

## **INTERLOCAL AGREEMENT**

**City of Missoula**

**County of Missoula**

**Missoula Valley Water Quality District**

**Montana Department of Transportation**

**The University of Montana**

## **MPDES SMALL MS4 STORM WATER DISCHARGE CO-PERMIT**

**WHEREAS**, the United States Environmental Protection Agency (US EPA) has adopted regulations addressing the Storm Water Discharges portion of the National Pollutant Discharge Elimination System (NPDES), as defined in the Clean Water Act (33 U.S.C. §§ 1231-1387), and is proceeding with Phase II for small Municipal Separate Storm Sewer Systems (MS4s);

**WHEREAS**, the Montana Department of Environmental Quality (MDEQ) is required by the US EPA to implement and enforce the Storm Water Discharge regulations for the State of Montana and references its program as the Montana Pollutant Discharge Elimination System (MPDES);

**WHEREAS**, on April 1, 2002, the MDEQ notified the City of Missoula (City) that the City, Missoula County (County), Montana Department of Transportation (MDT) and the University of Montana are charged with the responsibility to apply for a storm water discharge permit, either together or separately, by March 10, 2003, and to develop a plan or plans over the 5-year term of the permit for implementing and enforcing a Storm Water Management Program for the Missoula urban area as defined by the MDEQ;

**WHEREAS**, the MDEQ new rules (Title 17, Chapter 30, new Subchapter 11, revised Subchapter 13; effective February 14, 2003) regarding storm water discharge permits authorize multiple agencies to apply for a co-permit outlining the responsibilities of each agency in regard to the permit requirements;

**WHEREAS**, the Missoula Valley Water Quality District (MVWQD) has offered to advise and assist the affected agencies with the development of a permit application, development of a storm water management plan, and implementation of a storm water management program;

**WHEREAS**, the City, County, MDT, MVWQD and the University of Montana have reviewed the extensive requirements of the MPDES Phase II storm water discharge permit and find that combining efforts and resources is the most economical approach for the Missoula Valley and have agreed to form a partnership to share in the application and fees for the required permit, work together to develop the plan for storm water management in Missoula, and begin implementation of Missoula's Storm Water Management Program; and

**WHEREAS**, on January 8, 2003, the MDT formally agreed to participate in the development and submission of an MPDES Phase II storm water discharge permit application

(Co-permit) with the City and other parties to this Agreement to meet the March 10, 2003 deadline for submittal and authorizing the City to coordinate the permit application.

**NOW THEREFORE, BE IT RESOLVED** by the City, through the City Council of the City of Missoula, the County through the Missoula Board of County Commissioners, the MDT, through the MDT Missoula District Administration, the MVWQD through the Director of the City-County Health Department and the University of Montana (Participating Agencies), each a public agency of the State of Montana, that:

Pursuant to MCA 7-11-104, the Participating Agencies agree to adopt this Interlocal Agreement as follows:

### **Section 1: Recitals**

The City is a municipality of the State of Montana organized pursuant to Title 7, Chapter 3, Parts 1 and 2, and Title 7, Chapters 1, 4 and 5, Parts 41 and 42 of the Montana Code Annotated.

The County is a political subdivision of the State of Montana organized pursuant to Title 7 of the Montana Code Annotated.

The MDT is an organization of the State of Montana organized pursuant to Title 2, Chapter 15, Part 25 of the Montana Code Annotated.

The MVWQD is a district organized pursuant to Title 7, Chapter 13, Part 45 and Title 75, Chapter 5, Part 311. The District was incorporated on January 13, 1993, and is located within the boundaries of Missoula County, a political subdivision of the State of Montana.

The University of Montana is an educational facility in the State of Montana organized pursuant to Title 20, Chapter 25, Part 2 of the Montana Code Annotated.

The urban area covered by this Interlocal Agreement is defined, but not limited by, the Natural Resource Information System June 18, 2002 map utilizing the 2000 Census Tiger Files, incorporated boundaries, and roads as shown on Exhibit A attached.

### **Section 2: Purpose**

It is the purpose of this Agreement to delineate the responsibilities of the Participating Agencies for development and submission of the MPDES Phase II permit for the Missoula urban area. This Agreement shall also set forth responsibilities for ownership and maintenance of existing storm water infrastructure, existing storm water minimum measures, existing Best Management Practices (BMPs), and the development, implementation, enforcement and financing of a Missoula Storm Water Management Program to be planned and formalized over the 5-year term of the MPDES Phase II storm water discharge permit as approved and conditioned by the MDEQ.

### **Section 3: Administration**

- 3.01. No separate legal entity is established by this Interlocal Agreement.
- 3.02. The Participating Agencies agree to work cooperatively to submit the MPDES Phase II permit application and required fees to the MDEQ by the March 10, 2003 deadline.
- 3.03. The Participating Agencies agree to share the responsibilities for fulfilling the MPDES Phase II permit requirements in accordance with the approval and conditions of the MDEQ including annual data collection, analyses and reporting requirements.

### **Section 4: Permit Coordination, Writing, Fees and Submittal**

- 4.01 City of Missoula. The City agrees to provide existing staff and existing funds to coordinate writing the Co-permit application for all the Participating Agencies in accordance with MDEQ requirements and to submit the completed Co-permit application to MDEQ by the mandated March 10, 2003 deadline.

The City is providing, and agrees to continue providing, existing staff and funds to assist with the identification and development of all aspects of the Co-permit application related to the City's jurisdiction, including current minimum measures, existing best management practices, steps to develop a plan for storm water management suitable to the Missoula Valley, and preparation to implement the resulting storm water management program.

Each Participating Agency will collect its own data for annual measurements and results. The City will compile each Participating Agency's, including its own, annual measurements and results for submittal to the MDEQ in the required annual report according to the provisions governing MPDES storm water permits. A central location for all Co-permit records will be maintained by the City on behalf of all Participating Agencies.

- 4.02 Missoula County. The County agrees to provide existing staff and existing funds to assist with the development of the Co-permit application as described for those areas related to the County's jurisdiction including identification of any outfalls discharging into any water bodies in the State-delineated Missoula urban area boundary, current minimum measures practiced by the County, and the existing best management practices that meet the MPDES Phase II requirements for storm water pollution protection.

The County agrees to implement its portion of the responsibilities outlined in the Co-permit application, collect data and measurements, and submit the same to the City for compilation in the required annual report as outlined in the provisions governing storm water permits.

4.03 Missoula Valley Water Quality District. Although not an operator of a small MS4, the MVWQD agrees to provide existing staff to assist with the writing and submittal of the Co-permit application and development of those portions of the Co-permit relative to the MVWQD's jurisdiction including current minimum measures in practice and the existing best management practices that meet the MPDES Phase II requirements for storm water pollution protection.

The MVWQD is providing, and agrees to continue providing, existing staff to assist the Participating Agencies with development of a storm water management plan and assistance and advice for implementing the resulting storm water management program for the Missoula Valley to assure a strong storm water protection program suited to the Valley's specific needs.

The MVWQD, although not an operator of a small MS4, agrees to assist the Participating Agencies with advice regarding data capture and analyses, may perform some of its own analyses and, if it undertakes such activity, agrees to provide the results to the City for inclusion in the annual report to the MDEQ during the term of the Co-permit.

4.04 Montana Department of Transportation. The MDT agrees to provide existing staff and existing funds to assist with the development of portions of the Co-permit application related to its jurisdictional area in the Missoula Valley including identification of any outfalls discharging into any water bodies in the State delineated Missoula urban area boundary, current minimum measures practiced by MDT, and the existing best management practices that meet the MPDES Phase II requirements for storm water pollution protection.

The MDT agrees to implement its portion of the responsibilities outlined in the Co-permit application, collect data and measurements, and submit the same to the City for compilation in the required annual report as outlined in the provisions governing storm water permits.

The MDT agrees to assist the City and County with funding the management, operation and maintenance of storm water capital improvement projects associated with MDT roadways and highways within the city and county jurisdictions as projects are identified. The amount of MDT capital contribution to these projects will be negotiated as each project is developed from planning to design and construction.

4.05 The University of Montana. The University of Montana agrees to provide existing staff and existing funds to assist with the development of the portions of the Co-permit application related to its jurisdiction including identification of any outfalls discharging into any water bodies, current minimum measures, and the existing best management practices that meet the MPDES Phase II requirements for storm water pollution protection.

The University of Montana will implement its portion of the responsibilities outlined in the Co-permit application, collect data and measurements, and submit the same to the City for compilation in the required annual report as outlined in the provisions governing storm water permits.

- 4.06 Application and Annual Permit Fees. The state defined Missoula urban area contains five (5) named perennial water bodies that receive discharge from storm water runoff in the area. These named water bodies are:

4.06.a Clark Fork River

4.06.b Bitterroot River

4.06.c Rattlesnake Creek

4.06.d Grant Creek

4.06.d Pattee Creek

The MDEQ application fee during this permit cycle is \$1,500 per qualifying water body to a maximum of five (5) water bodies. Missoula's total application fee this permit cycle is \$7,500. Additionally, the annual permit fee per water body up to a maximum of five (5) water bodies is \$650. Missoula's total annual permit fee is \$3,250. Over the 5-year term of the Co-permit the annual permit fees will total \$16,250. The combined total of all application and annual permit fees this permit cycle will be \$23,750.

	<b>Permit Application Fee</b>	<b>Total</b>	<b>Annual Permit Fee</b>	<b>Total</b>
<b>Year 1</b>	\$1,500 x 5-named water bodies	\$7,500	\$650 x 5-named water bodies	\$3,250
<b>Year 2</b>	\$0.00	\$0	\$650 x 5-named water bodies	\$3,250
<b>Year 3</b>	\$0.00	\$0	\$650 x 5-named water bodies	\$3,250
<b>Year 4</b>	\$0.00	\$0	\$650 x 5-named water bodies	\$3,250
<b>Year 5</b>	\$0.00	\$0	\$650 x 5-named water bodies	\$3,250
<b>New Cycle</b>	Fee to be announced	\$0	Fee to be announced	\$0
	<b>TOTAL APPLICATION FEE</b>	<b>\$7,500</b>	<b>TOTAL PERMIT FEE</b>	<b>\$16,250</b>

- 4.07 Fee Sharing. The Participating Agencies agree to share the cost of these application and permit fees as follows:

4.07.a The MDT agrees to pay Missoula's application fee of \$7,500 and the first year's annual permit fee of \$3,250 for a total of \$10,750.

4.07.b The County agrees to pay 49% of Missoula's remaining annual permit fees in the amount of \$6,370 during the term of the permit.

4.07.c The City agrees to pay 51% of Missoula's remaining annual permit fees in the amount of \$6,630 during the term of the permit.

- 4.08 Authorization of Signatories. The respective Participating Agencies hereby authorize the following persons to act as agency signatories and representatives for the purposes of executing this Agreement, the MPDES permit application documents, the MOU with the MDT, and proceeding with the requirements necessary to comply with permit restrictions identified by the MPDES:

Agency	Signatory	Title
City	Mike Kadas,	Mayor
County	Bill Carey, Jean Curtiss, Barbara Evans,	County Commissioner County Commissioner County Commissioner
MDT	Joel Marshik,	Administrator, Highways and Engineering Division
MVWQD	Ellen Leahy,	City-County Health Department Director
University of Montana	Robert Duringer	Vice-President, Administration & Finance

## **Section 5: Ownership, Operation, and Control of Storm Water Infrastructure**

- 5.01. Existing Infrastructure. Each Participating Agency agrees to retain the ownership, operation responsibility, maintenance and liability for its existing infrastructure in accordance with the approved Co-permit as conditioned by the MDEQ and existing contractual agreements for the maintenance of the infrastructure.
- 5.02. Future Infrastructure. Each Participating Agency agrees to retain responsibility for the design, construction, ownership, operation, maintenance and liability for any future storm water management infrastructure built by the responsible Participating Agency. Each Participating Agency will develop any new infrastructure in accordance with the MDEQ approved Co-permit requirements and conditions.

## **Section 6: Termination, Duration, and Changes**

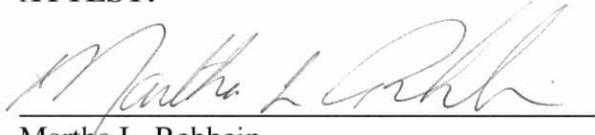
- 6.01. This Agreement shall become effective upon approval by the Council of the City of Missoula, Missoula County Board of Commissioners, Montana Department of Transportation Missoula District Administration, Missoula City-County Health Department, and the University of Montana. This Agreement shall remain in full force and effect for the five-year term of the Co-permit unless terminated according to the provisions of this Section.
- 6.02. This Agreement may be terminated by the Participating Agencies prior to submitting the NPDES Phase II permit to the MDEQ by mutual written consent of the parties hereto.
- 6.03. This Agreement may be changed with additions and/or deletions in regard to responsibilities related to the approved NPDES Phase II permit as approved and conditioned by the MDEQ upon mutual written consent of the parties hereto.

**IN WITNESS WHEREOF,** the Participating Agencies have caused this instrument to be duly executed by their proper officers as follows:

## CITY OF MISSOULA

APPROVED by the COUNCIL of the CITY of MISSOULA on the 3 day of  
March 2003, authorizing the Mayor to execute the Interlocal Agreement and proceed  
with a Co-permit application process as described herein.

ATTEST:



Martha L. Rehbein  
City Clerk

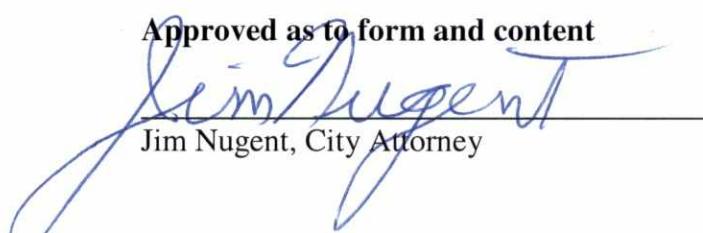
BY:



Mike Kadas  
Mayor

(SEAL)

Approved as to form and content

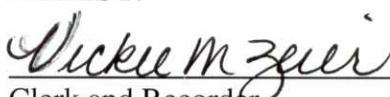
  
Jim Nugent

Jim Nugent, City Attorney

## MISSOULA COUNTY

APPROVED by the BOARD of COUNTY COMMISSIONERS on the 4/03 day of  
March 2003 authorizing the Interlocal Agreement and Co-permit application process as  
described herein.

ATTEST:



Vickie M. Zeevi  
Clerk and Recorder

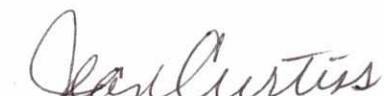
Approved as to form and content:



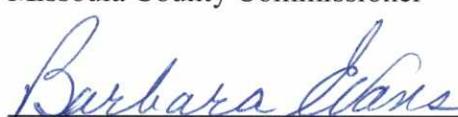
Mike Sehestedt, Deputy County Attorney



Bill Carey, Chair  
Missoula County Commissioner



Jean Curtiss  
Missoula County Commissioner



Barbara Evans  
Missoula County Commissioners

## MONTANA DEPARTMENT OF TRANSPORTATION

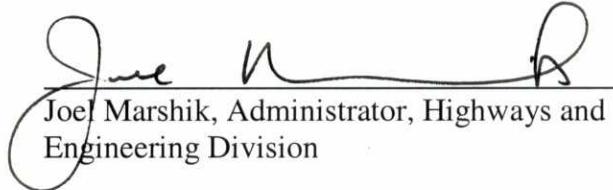
**APPROVED** by the **MONTANA DEPARTMENT of TRANSPORTATION** on the 18<sup>th</sup> day of April, 2003 authorizing the Interlocal Agreement and Co-permit application process as described herein.

**Approved as to form and content:**



Robert M. Gentry, MDT Legal Services Unit

**BY:**

  
Joel Marshik, Administrator, Highways and Engineering Division

## MISSOULA VALLEY WATER QUALITY DISTRICT

**APPROVED** by the **DIRECTOR of the CITY-COUNTY HEALTH DEPARTMENT** on the 1<sup>st</sup> day of March, 2003 authorizing the Interlocal Agreement and Co-permit application process as described herein.

**Approved as to form and content:**



Mike Sehestedt, Deputy County Attorney

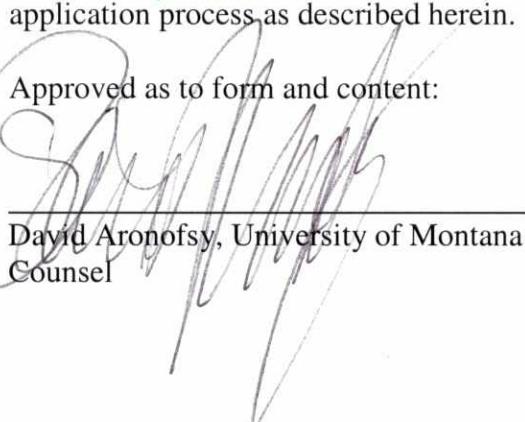
**BY:**

  
Ellen Leahy, Director

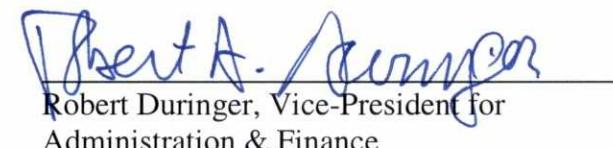
## THE UNIVERSITY OF MONTANA

**APPROVED** by the **VICE-PRESIDENT for ADMINISTRATION and FINANCE** on the 4 day of MARCH, 2003 authorizing the Interlocal Agreement and Co-permit application process as described herein.

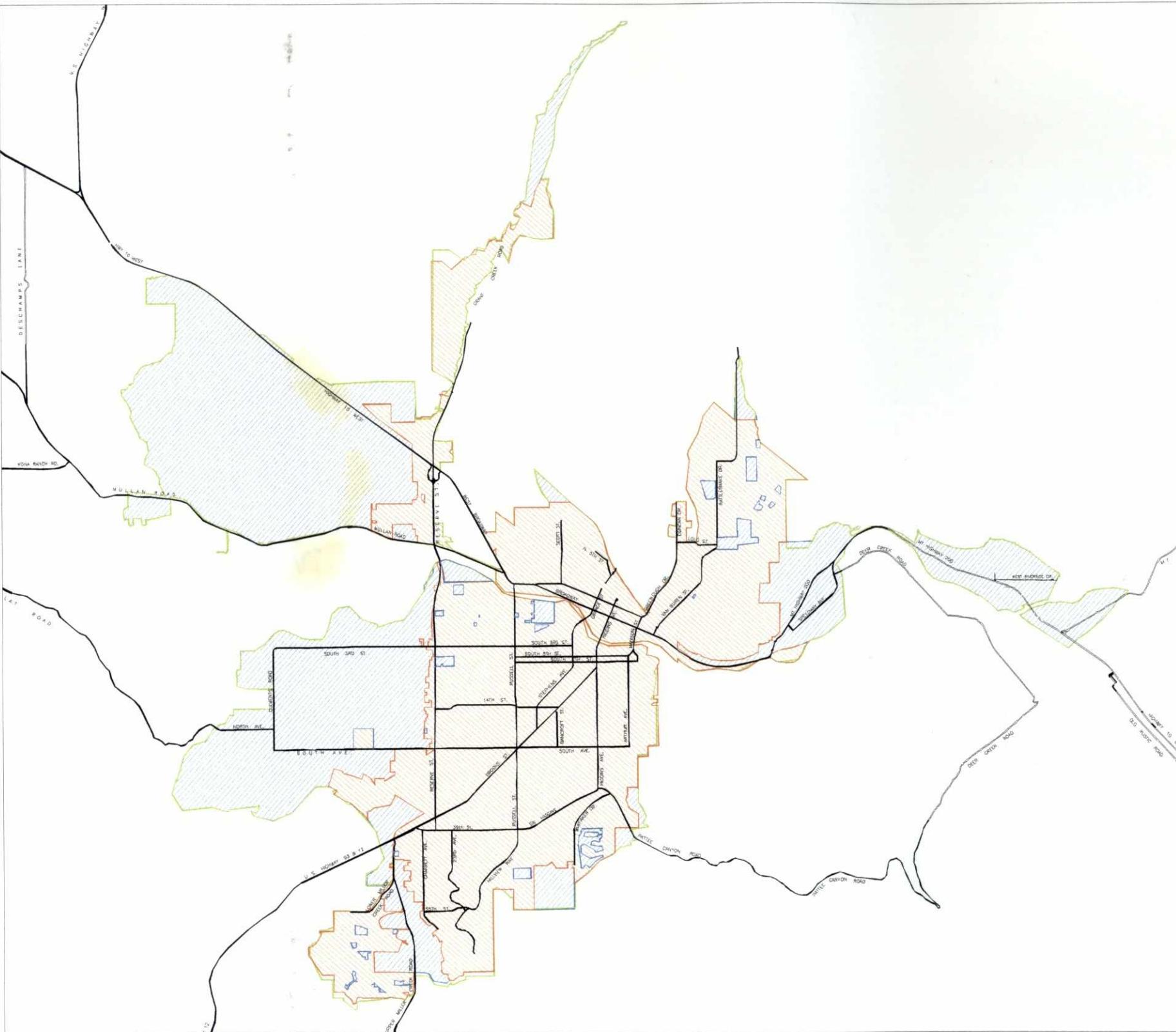
**Approved as to form and content:**

  
David Aronofsky, University of Montana  
Counsel

**BY:**

  
Robert Duringer, Vice-President for  
Administration & Finance

# Exhibit A



## STORM WATER PHASE II PROGRAM

Urbanized Area from  
UA 2000 Census Tiger Files  
23,200 Adjusted - 23,261 Acres Gross

County Portion of Urbanized Area  
11,358 Acres (49%)

City Portion of Urbanized Area  
11,841 Acres (51%)



February, 2003



Prepared by: CITY OF MISSOULA ENGINEERING DIVISION - GIS/MAPPING SECTION