section 9. PUBLIC HEARING: A public hearing will be held by the Commission at **6:00 P.M. on the 20th day of December, 2010**, in the City Commission Chambers, 316 North Park Avenue, in Helena, Montana, for the purposes of deciding the desirability of creating the proposed Special District, known as the Landfill Monitoring and Maintenance District, and for hearing and passing on any written protests against the proposed landfill monitoring and maintenance program or its assessments that have been filed with the Clerk of the Commission in the manner prescribed by law.

Section 10. NOTICE OF PASSAGE OF RESOLUTION OF INTENTION: The Clerk of the Commission is authorized and directed to cause notice of the passage of this resolution of intention by publishing twice, as provided in §7-1-4127, MCA, with at least six (6) days separation of each publication in a newspaper of general paid circulation.

Section 11. LIST OF PROPERTIES SUBJECT TO ASSESSMENT: A list of those properties subject to the potential initial assessment is provided through the City's Department of Administrative Services, 316 North Park Avenue, Helena, Montana, who maintains the list, and is available upon for inspection and copying during normal business hours. The list of properties

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subject to subsequent annual assessments will also be maintained in the same manner. These lists may not be distributed or sold for use as mailing lists in accordance with §2-6-109, MCA.

Section 12. Notification of Property Owners: The Clerk of the Commission is further authorized and directed to mail a copy of notice of the passage of this resolution of intention to the owners of property included on the list of properties for the initial assessment as referenced in Section 10 above. The mail notice must comply with the requirements of §7-1-4129, MCA.

Section 13. Protests: Any owner of property liable to be assessed for the work may, within thirty (30) days from the date of the first publication of the notice, make written protest against the proposed closed landfill monitoring and maintenance program, as provided in §7-11-1008, MCA. Protests must be in writing, identify the property in the district owned by the protestor, be signed by all owners of the property, and delivered to the Clerk of the Commission for the City of Helena, 316 North Park Avenue, Room 323, Helena, Montana 59623, not later than 5:00 p.m. on the 20th day of December, 2010. The Clerk shall endorse the date of receipt on each protest.

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PASSED AND EFFECTIVE BY THE COMMISSION OF THE CITY OF
HELENA, THIS 15th DAY OF NOVEMBER, 2010.

MAYOR

ATTEST:

CLERK OF THE COMMISSION