

BOZEMAN^{MT}

THE CITY COMMISSION OF BOZEMAN, MONTANA

REGULAR MEETING AGENDA

Tuesday, April 6, 2021

This meeting will be held using Webex, an online videoconferencing system. You can join this meeting:

Via Webex:

<https://cityofbozeman.webex.com/cityofbozeman/onstage/g.php?MTID=e35e51c6306ef489d7d3ab8142fe7cea2>

Click the Register link, enter the required information, and click submit.

Click Join Now to enter the meeting.

Via Phone: This is for listening only if you cannot watch the stream or channel 190

United States Toll

+1-650-479-3208

Access code: 182 080 0724

If you are interested in commenting in writing on items on the agenda please send an email to agenda@bozeman.net prior to 12:00pm on the day of the meeting. You may also comment by visiting the [Commission's comment page](#).

You can also comment by joining the Webex meeting. If you do join the Webex meeting, we ask you please be patient in helping us work through this online meeting.

If you are not able to join the Webex meeting and would like to provide oral comment you may send a request to agenda@bozeman.net with your phone number, the item(s) you wish to comment on, and the City Clerk will call you during the meeting to provide comment.

You may also send the above information via text to 406-224-3967. As always, the meeting will be streamed through the [Commission's video page](#) and available in the City on cable channel 190.

A. Call to Order - 6:00 PM - Webex Video Conference

B. Pledge of Allegiance and a Moment of Silence

C. Changes to the Agenda

D. FYI

E. Commission Disclosures

F. Consent

F.1 [Accounts Payable Claims Review and Approval \(Yeykal\)](#)

F.2 [Authorize the City Manager to Sign a Sewer and Water Pipeline and Access Easement and Agreement with Four Points Village II, LLC for the Four Points Subdivision Ph II Project](#)

(15526)(Johnson)

- F.3 Authorize the City Manager to Sign a Public Access Easement, a Public Street and Utility Easement, a Drainage Easement, and a Trail Corridor Easement with Store Master Funding VI, LLC for the Gibson Guitar Site Plan Project (20302)(Flammond)
- F.4 Authorize the City Manager to Sign a Purchase Agreement with Floyd's Truck Center for (1) One Truck with Forestry Chip Body and Dump Hoist(Overton)
- F.5 Authorize City Manager to Sign a Uniform Application Form for Montana Public Facility Projects for a Loan from the State Revolving Fund (SRF) Program for the Sourdough Transmission Main Phase 2 Project(Murray)
- F.6 Authorize City Manager to Sign a Professional Services Agreement with Morrison Maierle for the West Babcock Street (11th to 19th) Reconstruction Project(Murray)
- F.7 Authorize the City Manager to Sign a Professional Services Agreement with G3LA, LLC dba G3, Green Gardens Group for a Bozeman Watershed Wise Landscape Webinar Series(Ahlstrom)
- F.8 Authorize the City Manager to Sign a Professional Services Agreement with Advantage Spraying Services, Inc. for Landscape Maintenance Services in the Parks and Trails District(Kline)
- F.9 Authorize the City Manager to Sign a Professional Services Agreement with Respec for Municipal Test Well Design, Aquifer Testing, and Preparation of Groundwater Application for Beneficial Water Use Permit(Heaston)
- F.10 Authorize City Manager to Sign a Third Amendment to the Agreement for Services with Montana State University for Wastewater Testing Services(Rosenberry)
- F.11 Resolution 5262, Authorizing the Exploration, Development, and Build-out of a Municipal Groundwater Facility on City Property Located at the Bozeman Sports Park(Heaston)
- F.12 Ordinance 2061, Provisional Adoption to Revise Definitions and References to Clarify a Consistent Meaning and Application of Front Setbacks in all Zoning Districts. No Changes to Dimensional Standards are Included with this Amendment. Revise Affected Sections to Implement the Revisions. Application 20147(Saunders)
- F.13 Ordinance 2068, Final Adoption to Amend 19 Acres from B-2 Community Business District to B-2M Community Business District - Mixed, Located Approximately 650 feet West of the Intersection of Huffine Lane and Cottonwood Road, Baxter Creek 2021 Zone Map Amendment, Application 20387(Saunders)

G. Public Comment

This is the time to comment on any matter falling within the scope of the Bozeman City Commission. There will also be time in conjunction with each agenda item for public comment relating to that item but you may only speak once. Please note, the City Commission cannot take action on any item which does not appear on the agenda. All persons addressing the City Commission shall speak in a civil and courteous manner and members of the audience shall be

respectful of others. Please state your name and address in an audible tone of voice for the record and limit your comments to three minutes.

H. Mayoral Proclamation

H.1 [Equal Pay Day](#)(Andrus)

I. Special Presentation

I.1 [Equal Pay Presentation](#)(Mihelich)

J. Action Items

J.1 [Ordinance 2073, Provisional Adoption Amending Chapter 22, BMC, Creating a Second Full Time Elected Office of Municipal Court Judge](#)(Saverud)

J.2 [Appoint New Bozeman City Commissioner](#)(Mihelich)

K. FYI / Discussion

L. Adjournment

City Commission meetings are open to all members of the public. If you have a disability that requires assistance, please contact our ADA Coordinator, Mike Gray, at 582-3232 (TDD 582-2301).

Commission meetings are televised live on cable channel 190 and streamed live at www.bozeman.net.

City Commission meetings are re-aired on cable Channel 190 Wednesday night at 4 p.m., Thursday at noon, Friday at 10 a.m. and Sunday at 2 p.m.

In order for the City Commission to receive all relevant public comment in time for this City Commission meeting, please submit via www.bozeman.net or by emailing agenda@bozeman.net no later than 12:00 PM on the day of the meeting. Public comment may be made in person at the meeting as well.

Memorandum

REPORT TO: City Commission

FROM: Marcy Yeykal, Accounting Technician
Kristin Donald, Finance Director

SUBJECT: Accounts Payable Claims Review and Approval

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Finance

RECOMMENDATION: The City Commission approves payment of the claims.

STRATEGIC PLAN: 7.5. Funding and Delivery of City Services: Use equitable and sustainable sources of funding for appropriate City services, and deliver them in a lean and efficient manner.

BACKGROUND: Section 7-6-4301 MCA states that claims should not be paid by the City until they have been first presented to the City Commission. Claims presented to the City Commission have been reviewed by the Finance Department to ensure that all proper supporting documentation has been submitted, all required departmental authorized signatures are present indicating that the goods or services have been received and that the expenditure is within budget, and that the account coding is correct.

UNRESOLVED ISSUES: Please approve checks from March 31st and April 7th, due to no meeting on March 30th.

ALTERNATIVES: As suggested by the City Commission.

FISCAL EFFECTS: The total amount of the claims to be paid is presented at the bottom of the Expenditure Approval List posted on the City's website at <http://www.bozeman.net/government/finance/purchasing> Individual claims in excess of \$100,000: to be announced in weekly e-mail from Accounts Payable Clerks Marcy Yeykal and Levi Stewart.

Report compiled on: March 25, 2021

Memorandum

REPORT TO: City Commission

FROM: Karl Johnson, Engineer I
Shawn Kohtz, PE, City Engineer
Mitch Reister, PE, Director of Public Works

SUBJECT: Authorize the City Manager to Sign a Sewer and Water Pipeline and Access Easement and Agreement with Four Points Village II, LLC for the Four Points Subdivision Ph II Project (15526)

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Agreement - Property

RECOMMENDATION: Authorize the City Manager to sign a Sewer and Water Pipeline and Access Easement and Agreement with Four Points Village II, LLC for the Four Points Subdivision Ph II Project (15526).

STRATEGIC PLAN: 4.3 Strategic Infrastructure Choices: Prioritize long-term investment and maintenance for existing and new infrastructure.

BACKGROUND: Attached is a copy (original to City Clerk) of the partially executed agreement. Engineering staff reviewed the document and found it to be acceptable.

UNRESOLVED ISSUES: None.

ALTERNATIVES: As suggested by the City Commission.

FISCAL EFFECTS: None.

Attachments:
[Sewer and Water Pipeline and Access Easement and Agreement](#)

Report compiled on: March 24, 2021

Return to:
Chris G Budeski
895 Technology Blvd
Suite 203
Bozeman MT 59718

SEWER AND WATER PIPELINE AND ACCESS EASEMENT AND AGREEMENT

Four Points Village II, LLC, the GRANTOR(S), in consideration of One Dollar and other good and valuable consideration, receipt of which is acknowledged, grant(s) to the City of Bozeman, GRANTEE, its successors and assigns, a perpetual easement to lay, construct and maintain approximately 0 If (sewer) and 46 If (water) pipelines with the usual services, valves, connections, accessories and appurtenances for the purpose of transmitting sewer and water in, through, and across a strip of land situated in Gallatin County, Montana, to be located on the following described real property:

Lot 5 of Four Points Minor Subdivision 475, Document No. 2517465, located in the Southeast One-Quarter of Section 34, Township 1 South, Range 5 East, P.M.M., City of Bozeman, Gallatin County, State of Montana

The easement is more particularly shown on the attached EXHIBIT A which by this reference is made a part hereof.

This grant includes the right of the GRANTEE, its successors, permittees, licensees, and assigns and its and their agents and employees, to enter at all times upon the above-described land by using existing roads or trails or otherwise by a route causing the least damage and inconvenience to the GRANTOR(S) in order to survey and establish the route and location of the easement and the pipeline and to:

- (1) Construct, operate, patrol, repair, substitute, remove, enlarge, replace, and maintain the pipeline, services, connections, accessories and appurtenances;
- (2) Trim, remove, destroy, or otherwise control any trees and brush inside or outside the boundaries of the easement which may, in the opinion of the GRANTEE, interfere or threaten to interfere with or be hazardous to the construction, operation and maintenance of the pipeline;
- (3) Grade the land subject to this easement and extend the cuts and fills of this grading into and on the land adjacent to that which is subject to this easement to the extent GRANTEE may find reasonably necessary; and
- (4) Support the pipeline across ravines and water courses with structures which GRANTEE deems necessary.

THE GRANTEE AGREES:

- (1) That, in connection with the construction, operating, patrolling, repairing, substituting, removing, enlarging, replacing, and maintaining of said Sewer & Water pipeline, it will repair or replace, at its sole expense, or pay to GRANTOR(S) the reasonable value of any damages to growing crops, existing fences, ditches and other appurtenances of said land that may be disturbed by its operation.
- (2) That, during operations involving excavation, it will remove the topsoil from the trenched area to a depth of one foot, or to the full depth of the topsoil, whichever is less, and stockpile said top soil for replacement over the trench. It will remove from the site any

large rocks or surplus excavating material or any debris that may have been exposed by the excavation and remains after backfilling is completed. And, it will leave the finished surface in substantially the same condition as existed prior to the beginning of operations except that the surface of backfilled areas may be mounded sufficiently to prevent the formation of depressions after final settlement has taken place.

THE GRANTOR(S) AGREES:

- (1) At no time will they build, construct, erect or maintain any permanent structure within the boundaries of said easement without the prior written consent of GRANTEE.
- (2) At no time will they modify the finished grade of the land over the pipeline by removal of existing soil or by placement of fill material within the boundaries of said easement without the prior written consent of the GRANTEE.
- (3) That where the subject improvements are not located under improved public or private streets or other provided access, a 12 foot wide all-weather access road may be constructed within the easement where at the City's discretion such access is required for operation and maintenance purposes.
- (4) The GRANTOR(S) warrants that they are lawfully seized and possessed of the real property described above, that they have a lawful right to convey the property, or any part of it, and that they will forever defend the title to this property against the claims of all persons.
- (5) The GRANTEE may peaceably hold and enjoy the rights and privileges herein granted without any interruption by the GRANTOR(S). The terms, covenants and provisions of this easement and agreement shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.

DATED this 23rd day of March, 2021.

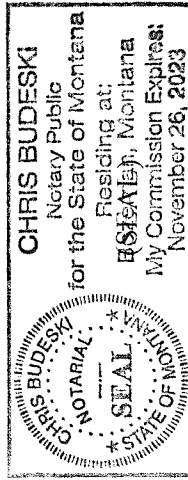
Grantor

By: [Signature]
Stephen F Moore, Manager

STATE OF Montana)
County of Gallatin)ss.
)

On this 23 day of March, 2021, before me the undersigned, a Notary Public for the State of Montana, personally appeared Stephen F. Moore, known to me to be Manager of Four Points Village II, LLC and the person whose name is subscribed to the within instrument and acknowledged to me that he executed the within instrument for and on behalf of

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.



[Signature],
(Printed Name) CHRIS BUDESKI,
Notary Public for the State of Montana
Residing at Bozeman, MT

My Commission Expires November 26, 2023

ACCEPTED:

CITY OF BOZEMAN

by _____
City Manager

ATTEST:

City Clerk

STATE OF MONTANA)

)ss.

County of Gallatin)

On this _____ day of _____, 20____, before me, a Notary Public for the State of Montana, personally appeared _____ and _____ known to me to be the City Manager and City Clerk, respectively, of the City of Bozeman and the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same for and on behalf of the City of Bozeman.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of Montana

(SEAL)

(Printed Name)

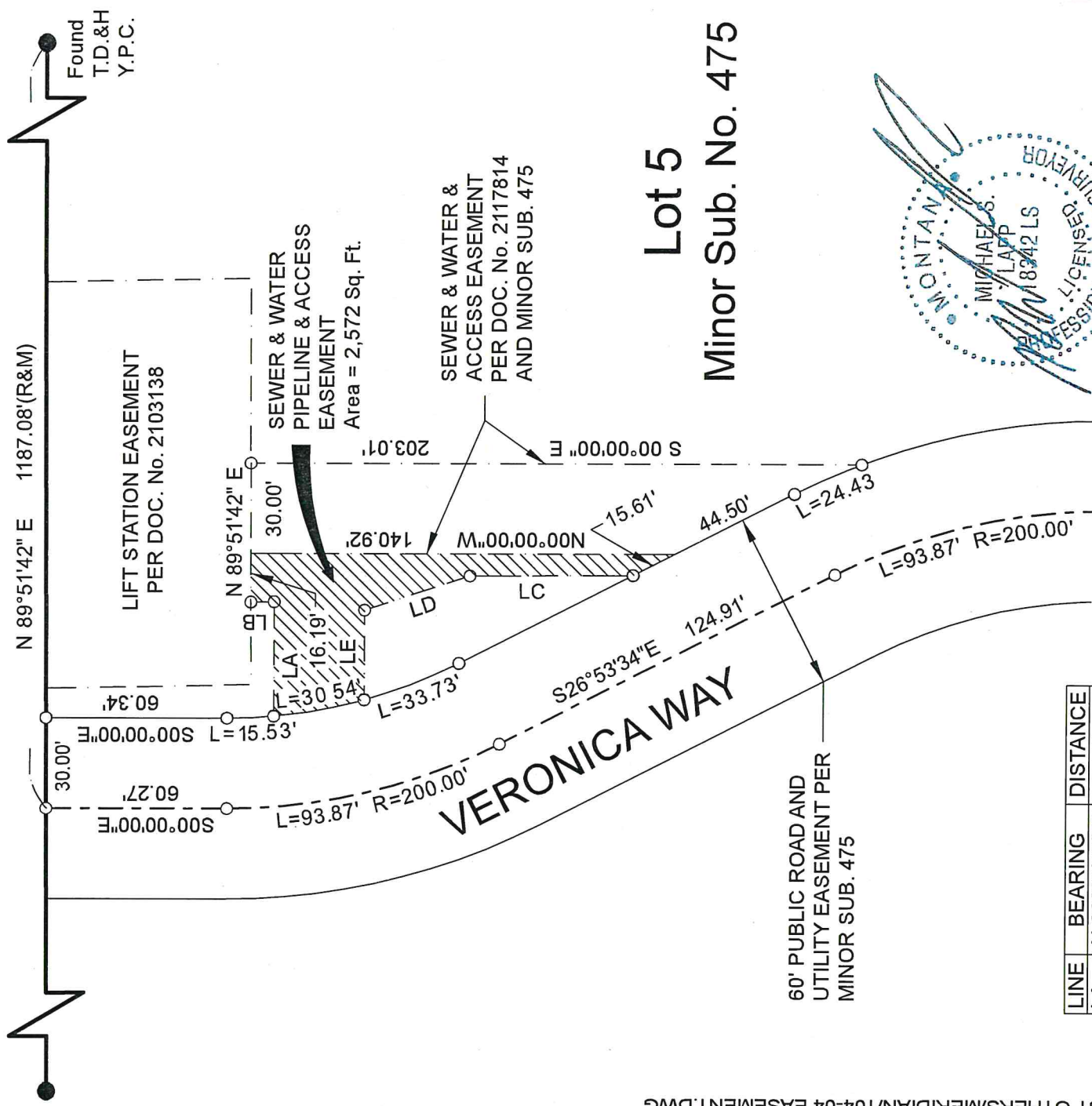
Residing at _____

My Commission expires _____/_____/20____

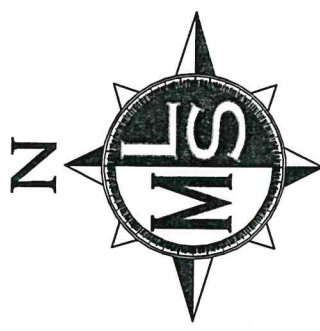
EXHIBIT A

DEPICTING A SEWER & WATER PIPELINE & ACCESS EASEMENT OVER AND ACROSS LOT 5 OF MINOR SUBDIVISION No. 475 SITUATE IN THE SE1/4 SECTION 34, T1S, R5E, P.M.M., CITY OF BOZEMAN, GALLATIN COUNTY, MONTANA

CATTAIL STREET



LINE	BEARING	DISTANCE
LA	N 90°00'00" E	38.00'
LB	N 00°59'53" W	7.77'
LC	N 00°14'13" W	54.24'
LD	N 18°10'11" W	36.79'
LE	N 90°00'00" W	29.80'



MERIDIAN LAND SURVEYING, INC.

P.O. Box 587, Gallatin Gateway, Montana 59730
 Phone (406) 624-6565
 e-mail: meridiansurveying@yahoo.com

PROJECT NUMBER MT-104.99
DATE 12/15/20
SCALE 1" = 50'
SHEET 1 OF 1

Memorandum

REPORT TO: City Commission

FROM: Cody Flammond, Engineer II
Shawn Kohtz, City Engineer
Mitch Reister, Director of Public Works

SUBJECT: Authorize the City Manager to Sign a Public Access Easement, a Public Street and Utility Easement, a Drainage Easement, and a Trail Corridor Easement with Store Master Funding VI, LLC for the Gibson Guitar Site Plan Project (20302)

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Agreement - Property

RECOMMENDATION: Authorize the City Manager to sign a Public Access Easement, a Public Street and Utility Easement, a Drainage Easement, and a Trail Corridor Easement with Store Master Funding VI, LLC for the Gibson Guitar Site Plan Project (20302).

STRATEGIC PLAN: 4.3 Strategic Infrastructure Choices: Prioritize long-term investment and maintenance for existing and new infrastructure.

BACKGROUND: Attached are copies (original to City Clerk) of the partially executed agreements. Engineering staff reviewed the documents and found them to be acceptable.

UNRESOLVED ISSUES: None

ALTERNATIVES: As suggested by the City Commission.

FISCAL EFFECTS: None

Attachments:

[Public Access Easement](#)
[Public Street and Utility Easement](#)
[Drainage Easement](#)
[Trail Corridor Easement](#)

Report compiled on: March 18, 2021

PUBLIC ACCESS EASEMENT

STORE MASTER FUNDING VI, LLC, a Delaware limited liability company, whose address is 8377 East Hartford Drive, Suite 100, Scottsdale, Arizona 85255, GRANTOR, in consideration of \$ 1.00 and for other and valuable considerations, receipt of which is hereby acknowledged, grants to The City of Bozeman, a Municipal Corporation of the State of Montana, with offices at 121 North Rouse Avenue, Bozeman, Montana 59715, GRANTEE, a public access easement within a driveway and parking area for the emergency services use by the public in, through, and across a strip of land situated in Gallatin County, Montana, more particularly described as follows and on the attached Exhibit:

Across a portion of Lots 1 & 3 in Tract 4 of Gardner Simmental Plaza (J-5), located in the Southeast Quarter of Section 35, T1S, R5E, P.M.M., City of Bozeman, Gallatin County, Montana.

The GRANTOR agrees:

- (1) To construct and maintain the driveway and parking area at GRANTOR's own expense in accordance with relevant City Ordinances, including, but not limited to, snow removal and all major and minor repair work.
- (2) To allow the City to make any and all inspections of the driveway and parking area and land appurtenant thereto as the City reasonably deems necessary.

The GRANTOR warrants that GRANTOR is lawfully seized and possessed of the real property described above, has a lawful right to convey the property, or any part of it, and will forever defend the title to this property against the claims of all persons.

The GRANTOR further agrees that the GRANTEE may peaceably hold and enjoy the rights and privileges herein granted without any interruption by the GRANTOR. The terms, covenants and provisions of this easement shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.

GRANTOR:

STORE MASTER FUNDING VI, LLC, a
Delaware limited liability company

By: [Signature]
Printed Name: Troy Nelson
Title: Vice President

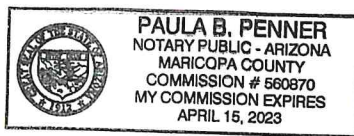
STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 12 day of FEBRUARY 2021 before me, the undersigned, personally appeared TROY NELSON, whose identity was proved to me on the basis of satisfactory evidence to be the persons whose name is subscribed to this instrument, and acknowledged that s/he executed the same in his/her capacity as VP for and on behalf of STORE MASTER FUNDING VI, LLC, a Delaware limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

(SEAL)

Paula B Penner
Notary Public for the State of AZ
Printed Name: Paula B. Penner
Residing at: SCOTTSDALE AZ
My Commission Expires: 04/15/2023



ACCEPTED:

CITY OF BOZEMAN, MONTANA

City Manager

ATTEST:

City Clerk

STATE OF MONTANA)
) ss
County of Gallatin)

On this _____ day of _____ 2021, before me, the undersigned, a Notary Public for the State of Montana, personally appeared JEFF MIHELICH and MIKE MAAS, known to me to be the City Manager and City Clerk for the City of Bozeman, respectively, and the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same for and on behalf of the City of Bozeman.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

(SEAL)

Notary Public for the State of Montana
Residing at Bozeman, Montana
My Commission Expires _____

PUBLIC ACCESS EASEMENT

ACROSS A PORTION OF LOTS 1 & 3 IN TRACT 4 OF GARDNER SIMMENTAL PLAZA (J-5)
 LOCATED IN THE SE 1/4 SEC. 35, T1S, R5E, PMM, CITY OF BOZEMAN, GALLATIN COUNTY, MONTANA

BASIS OF BEARING : WGS
 84 AS DETERMINED BY
 SURVEY GRADE RECEIVERS
 WITH A CENTRAL MERIDIAN
 RUNNING THROUGH
 LAT. 45°39'40.38" N, LONG.
 111°02'42.01" W

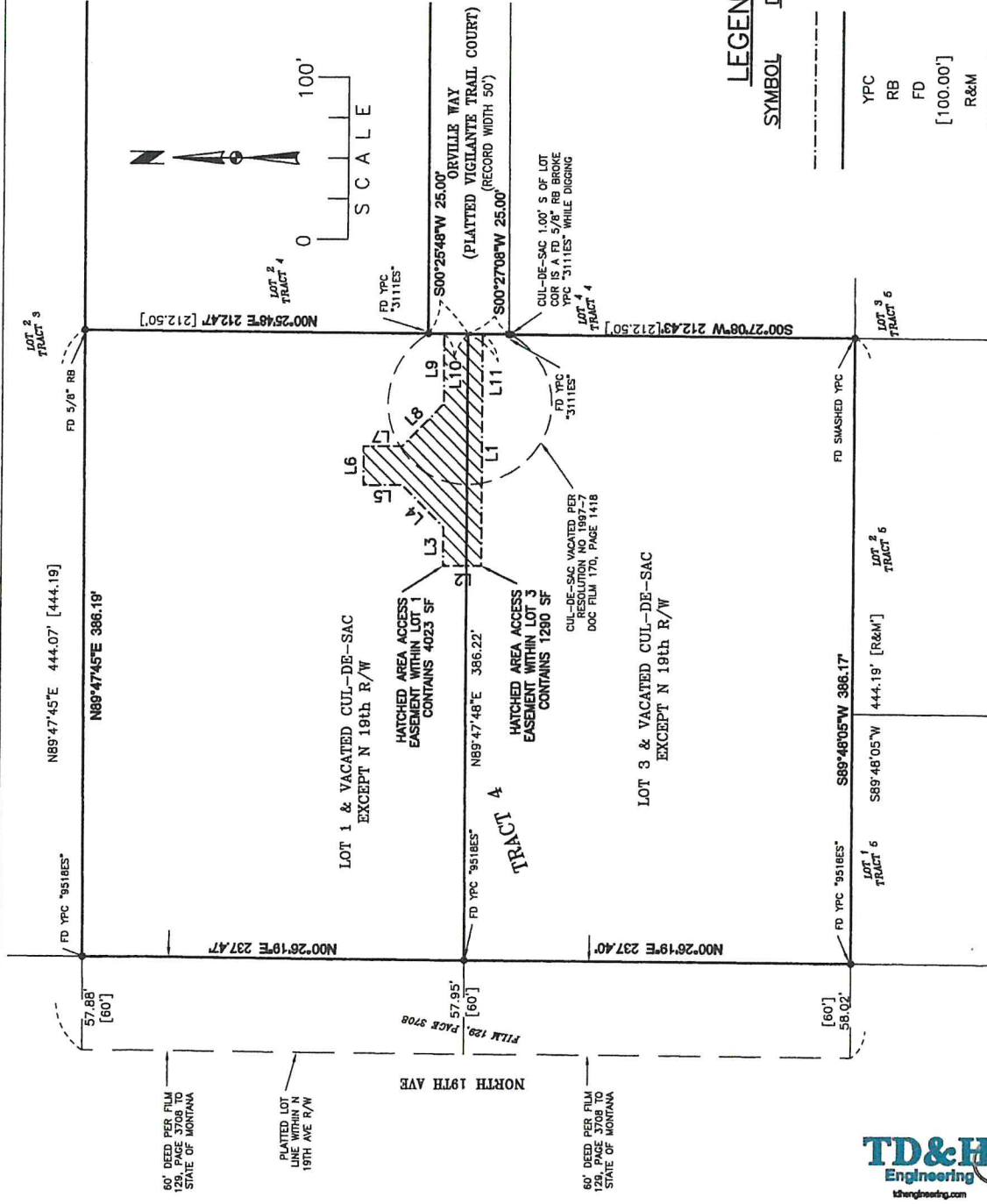
LINE TABLE

LINE	BEARING	DISTANCE
L1	S89°47'13"W	143.07'
L2	N00°12'47"W	24.00'
L3	N89°47'13"E	24.00'
L4	N44°47'13"E	36.77'
L5	N00°12'28"W	24.02'
L6	N89°50'35"E	24.00'
L7	S00°12'47"E	24.00'
L8	S45°12'47"E	36.77'
L9	N89°47'13"E	43.34'
L10	S00°25'48"W	15.00'
L11	S00°27'08"W	9.00'

LEGEND

SYMBOL DESCRIPTION

- ACCESS EASEMENT
- PROPERTY LINE
- YPC YELLOW PLASTIC CAP
- RB REBAR
- FD FOUND
- [100.00'] PLATTED OR RECORDED DIMENSION
- R&M RECORD & MEASURED DIMENSION
- "12251 S" MONUMENT CAP INFORMATION



SURVEYOR CERTIFICATE

I, Steven C. Anderson, do hereby certify that this survey was made by me, or under my direct supervision, in January 2020 and that the information shown hereon is true and correct to the best of my knowledge.

Dated this 29th day of December, 2020

Steven C. Anderson
 Steven C. Anderson, PLS
 Montana License No. 12251 LS

DRAWN BY:	BST
QUALITY CHECK:	
DATE: 12/28/20	FB: 194/40
JOB NO. B19-110	
CAD NO. 19110X1.dwg	
LAYOUT: ACCESS	



60' DEED PER FILM 129, PAGE 3708 TO STATE OF MONTANA

PLATTED LOT LINE WITHIN N 19TH AVE R/W

60' DEED PER FILM 129, PAGE 3708 TO STATE OF MONTANA

PUBLIC STREET AND UTILITY EASEMENT

STORE MASTER FUNDING VI, LLC, a Delaware limited liability company, whose address is 8377 East Hartford Drive, Suite 100, Scottsdale, Arizona 85255, GRANTOR, in consideration of \$ 1.00 and for other and valuable considerations, receipt of which is acknowledged, grants to The City of Bozeman, a municipal corporation of the State of Montana, with offices at 121 North Rouse Avenue, Bozeman, Montana 59715, GRANTEE, its successors and assigns, a perpetual street and utility easement for the use of the public, in, through, and across a strip of land situated in Gallatin County, Montana, 5 feet wide to be located on the following described real property:

Across a portion of Lot 2 in Tract 4 of Gardner Simmental Plaza (J-5), located in the Southeast Quarter of Section 35, T1S, R5E, P.M.M., City of Bozeman, Gallatin County, Montana.

The easement is more particularly described on the attached Exhibit which by this reference is made a part hereof.

The GRANTOR states that he possesses the real property described above and that he has a lawful right to grant an easement thereon.

The GRANTOR further agrees that the GRANTEE may peaceably hold and enjoy the rights and privileges herein granted without any interruption by the GRANTOR.

The terms, covenants, and provisions of this easement shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors, and assigns of the parties hereto.

GRANTOR:

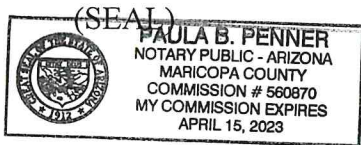
STORE MASTER FUNDING VI, LLC, a
Delaware limited liability company

By: *[Signature]*
Printed Name: Troy Nelson
Title: Vice President

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 12 day of FEBRUARY 2021 before me, the undersigned, personally appeared TROY NELSON, whose identity was proved to me on the basis of satisfactory evidence to be the persons whose name is subscribed to this instrument, and acknowledged that s/he executed the same in his/her capacity as VP for and on behalf of STORE MASTER FUNDING VI, LLC, a Delaware limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.



Paula B. Penner
Notary Public for the State of AZ
Printed Name: Paula B. Penner
Residing at: SCOTTSDALE AZ
My Commission Expires: 04/15/2023

ACCEPTED:

CITY OF BOZEMAN, MONTANA

City Manager

ATTEST:

City Clerk

STATE OF MONTANA)
) ss
County of Gallatin)

On this _____ day of _____ 2021, before me, the undersigned, a Notary Public for the State of Montana, personally appeared JEFF MIHELICH and MIKE MAAS, known to me to be the City Manager and City Clerk for the City of Bozeman, respectively, and the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same for and on behalf of the City of Bozeman.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

(SEAL)

Notary Public for the State of Montana
Residing at Bozeman, Montana
My Commission Expires _____

DRAINAGE EASEMENT

STORE MASTER FUNDING VI, LLC, a Delaware limited liability company, whose address is 8377 East Hartford Drive, Suite 100, Scottsdale, Arizona 85255, GRANTOR, in consideration of One Dollar (\$1.00) and other good and valuable consideration, receipt of which is acknowledged, grants to the City of Bozeman, a municipal corporation of the State of Montana, with offices at 121 North Rouse Avenue, Bozeman Montana 59715, GRANTEE, its successors and assigns, an easement for public drainage purposes, in, through and across the following described real property situated in Gallatin County, Montana, more particularly described as follows and on the attached Exhibit:


Across a portion of Lot 1 in Tract 4 of Gardner Simmental Plaza (J-5), located in the Southeast Quarter of Section 35, T1S, R5E, P.M.M., City of Bozeman, Gallatin County, Montana.

The GRANTOR warrants that it is lawfully seized and possessed of the real property described above, that it has lawful right to convey the property, or any part of it, and that it will forever defend the title of the property against the claims of all persons. The GRANTOR further agrees that the GRANTEE may peaceably hold and enjoy the rights and privileges herein granted without any interruption by the GRANTOR.

The terms, covenants and provisions of the easement and agreement shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.

GRANTOR:

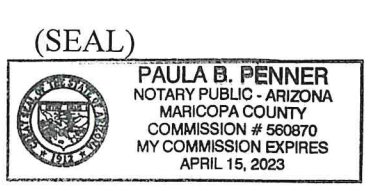
STORE MASTER FUNDING VI, LLC, a
Delaware limited liability company

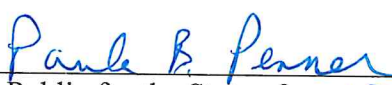
By: 
Printed Name: Troy Nelson
Title: Vice President

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 12 day of FEBRUARY 2021 before me, the undersigned, personally appeared TROY NELSON, whose identity was proved to me on the basis of satisfactory evidence to be the persons whose name is subscribed to this instrument, and acknowledged that s/he executed the same in his/her capacity as VP for and on behalf of STORE MASTER FUNDING VI, LLC, a Delaware limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.




Notary Public for the State of AZ
Printed Name: Paula B. Penner
Residing at: SCOTTSDALE AZ
My Commission Expires: 04/15/2023

ACCEPTED:

CITY OF BOZEMAN, MONTANA

City Manager

ATTEST:

City Clerk

STATE OF MONTANA)
) ss
County of Gallatin)

On this _____ day of _____ 2021, before me, the undersigned, a Notary Public for the State of Montana, personally appeared JEFF MIHELICH and MIKE MAAS, known to me to be the City Manager and City Clerk for the City of Bozeman, respectively, and the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same for and on behalf of the City of Bozeman.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

(SEAL)

Notary Public for the State of Montana
Residing at Bozeman, Montana
My Commission Expires _____

EXHIBIT
PUBLIC DRAINAGE EASEMENT
ACROSS A PORTION OF LOT 1 IN TRACT 4 OF GARDNER SIMMENTAL PLAZA (J-5)
LOCATED IN THE SE 1/4 SEC. 35, T1S, R5E, PMM, CITY OF BOZEMAN, GALLATIN COUNTY, MONTANA

BASIS OF BEARING : WGS
 84 AS DETERMINED BY
 SURVEY GRADE RECEIVERS
 WITH A CENTRAL MERIDIAN
 RUNNING THROUGH
 LAT. 45°39'40.38" N, LONG.
 111°02'42.01" W

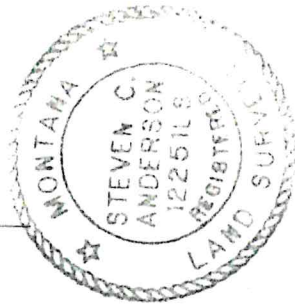
LINE TABLE

LINE	BEARING	DISTANCE
L1	N00°09'25"W	88.49'
L2	N72°32'33"W	122.39'
L3	N00°12'15"W	31.24'
L4	N73°07'02"W	70.85'
L5	N00°12'15"W	44.77'
L6	S89°47'45"W	108.22'
L7	N00°26'19"E	15.00'
L8	S00°25'48"W	15.00'
L9	S89°47'45"W	147.97'
L10	S44°47'45"W	45.64'
L11	S00°12'15"E	42.63'
L12	S72°32'33"E	122.41'
L13	S00°09'25"E	80.42'
L14	N89°47'48"E	61.54'
L15	S00°25'48"W	30.00'
L16	S89°47'48"W	91.23'

LEGEND

SYMBOL	DESCRIPTION
	DRAINAGE EASEMENT
	PROPERTY LINE
	YELLOW PLASTIC CAP
	REBAR
	FOUND
	PLATTED OR RECORD DIMENSION
	RECORD & MEASURED DIMENSION
	MONUMENT CAP INFORMATION

YPC
 RB
 FD
 [100.00']
 "12251 S"



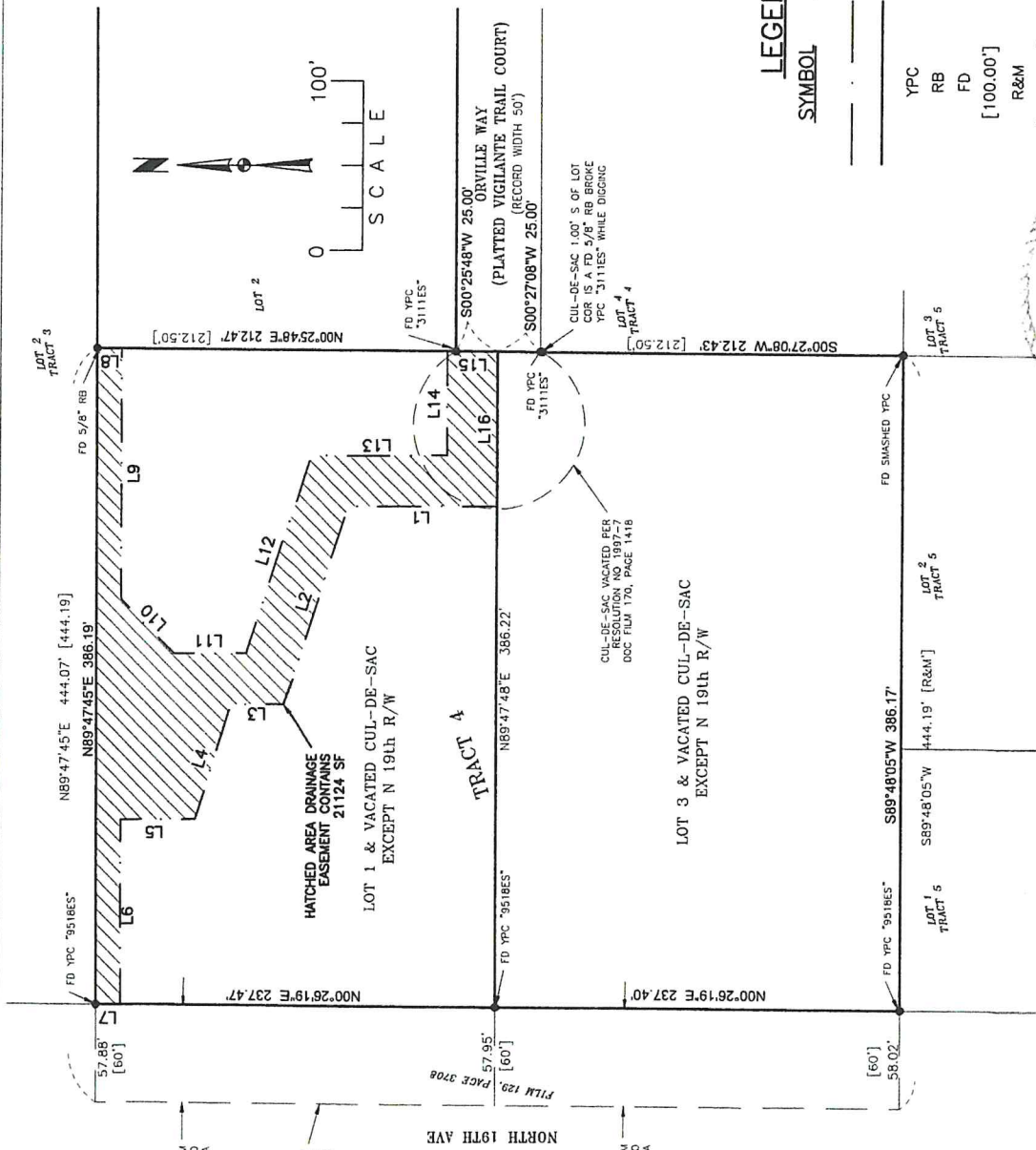
SURVEYOR CERTIFICATE

I, Steven C. Anderson, do hereby certify that this survey was made by me, or under my direct supervision, in January 2020 and that the information shown hereon is true and correct to the best of my knowledge.

Dated this 21st day of December, 2020

Steven C. Anderson

Steven C. Anderson, PLS
 Montana License No. 12251 LS



60' DEED PER FILM 129, PAGE 3708 TO STATE OF MONTANA

PLATTED LOT LINE WITHIN N 19TH AVE R/W

60' DEED PER FILM 129, PAGE 3708 TO STATE OF MONTANA



DRAWN BY:	BST
QUALITY CHECK:	
DATE: 12/28/20	FB: 194/40
JOB NO.	B19-110
CAD NO.	19110X1.dwg
LAYOUT:	DRAINAGE

TRAIL CORRIDOR EASEMENT

STORE MASTER FUNDING VI, LLC, a Delaware limited liability company, whose address is 8377 East Hartford Drive, Suite 100, Scottsdale, Arizona 85255, GRANTOR, in consideration of one dollar (\$1.00) and for other and valuable consideration, receipt of which is hereby acknowledged, grants to the City of Bozeman, a Municipal Corporation of the State of Montana, with offices at 121 North Rouse Avenue, Bozeman, Montana 59715, GRANTEE, a perpetual trail corridor access easement for the use of the public in, through and across a 25 feet wide strip of land situated in Gallatin County, Montana, which is located on the following described property:

Across a portion of Lots 1 & 3 in Tract 4 of Gardner Simmental Plaza (J-5), located in the Southeast Quarter of Section 35, T1S, R5E, P.M.M., City of Bozeman, Gallatin County, Montana.

The centerline of the easement is more particularly described as follows:

(see attached Exhibit).

The GRANTOR warrants that he is lawfully seized and possessed of the real property described above, that he has and that he will forever defend the title of this property against the claims of all persons.

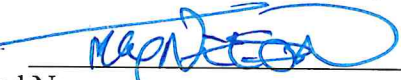
The GRANTOR further agrees that the GRANTEE may peaceably hold and enjoy the rights and privileges herein granted without any interruption by the GRANTORS. Notwithstanding the foregoing,

The terms, covenants and provisions of this easement shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties

hereto.

GRANTOR:

STORE MASTER FUNDING VI, LLC, a
Delaware limited liability company

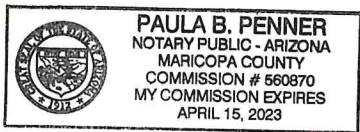
By: 
Printed Name: Troy Nelson
Title: Vice President


STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 12 day of FEBRUARY 2021 before me, the undersigned, personally appeared TROY NELSON, whose identity was proved to me on the basis of satisfactory evidence to be the persons whose name is subscribed to this instrument, and acknowledged that s/he executed the same in his/her capacity as VP for and on behalf of STORE MASTER FUNDING VI, LLC, a Delaware limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

(SEAL)




Notary Public for the State of AZ
Printed Name: Paula B Penner
Residing at: SCOTTSDALE AZ
My Commission Expires: 04/15/2023

ACCEPTED:

CITY OF BOZEMAN, MONTANA

City Manager

ATTEST:

City Clerk

STATE OF MONTANA)
) ss
County of Gallatin)

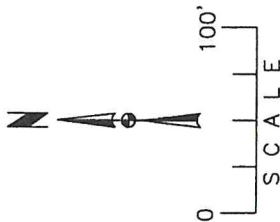
On this _____ day of _____ 2021, before me, the undersigned, a Notary Public for the State of Montana, personally appeared JEFF MIHELICH and MIKE MAAS, known to me to be the City Manager and City Clerk for the City of Bozeman, respectively, and the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same for and on behalf of the City of Bozeman.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

(SEAL)

Notary Public for the State of Montana
Residing at Bozeman, Montana
My Commission Expires _____

EXHIBIT
PUBLIC TRAIL EASEMENT
ACROSS A PORTION OF LOTS 1 & 3 IN TRACT 4 OF GARDNER SIMMENTAL PLAZA (J-5)
LOCATED IN THE SE 1/4 SEC. 35, T1S, R5E, PMM, CITY OF BOZEMAN, GALLATIN COUNTY, MONTANA



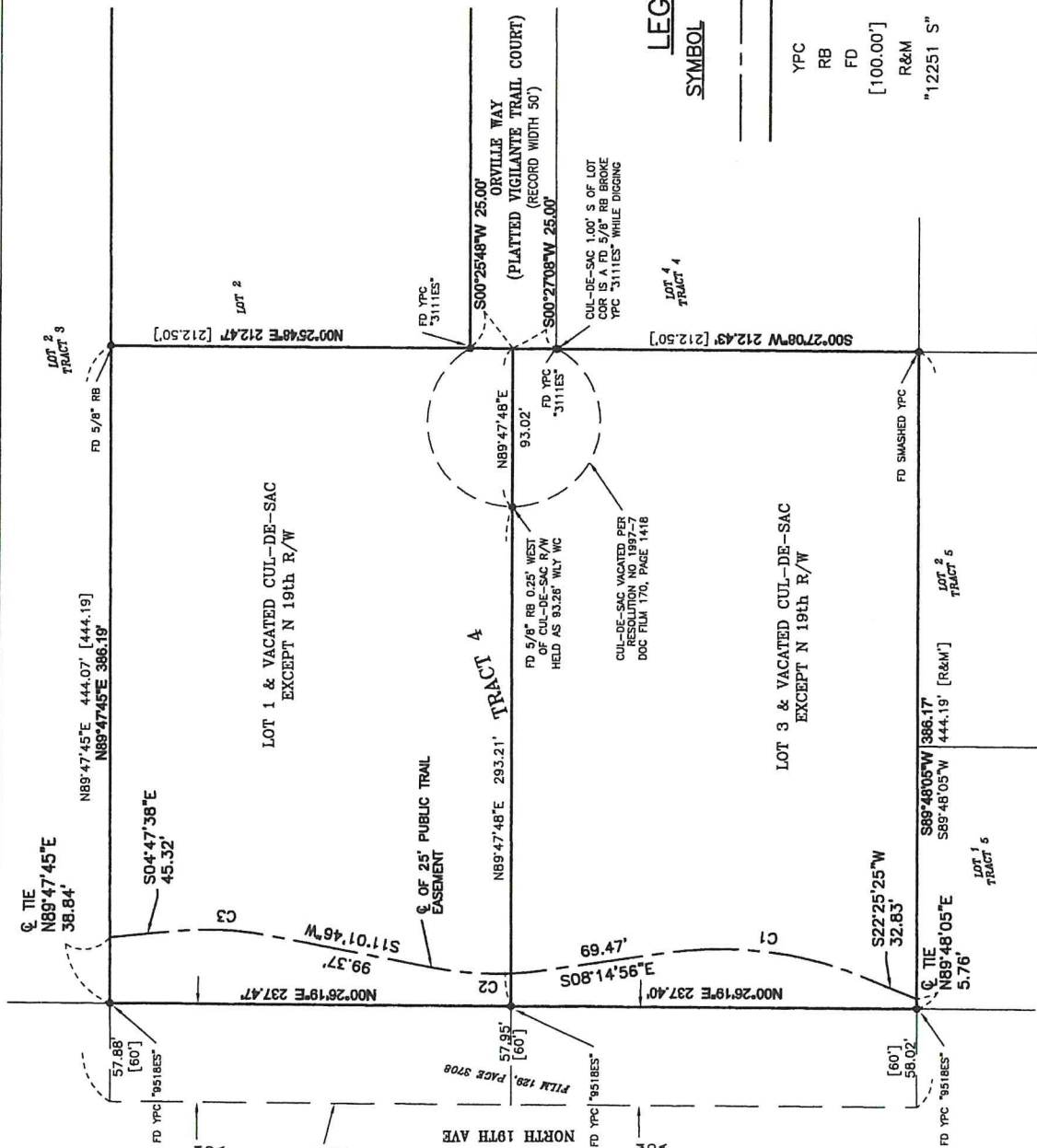
BASIS OF BEARING : WGS
 84 AS DETERMINED BY
 SURVEY GRADE RECEIVERS
 WITH A CENTRAL MERIDIAN
 RUNNING THROUGH
 LAT. 45°39'40.38" N, LONG.
 111°02'42.01" W

LEGEND

SYMBOL	DESCRIPTION
---	TRAIL EASEMENT CENTERLINE
---	PROPERTY LINE
---	YELLOW PLASTIC CAP
---	REBAR
---	FOUND
---	PLATTED OR RECORD DIMENSION
---	RECORD & MEASURED DIMENSION
---	MONUMENT CAP INFORMATION

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
E1	225.00	120.45	119.02	S07°05'14" W	30°40'21"
C2	200.00	167.29	66.98	S01°23'25" W	19°16'42"
C3	175.00	148.33	48.18	S03°07'04" W	15°49'24"



SURVEYOR CERTIFICATE

I, Steven C. Anderson, do hereby certify that this survey was made by me, or under my direct supervision, in January 2020 and that the information shown hereon is true and correct to the best of my knowledge.

Dated this 29th day of December, 2020

Steven C. Anderson
 Steven C. Anderson, PLS
 Montana License No. 12251 LS

DRAWN BY:	BST
QUALITY CHECK:	
DATE:	12/28/20
FB:	194/40
JOB NO.	B19-110
CAD NO.	19110X1.dwg
LAYOUT:	TRAIL



Memorandum

REPORT TO: City Commission

FROM: Alex Nordquest, Forestry Manager
Mitch Overton, Director of Parks, Recreation, Cemetery, and Forestry

SUBJECT: Authorize the City Manager to Sign a Purchase Agreement with Floyd's Truck Center for (1) One Truck with Forestry Chip Body and Dump Hoist

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Agreement - Vendor/Contract

RECOMMENDATION: Authorize the City Manager to sign a purchase agreement with Floyd's Truck Center for (1) one truck with forestry chip body and dump hoist.

STRATEGIC PLAN: 6.5 Parks, Trails & Open Space: Support the maintenance and expansion of an interconnected system of parks, trails and open spaces.

BACKGROUND: This is a replacement to our 1990 Chip Truck. New equipment has a larger chipping capacity to maximize efficiency of forestry operations. This item was approved in the FY21 Capital Improvement Plan. Floyd's Truck Center was the lowest of two bids received with a bid price of \$92,392.00.

UNRESOLVED ISSUES: None.

ALTERNATIVES: Maintain current equipment.

FISCAL EFFECTS: The FY21 Capital Improvement Plan included \$90,000 in the Tree Maintenance Fund for this item. The bid price associated with this purchase is above what is budgeted. The remaining \$2,392.00 will come from the Forestry Division FY21 Operating Budget.

Attachments:

[Chip Truck - Purchase Agreement \(Final\) \(2\).docx](#)
[CORRECTED Bid Sheet & Sign In - 2020 Chip Truck.pdf](#)
[Exhibit A - Bid Specifications.pdf](#)
[Exhibit B - Warranty.pdf](#)

Report compiled on: March 11, 2021



PURCHASE AGREEMENT

THIS AGREEMENT is made and entered into this 6th day of April, 2021 (“Effective Date”), by and between the **CITY OF BOZEMAN, MONTANA**, a self-governing municipal corporation organized and existing under its Charter and the laws of the State of Montana, 121 North Rouse Street, Bozeman, Montana, with a mailing address of PO Box 1230, Bozeman, MT 59771, hereinafter referred to as “City,” and, Floyd’s Truck Center, hereinafter referred to as “Seller.” The City and Seller may be referred to individually as “Party” and collectively as “Parties.”

In consideration of the mutual promises and agreements hereinafter contained, the parties agree as follows:

1. Property Purchased: Seller agrees to sell and City agrees to purchase the property requested and described in the Bid Specifications for One (1) New 2020 (or newer) Truck with Forestry Chip Body and Dump Hoist installed attached hereto as Exhibit A which is incorporated into this Purchase Agreement by this reference. By accepting this Purchase Agreement, Seller hereby agrees that the sale, use, or incorporation into manufactured products of all machines, software, hardware, materials and other devices furnished under this Purchase Agreement which are not of the Seller’s design, composition, or manufacture shall be free and clear of infringement of any valid patent, copyright, or trademark. Seller shall hold the City harmless from any and all costs and expenses, including attorney fees, liability, and loss of any kind growing out of claims, suits, or actions alleging such infringement, and Seller agrees to defend such claims, suits, or actions.

2. Specifications: The Seller agrees that all material and workmanship in and upon this Property complies with Exhibit A as accepted by the City. Unless otherwise agreed to by the City, the items listed in Exhibit A, govern in the event of inconsistencies with the Seller’s response to the same.

3. Price: The City agrees to pay ninety-two thousand, three hundred ninety-two dollars (\$92,392.00) as the purchase price. All prices include shipping and any applicable local, state or federal taxes that may be applied to the Property to be purchased. This price is firm and not subject to escalation under agreed to in writing by the City.

4. Delivery and Payment: Time is of the essence in the performance of this Purchase Agreement. Seller assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other served associated with delivery of the Property.

Agreement for Purchase of One (1) New 2020 (or newer) Truck with Forestry Chip Body and Dump Hoist installed

FY2021

Page 1 of 7

Seller agrees to delivery to the City in a fully operational status and all accessories properly installed no later than February 1, 2022. Delivery will occur at 1812 N. Rouse Ave, Bozeman, MT 59715, or at a place otherwise designated in writing by the City. If delivery of the Property and/or performance of services required under this Purchase Agreement cannot be made Seller shall promptly notify the City of the earliest possible date for delivery or performance. Notwithstanding such notice, if Seller for any reason fails to deliver the Property or perform required services within the time specific or to the City's satisfaction the City may terminate this Purchase Agreement or any part therefore without liability except for good or services previously provided and accepted. The City's receipt or acceptance of any part of a non-conforming delivery or service shall not constitute a waiver of any claim, right or remedy the City has under this Purchase Agreement or applicable law. Upon delivery and for a reasonable period thereafter, City has the right to inspect the Property to ensure that it meets Specifications as modified by Seller's responses which have been accepted by City. If the Property meets the Specifications, City shall tender the purchase price stated above to Seller through the City's normal claim process. Unless otherwise agreed to in writing, payment terms shall be net thirty (30) days from the date of receipt of invoice or acceptance and delivery of goods and services by the City, whichever occurs last. Payment will be made to Seller at the address previously stated unless Seller provides a different address in writing.

5. Nondiscrimination and Equal Pay: The Seller agrees that all hiring by Seller of persons performing this Agreement shall be on the basis of merit and qualifications. The Seller will have a policy to provide equal employment opportunity in accordance with all applicable state and federal anti-discrimination laws, regulations, and contracts. The Seller will not refuse employment to a person, bar a person from employment, or discriminate against a person in compensation or in a term, condition, or privilege of employment because of race, color, religion, creed, political ideas, sex, age, marital status, national origin, actual or perceived sexual orientation, gender identity, physical or mental disability, except when the reasonable demands of the position require an age, physical or mental disability, marital status or sex distinction. The Seller shall be subject to and comply with Title VI of the Civil Rights Act of 1964; Section 140, Title 2, United States Code, and all regulations promulgated thereunder.

Seller represents it is, and for the term of this Agreement will be, in compliance with the requirements of the Equal Pay Act of 1963 and Section 39-3-104, Montana Code Annotated (MCA) (the Montana Equal Pay Act). Seller must report to the City any violations of the Montana Equal Pay Act that Seller has been found guilty of within 60 days of such finding for violations occurring during the term of this Agreement.

Seller shall require these nondiscrimination terms of its subcontractors providing products under this Agreement.

6. Default/Termination/Remedies: In the event of Seller's breach of this Purchase Agreement, including if Seller fails to deliver the Property as set forth herein or fails to meet City's Specifications, City may, at its option, take any or all of the following actions without prejudice to any other rights or remedies available to the City by law: (i) declare the Seller in default and immediately cancel and rescind this Purchase Agreement; (ii) require Seller to repair or replace any equipment or materials used in the Property, and upon Seller's failure or refusal to do so, repair or replace the same at Seller's expense; (iii) reject any material or equipment included in the Property containing defective or nonconforming equipment or material and return for credit or replacement at Seller's option; or (iv) cancel any outstanding deliveries and treat such breach by Seller as Seller's repudiation of this Purchase Agreement. Thereafter, City may procure substitute property to replace the Property described herein. In such event, Seller is liable to City for the difference between the price set forth herein and the price paid by City for the replacement property. Additionally, the City may pursue any other remedy it has at law or in equity.

In the event of the City's breach hereunder, Seller's exclusive remedy shall be Seller's recovery of the material or equipment or of the Purchase Price or portion of the Purchase Price payable for equipment and material delivered to the City prior to such breach.

7. Change Orders: The City shall have the right to revoke, amend, or modify this Purchase Agreement or the equipment or material included in the Quotation at any time. Seller's receipt of City's written change order without response received by the City within 10 (ten) business days or Seller's shipment or other performance reflecting the change, whichever occurs first, shall be Seller's acceptance of the change without any price or other adjustment.

8. WARRANTY: THE SELLER SHALL WARRANTY THE PROPERTY INCLUDING ALL COMPONENT PARTS IN ACCORDANCE WITH WARRANTY SPECIFICS LISTED IN EXHIBIT B AND SHALL ASSIGN TO THE CITY ALL WARRANTIES FOR ALL COMPONENT PARTS OF THE PROPERTY NOT WARRANTED BY SELLER. IN ADDITION, THE SELLER AGREES THE PROPERTY IS COVERED BY IMPLIED WARRANTIES FOR MERCHANTABILITY AND FITNESS FOR THE PARTICULAR PURPOSE FOR WHICH IT HAS BEEN PURCHASED. IN ADDITION TO ANY OTHER EXPRESSED OR IMPLIED WARRANTIES AND UNLESS OTHERWISE AGREED IN WRITING, SELLER ALSO WARRANTS THAT ALL EQUIPMENT DELIVERED HEREUNDER WILL BE NEW, SUITABLE FOR USE AS DESCRIBED, OF THE GRADE AND QUALITY SPECIFIED, FREE FROM ALL DEFECTS IN DESIGN, MATERIAL AND WORKMANSHIP; IN CONFORMITY WITH ALL SPECIFICATIONS FURNISHED; IN COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS AND FREE FROM ANY LIENS AND ENCUMBRANCES. THESE WARRANTIES SHALL NOT BE DEEMED TO EXCLUDE SELLER'S STANDARD WARRANTIES OR OTHER RIGHTS OR WARRANTIES WHICH THE CITY MAY HAVE OR OBTAIN.

9. Insurance/Indemnification: The Seller shall insure the Property for a minimum of the purchase price against all damages during the delivery period per the Specifications. In addition to and independent from the above, during the delivery period Seller shall defend, indemnify, and hold the City, its officers, employees, and agents harmless against claims, demands, suits, damages, losses, and expenses connected therewith that may be asserted or claimed against, recovered from or suffered by the City by reason of any injury or loss, including but not limited to, personal injury, including bodily injury or death, property damage, occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Seller, its agents or employees. This provision shall survive delivery and acceptance by the city of the Property.

10. Assignment: Seller may not delegate, subcontract, or assign any duties and services or assign any rights or claims under this Purchase Agreement without the express written consent of City.

11. Entire Agreement: This Agreement, including its appendices, if any, embodies the entire understanding between the parties relating to the subject matter contained herein. No agent or representative of either party has authority to make any representations, statements, warranties or agreements not herein expressed and all modifications or amendments of this Agreement, including the appendices, must be in writing and signed by an authorized representative of each of the parties hereto.

12. Applicability: This Agreement and any extensions hereof shall be governed and construed in accordance with the laws of the State of Montana, venue shall be in the Eighteen Judicial District, Gallatin County Montana, and the same is binding upon the parties, their heirs, successors, and assigns.

13 Permits: Seller shall provide all notices, comply with all applicable laws, ordinances, rules, and regulations, obtain all necessary permits, licenses, including a City of Bozeman business license, and inspections from applicable governmental authorities, and pay all fees and charges in connection therewith.

14. Laws and Regulations: Seller shall comply fully with all applicable state and federal laws, regulations, and municipal ordinances including, but not limited to, all workers' compensation laws, all environmental laws including, but not limited to, the generation and disposal of hazardous waste, the Occupational Safety and Health Act (OSHA), the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA, all applicable City, County, and State building and electrical codes, the Americans with Disabilities Act, and all non-discrimination, affirmative action, and utilization of minority and small business statutes and regulations.

15. Modification and Assignability: This Agreement may not be enlarged, modified or altered except by written agreement signed by both parties hereto. The Contractor may not subcontract or assign Contractor's rights, including the right to compensation or duties arising hereunder, without the prior written consent of the City. Any subcontractor or assignee will be bound by all of the terms and conditions of this Agreement.

16. Non-Waiver: A waiver by either party of any default or breach by the other party of any terms or conditions of this Agreement does not limit the other party's right to enforce such term or conditions or to pursue any available legal or equitable rights in the event of any subsequent default or breach.

17. Attorney's Fees and Costs: In the event it becomes necessary for either Party to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing Party or the Party giving notice shall be entitled to reasonable attorney's fees and costs, including fees, salary, and costs of in-house counsel including the City Attorney's Office staff.

18. Dispute Resolution:

a. Any claim, controversy, or dispute between the Parties, their agents, employees, or representatives shall be resolved first by negotiation between senior-level personnel from each party duly authorized to execute settlement agreements. Upon mutual agreement of the parties, the parties may invite an independent, disinterested mediator to assist in the negotiated settlement discussions.

b. If the Parties are unable to resolve the dispute within thirty (30) days from the date the dispute was first raised, then such dispute may only be resolved in a court of competent jurisdiction in compliance with the Applicable Law provisions of this Agreement.

19. Counterparts: This Agreement may be executed in counterparts, which together constitute one instrument.

20. Consent to Electronic Signatures: The Parties have consented to execute this Agreement electronically in conformance with the Montana Uniform Electronic Transactions Act, Title 30, Chapter 18, Part 1, MCA.

***** END OF AGREEMENT EXCEPT FOR SIGNATURES *****

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives the day and year first above written.

CITY OF BOZEMAN

SELLER

By _____
Jeff Mihelich City Manager

By _____
Print Name: _____
Print Title: _____

APPROVED AS TO FORM:

By _____
Greg Sullivan, City Attorney

City of Bozeman BID - 2020 Truck with Forestry Chip Body and Dump Hoist

NAME & ADDRESS	Tax ID	NON-COLLUSION AFFIDAVIT	NON-DISCRIMINATION AFFIRMATION	BID BOND	Bid Price	
Floyd's Truck Center 310 Alska Frontage Rd Belgrade, MT 59714	83-1757379	N/A	Yes	N/A	\$92,392.00	
Tri-State Equipment 5250 Midland Rd Billings, MT 59103	81-0287111	N/A	Yes	N/A	\$105,800.00	
Southco 1840 E Dixon Blvd Shelby, NC 28152	None	N/A	No		Not Read	

These bids were opened and read before the undersigned at 3:00 PM on Friday, February 26, 2021.

DocuSigned by:

Alex Nordquest

213F409D207C400...

Alex Nordquest

Forestry Division Manager

DocuSigned by:

Mike Maas

F41F922035AC473...

Mike Maas

City Clerk

DocuSigned by:

Jesse DiTommaso

A55C0001D0004F0...

Jesse DiTommaso

Deputy City Clerk

DocuSigned by:



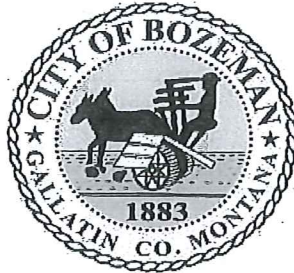
Bid Check:	Delivered to Finance:	Accepted By:	Date:
1			
2			
3			
4			

BOZEMAN^{MT}
City Clerk

Name of Bid / RFP / RFQ: Chip Truck

Date Due: 2 / 26 / 21

Time Due: 2 : 00 am pm



Proposal Sign in Form

Name of Bidder	Name of Delivery Person	Date	Time	Clerk
<u>Floyd's Truck Center</u>	<u>Curt Owen</u>	<u>2/26/21</u>	<u>1:20</u> am <u>pm</u>	<u>mm</u>
<u>Tri-State Truck & Equipment</u>	<u>Justin Mann</u>	<u>2/26/21</u>	<u>1:23</u> am <u>pm</u>	<u>[Signature]</u>
<u>Southco</u>	<u>USPS</u>	<u>2/26/21</u>	<u>11:30</u> am <u>pm</u>	<u>mm</u>
_____	_____	____/____/____	____:____ am pm	_____
_____	_____	____/____/____	____:____ am pm	_____
_____	_____	____/____/____	____:____ am pm	_____
_____	_____	____/____/____	____:____ am pm	_____
_____	_____	____/____/____	____:____ am pm	_____

**City of Bozeman
Forestry Division
Bozeman, MT 59715**

Bid specifications and bid form
Note: The bid must be submitted on this form

**ONE (1) NEW 2021 MODEL YEAR OR NEWER TRUCK WITH FORESTRY CHIP BODY
AND DUMP HOIST INSTALLED**

The vehicle described herein shall be a new North American manufactured from 2021 or newer production and shall comply with the 2021 emission laws. All parts and accessories, which are required to compose a complete unit shall be furnished whether herein stipulated or not. Unless otherwise noted in these specifications, all equipment cataloged as standard shall be furnished and included in the purchase price of the unit.

CAB AND CHASSIS

Section 1 Standard Options

All standard equipment and options, whether expressly stated herein or not, shall be included.

Yes No Exceptions _____

Section 2 Color

Truck and Chip Box shall be white urethane or equivalent. Color shall be verified at time of bid awarding.

Yes No Exceptions _____

Section 3 Cab

Shall be drivable from the left hand position.

Yes No Exceptions _____

Unit shall be conventional chassis.

Yes No Exceptions _____

Seat must allow for seat tilt, back angle and lumbar adjustment. Seat must have foldable armrests if mounted on the seat.

Yes No Exceptions _____

Retractable seat belts shall be of the lap/shoulder type.

Yes No Exceptions _____

Unit shall have a cold climate package; provide details.

Yes No ~~Exceptions~~ Includes Premium Insulation (Cab), Engine Block Heater

Unit shall have electric powered door locks and windows.

Yes No Exceptions _____

Unit shall have stop/tail/backup LED lights with extra wire mounted to the end of frame so there are no splices to the chip box lights.

Yes No Exceptions _____

Unit shall have armrests on left door, if not provided on seat.

Yes No Exceptions _____

Unit shall have a common key for doors and ignition; two (2) keys or fobs shall be provided. Keyless start is acceptable.

Yes No Exceptions _____

Full-length heavy-duty insulated rubber floor covering shall be provided.

Yes No Exceptions _____

Unit shall have A/C.

Yes No Exceptions _____

Unit shall have an adjustable telescoping/tilt steering column.

Yes No Exceptions _____

Unit shall have four (4) factory mounted auxiliary switches mounted within easy reach for the driver.

Yes No Exceptions _____

Section 4 Instruments and controls

Instrument panel shall include all necessary gauges grouped within clear view of the operator's position and shall include, but not be limited to:

One (1) electric fuel gauge and DEF gauge

Yes No Exceptions _____

Amp or voltmeter.

Yes No Exceptions _____

Hour meter shall be factory installed and run when the key is in the "on" position.

Yes No Exceptions _____

Speedometer that is calibrated to compensate for axle ratio and tire size.

Yes No Exceptions _____

Oil pressure gauge.

Yes No Exceptions _____

Water temperature gauge.

Yes No Exceptions _____

Tachometer.

Yes No Exceptions _____

Unit shall have Preco 1040 87 DB to 112 DB automatic self-adjusting backup alarm.

Yes No Exceptions _____

Unit shall have one (1) dash mounted PTO switch with indicator lamp. Use of factory installed auxiliary switch preferred.

Yes No Exceptions _____

Section 5 Frame

Unit shall have a minimum of 102" Cab-to-Axle length and meet specifications for the dump box attachment.

Yes No Exceptions _____

Unit shall have frame mounted hitch with pintle and ball type hitch included. Hitch mounted to the chip body not acceptable.

Yes No Exceptions _____

Unit shall have six-(6) pole trailer light connector installed and wired to industry standards.

Yes No Exceptions _____

Two (2) front and two (2) rear tow hooks shall be provided and installed, attached to frame.

Yes No Exceptions _____

Section 6 Tires

Two (2) front tires and four (4) rear tires shall meet the GVW of Truck.

Yes No Exceptions _____

Section 7 Wheels

Unit shall have mud flaps rear of front tires and rear of dual tires.

Yes No Exceptions _____

Section 8 Rear Axle and Suspension

GVWR shall be less than 26,000. Unit shall have hydraulic brakes.

Yes No Exceptions No Hydraulic option w/ 4WD - Air only

Rear axle and all axle components shall meet specifications for the dump box.

Yes No Exceptions _____

Section 9 Front axle and suspension

Bidder must state wall-to-wall turning radius in feet.

Number of feet 48.7

Section 10 Engine

Engine shall be a 6.2 liter Diesel or larger.

Yes No Exceptions _____

Unit shall have minimum five (5) gallon diesel exhaust fluid tank, accessible when dump box fully lowered.

Yes No Exceptions _____

Section 11 Transmission and equipment

Unit shall have an automatic transmission with PTO provision.

Yes No Exceptions _____

Shift controls shall be mounted within arms reach by the driver.

Yes No Exceptions _____

Section 12 Dump Body:

Body shall be a fourteen (14) feet long, six (6) feet high, eight (8) feet wide, and twenty (20) cubic yard Forestry build.

Yes No Exceptions _____

Body shall be an "L" type with vertical storage and toolboxes.

Yes No Exceptions _____

Vertical storage compartment shall include rope hooks and be located at the front of the dump box.

Yes No Exceptions _____

Body shall include two 48" underbody boxes immediately behind the vertical storage compartment on the right hand side of the vehicle

Yes No Exceptions _____

Body shall include two 48" underbody boxes immediately behind the vertical storage compartment on the left hand side of the vehicle.

Yes No Exceptions _____

Body shall include one 17" wide ladder/pruner box with shelf on the right hand side of the vehicle.

Yes No Exceptions 14.5" wide box

Body shall include front and rear LED strobe lights wired to one of the factory installed auxiliary switches. Strobe lights shall operate independent of the engine/ignition.

Yes No Exceptions _____

Body shall have dumping angle that allows the material to slide out on its own.

Yes No Exceptions _____

Body shall be power-lowered. Gravity-lowered hoist will not be accepted.

Yes No Exceptions _____

The tailgate shall be one piece, opening with 270 degrees of swing and latch to side when dumping.

Yes No Exceptions _____

Power source to be transmission mounted power take off coupled directly to the hydraulic pump. No drive shafts.

Yes No Exceptions _____

The power source shall be a hot shift PTO. Hot shift automatically disengages the PTO when the truck is placed in gear and reengages when the truck is placed back in neutral or park.

Yes No Exceptions _____

Must be equipped with over speed RPM protection.

Yes No Exceptions _____

Engine is to be programmed for the proper RPM speed and an on/off switch within the cab will manually activate the dump body. Use of factory installed auxiliary switch preferred.

Yes No Exceptions _____

Section 13 Options:

The options listed for this truck shall be priced and listed separately from the main bid. Please include prices separate from the standard vehicle or indicate included.

Truck:

Winter/Snow tires (6) Yes Cost \$ 2,844

Bottom bed-mounted box vibrator Yes Cost \$ 780

Four wheel drive - No hydraulic brake option Yes Cost \$ 21,170

Section 14 Warranty/Service

Unit shall have a standard factory warranty. During the factory warranty, the vendor or manufacturer will be responsible for warranty repairs at an approved shop. Transportation of the unit will be the responsibility of the vendor or dealer to and from the City of Bozeman. There will be no costs incurred by the City of Bozeman for the repairs or transportation during the warranty period for covered repairs.

Yes No Exceptions _____

STATE WARRANTY TERMS AND CONDITIONS INCLUDING THOSE OF OTHER MANUFACTURERS/SUPPLIERS.

Truck Chassis: 1 yr. / 100,000 mi. - See Attached Time & Distance Table
Engine: 2 yr / Unlimited Mileage - See Attached Cummins Coverage
Transmission: 3 yr. / See Attached Allison Transmission Coverage
Dump Body/Hoist 6 Year Limited Warranty

Warranty period will begin after acceptance by the City - not upon delivery.

Section 16 Manuals

Manuals must cover all parts, service wiring diagrams, and all major components. Unit shall be supplied with manuals for truck, engine, transmission, driveline and any attachment (dump box). These manuals must be the same manuals used in the manufacturer's shops. Manuals shall be accessible online or in print form. Potential successful bidder shall demonstrate ability to access before bid is awarded. The following manuals must be provided: Workshop/Service Manual, Maintenance Manual, Driver's/Operator's Manual, Parts Technical Manual, Service Bulletins, Recall Bulletins, Field Service Modifications.

Yes No Exceptions _____

Section 17 Delivery

The complete unit shall be delivered (F.O.B. Destination, delivery charges prepaid, to City of Bozeman Vehicle Maintenance Shop, 1812 North Rouse, Bozeman, Montana 59715.)

Yes No Exceptions _____

Time and Distance Table

1.1 Freightliner Level I

Level I coverage is not available for vehicles in these vocations:		Refuse Packer, Logging, Mining, Oilfield	
Category Determinants			
Road Surface - most severe in-transit between sites		100% on-highway smooth concrete or asphalt	
Gross Combined Weight Rating		92,000 lb/41 730 kg or less	
Axles and Manufacturer's Gross Vehicle Weight Rating			
2-Axle Unit		35,000 lb/15 876 kg or less	
3-Axle Unit		58,000 lb/26 308 kg or less	
4-Axle Unit		71,000 lb/32 205 kg or less	
5-Axle Unit		N/A	
Coverage¹			
Description	Time²	Distance²	
Basic Vehicle	1 Year	100,000 mi/161 000 km	
Battery	1 Year	100,000 mi/161 000 km	
Brightwork	6 Months	Unlimited	
Cab Corrosion/Perforation	5 Years	Unlimited	
Cab Structure	3 Years	300,000 mi/483 000 km	
Corrosion	6 Months	Unlimited	
Crossmembers	6 Years	750,000 mi/1 207 000 km	
Emission Regulations ³			
Diesel Emission 2010 ⁴		5 Years	
GHG14/17 ⁵ (Medium Heavy Duty to Heavy Heavy Duty Trucks/Tractors)		5 Years	
GHG14/17 ⁵ Tire (File Direct)		2 Years	
Frame Rails		6 Years	
Front/Steer Axle ⁶			
Detroit ⁷		2 Years	
Non-Detroit		3 Years	
Paint		1 Year	
Paint, Chassis		6 Months	
Rear Axle ⁸			
Detroit ⁷		2 Years	
Non-Detroit		3 Years	
Transfer Case		3 Years	

DISCLAIMER: Failure to read or distribute this information does not provide exemption from compliance with the information contained herein. Specifications are subject to change without notice. Intended for general information only, not offered as customer's Warranty.

Terms and Conditions for

Allison Transmission Coverage

Transmission Coverage Definitions and Requirements

Standard Limited Warranty

All Allison automatic transmissions carry a Standard Limited Warranty based upon Vocational Model Series and vocations*. Standard Limited Warranty includes 100% parts and labor for the designated coverage period. Mileage limitations for specific Vocational Model Series and/or vocations may apply.

Coverage Pricing

Extended Transmission Coverage must be purchased within one year of the delivery of the vehicle. Pricing shown in this brochure is applicable to Extended Transmission Coverage purchased in 2021.

Suggested retail prices are established for each transmission vocational model/vocation combination.

The terms and conditions under which Allison Transmission offers Extended Transmission Coverage are set forth on the back of the Extended Transmission Coverage Agreement Registration, available from any Allison Authorized Distributor or Dealer.

Pricing and/or coverage details shown in the following charts are subject to change without notice. All pricing is in US Dollars. For current prices and coverage information, go to allisontransmission.com.

Extended Transmission Coverage

In addition to Standard Limited Warranty, Allison transmissions listed in this brochure are eligible for Extended Transmission Coverage. Extended Transmission Coverage begins at the end of the Standard Limited Warranty period and increases the coverage period. Extended Transmission Coverage is available for purchase through Allison Authorized Distributors and Dealers. Details for Extended Transmission Coverage are shown on the following charts.

REQUIREMENTS: Use of Allison Approved TES 668™ or TES 295[®] transmission fluid** and Genuine Allison Filters is required. Failure to use Allison Approved TES 668 or TES 295 transmission fluid and Genuine Allison Filters will result in no coverage for repair beyond Standard Limited Warranty coverage. Transmissions that are not OEM factory filled with Allison Approved TES 668 or TES 295 transmission fluid and Genuine Allison Filters must have Allison Approved TES 668 or TES 295 transmission fluid and Genuine Allison Filters installed at the time of Extended Transmission Coverage purchase. Transmissions that are not OEM factory filled with Allison Approved TES 668 or TES 295 transmission fluid, or transmissions operating with non-TES 668 or non-TES 295 fluids, must be drained and filled with Allison Approved TES 668 or TES 295 transmission fluid to achieve 100% concentration. One hundred percent concentration is not achieved until the second consecutive fluid change using Allison Approved TES 668 or TES 295 transmission fluid. The second consecutive fluid change must be achieved at the time of Extended Transmission Coverage purchase.

NOTE: Except as noted, all transmissions with Extended Transmission Coverage have 100% parts and labor coverage with no mileage limitations.

* See Warranty Parchment for exact coverage details.

** For a list of current Allison Approved TES 668 or TES 295 transmission fluids, go to: allisontransmission.com; click on Parts + Service, then Approved Fluids.

2021 Allison Transmission Coverage Pricing Guide

RUGGED DUTY SERIES™		Standard Limited Warranty	Extended Transmission Coverage*		RUGGED DUTY SERIES™		Standard Limited Warranty	Extended Transmission Coverage*	
Model	Vocation	Years of Coverage	2 Years	4 Years	Model	Vocation	Years of Coverage	2 Years	4 Years
1000 RDS	P&D and Beverage	3	\$361	N/A	3000 RDS	P&D and Beverage	3	\$482	Call***
	Utility and Other	3	\$361	N/A		Refuse Packer	3	\$938	N/A
	Dump Trucks/Mixers	3	\$281	N/A		Utility and Other	3	\$482	Call***
1000 RDS xFE	Agriculture	3	\$281	N/A	Dump Trucks/Mixers	3	\$482	\$1,020	
	P&D and Beverage	3	\$361	N/A	Agriculture	3	\$482	Call***	
	Utility and Other	3	\$361	N/A	P&D and Beverage	3	\$704	Call***	
	Dump Trucks/Mixers	3	\$281	N/A	Refuse Packer	3	\$1,143	N/A	
1350 RDS	Agriculture	3	\$281	N/A	3000 RDS R**	Utility and Other	3	\$704	Call***
	P&D and Beverage	3	\$319	N/A		Dump Trucks/Mixers	3	\$704	\$2,025
	Utility and Other	3	\$487	N/A		Agriculture	3	\$704	Call***
	Dump Trucks/Mixers	3	\$487	N/A		P&D and Beverage	3	\$487	Call***
1350 RDS xFE	Agriculture	3	\$487	N/A	3500 RDS	Refuse Packer	3	\$947	N/A
	P&D and Beverage	3	\$319	N/A		Utility and Other	3	\$487	Call***
	Utility and Other	3	\$487	N/A		Dump Trucks/Mixers	3	\$487	\$1,175
	Dump Trucks/Mixers	3	\$487	N/A		Agriculture	3	\$487	Call***
2100 RDS	Agriculture	3	\$487	N/A	3500 RDS R**	P&D and Beverage	3	\$607	Call***
	P&D and Beverage	3	\$552	\$773		Refuse Packer	3	\$1,060	N/A
	Utility and Other	3	\$552	\$773		Utility and Other	3	\$607	Call***
	Dump Trucks/Mixers	3	\$547	\$765		Dump Trucks/Mixers	3	\$607	\$2,153
2100 RDS xFE	Agriculture	3	\$547	\$765	4000 RDS	Agriculture	3	\$607	Call***
	P&D and Beverage	3	\$552	\$773		P&D and Beverage	3	\$877	Call***
	Utility and Other	3	\$552	\$773		Refuse Packer	3	\$877	\$1,109
	Dump Trucks/Mixers	3	\$547	\$765		Utility and Other	3	\$877	Call***
2200RDS	Agriculture	3	\$547	\$765	4000 RDS R**	Dump Trucks/Mixers	3	\$877	\$1,109
	P&D and Beverage	3	\$541	\$758		Agriculture	3	\$877	Call***
	Utility and Other	3	\$541	\$758		P&D and Beverage	3	\$1,166	Call***
	Dump Trucks/Mixers	3	\$541	\$758		Refuse Packer	3	\$1,429	N/A
2200 RDS xFE	Agriculture	3	\$541	\$758	4500 RDS	Utility and Other	3	\$1,166	Call***
	P&D and Beverage	3	\$541	\$758		Dump Trucks/Mixers	3	\$1,166	\$2,186
	Utility and Other	3	\$541	\$758		Agriculture	3	\$1,166	Call***
	Dump Trucks/Mixers	3	\$541	\$758		P&D and Beverage	3	\$826	Call***
2300 RDS	Agriculture	3	\$541	\$758	4500 RDS R**	Refuse Packer	3	\$1,052	N/A
	P&D and Beverage	3	\$555	\$777		Utility and Other	3	\$826	Call***
	Utility and Other	3	\$555	\$777		Dump Trucks/Mixers	3	\$826	\$1,172
	Dump Trucks/Mixers	3	\$555	\$777		Agriculture	3	\$826	Call***
2350 RDS	P&D and Beverage	3	\$549	\$769	4700 RDS	P&D and Beverage	3	\$910	Call***
	Utility and Other	3	\$549	\$769		Refuse Packer	3	\$1,152	N/A
	Dump Trucks/Mixers	3	\$549	\$769		Utility and Other	3	\$910	Call***
	Agriculture	3	\$549	\$769		Dump Trucks/Mixers	3	\$910	\$1,184
2350 RDS xFE	P&D and Beverage	3	\$549	\$769	4700 RDS R**	Agriculture	3	\$910	Call***
	Utility and Other	3	\$549	\$769		P&D and Beverage	3	N/A	N/A
	Dump Trucks/Mixers	3	\$549	\$769		Refuse Packer	3	\$1,532	N/A
	Agriculture	3	\$549	\$769		Utility and Other	3	\$1,596	Call***
2500 RDS	P&D and Beverage	3	\$478	\$669	4700 RDS R**	Dump Trucks/Mixers	3	\$1,224	\$2,176
	Utility and Other	3	\$478	\$669		Agriculture	3	\$1,272	Call***
	Dump Trucks/Mixers	3	\$478	\$669		P&D and Beverage	3	N/A	N/A
	Agriculture	3	\$478	\$669		Refuse Packer	3	\$2,171	N/A
2500 RDS xFE	P&D and Beverage	3	\$478	\$669	2550 RDS	Utility and Other	3	\$1,846	Call***
	Utility and Other	3	\$478	\$669		Dump Trucks/Mixers	3	\$1,846	\$4,175
	Dump Trucks/Mixers	3	\$478	\$669		Agriculture	3	\$1,846	Call***
	Agriculture	3	\$478	\$669					
2550 RDS	P&D and Beverage	3	\$549	\$769	2550 RDS xFE	Refuse Packer	3	\$1,066	\$1,492
	Utility and Other	3	\$549	\$769		Utility and Other	3	\$549	\$769
	Dump Trucks/Mixers	3	\$549	\$769		Dump Trucks/Mixers	3	\$549	\$769
	Agriculture	3	\$549	\$769		Agriculture	3	\$549	\$769
2550 RDS xFE	P&D and Beverage	3	\$549	\$769	2550 RDS xFE	P&D and Beverage	3	\$549	\$769
	Utility and Other	3	\$549	\$769		Refuse Packer	3	\$1,066	\$1,492
	Dump Trucks/Mixers	3	\$549	\$769		Utility and Other	3	\$549	\$769
	Agriculture	3	\$549	\$769		Dump Trucks/Mixers	3	\$549	\$769

Rugged Duty applications with a 2200/2500/3000 RDS Series™ may have additional coverage. Contact your distributor for additional information.

* Extended Transmission Coverage: Available for purchase through Allison Authorized Distributors and Dealers to increase coverage

** Retarder Option

*** For pricing, call your Allison Sales Contact

ISB6.7 Base Warranty.

Cummins 6-cylinder ISB6.7 engine has coverage similar to that of the ISL9, except there is no mileage restriction. The ISB6.7 warranty is good for 2 years with unlimited mileage.

2-Year/Unlimited-Mileage Coverage

- 100 percent parts and labor on warrantable failures*
- Travel or towing when an engine is disabled by a warrantable failure (from date of delivery through the first year)
- Consumables not reusable due to covered failure
- No deductible
- Includes aftertreatment



*Warrantable failures are those due to defects in Cummins material or factory workmanship.

Extended Coverage Means Added Security.

A Cummins Protection Plan is the most important travel insurance you can buy. Not only will it protect your business from unexpected expenses, but it will also ensure that you'll always get quality Cummins parts and professional Cummins service. There are two plans to choose from for ISL9 and ISB6.7 engines.

Protection Plan 1

Security is knowing that you are protected by comprehensive protection, with options ranging from 3 to 5 years and 100,000 to 300,000 miles (160,934-482,803 km).

- Internal components and major engine systems including the turbocharger, water pump and fuel injectors and, new for 2013, the air compressor, fuel pump and select engine sensors
- Registered parts and labor on covered failures

Protection Plan 2

Cummins Internal Protection Plan 2 covers you against major repair costs down the road, with registered parts and labor on major components and your choice of long-term options from 3 to 7 years and 100,000 to 300,000 miles (160,934-482,803 km).

- Internal components and major engine systems
- Registered parts and labor on covered failures

Aftertreatment Extended Coverage*

Extended coverage is also available for your Cummins Aftertreatment System. Options range from 3 to 5 years and 100,000 to 300,000 miles (160,934-482,803 km).

The coverage includes Cummins-supplied aftertreatment components, including:

- Diesel Oxidation Catalyst (DOC), Diesel Particulate Filter (DPF) and Selective Catalytic Reduction (SCR) assemblies
- Diesel Exhaust Fluid (DEF) dosing system
- Aftertreatment controls
- Ammonia sensor

*Protection Plan 1 EPA 2013 of equal duration is required prior to the purchase of the Aftertreatment Extended Coverage.

Memorandum

REPORT TO: City Commission

FROM: Bob Murray, Project Engineer
Shawn Kohtz, City Engineer
Mitch Reister, Public Works Director
Kristin Donald, Finance Director

SUBJECT: Authorize City Manager to Sign a Uniform Application Form for Montana Public Facility Projects for a Loan from the State Revolving Fund (SRF) Program for the Sourdough Transmission Main Phase 2 Project

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Finance

RECOMMENDATION: Authorize City Manager to sign the Uniform Application Form for Montana Public Facility Projects for a Loan from the State Revolving Fund (SRF) Program for the Sourdough Transmission Main Phase 2 Project.

STRATEGIC PLAN: 4.3 Strategic Infrastructure Choices: Prioritize long-term investment and maintenance for existing and new infrastructure.

BACKGROUND: The City is applying for a Loan Commitment from the State Revolving Loan Program to fund the construction and financing costs of the Sourdough Transmission Main Phase 2 Project. This project has been planned for several fiscal years in the Capital Improvement Plan (CIP). The phase 1 project started at Nash Road and ended near the Triple Tree Trail parking lot in Sourdough Road. This project will connect at that location and continue north along Sourdough and ultimately connect to the flow control building at the Sourdough Storage Reservoir. The project will consist of the installation of 40 feet of 48" and 7800 feet of 30" ductile iron pipe and appurtenances. This will provide the City with a redundant feed from the treatment plant into town as well as a significantly increase the capacity that can be conveyed.

UNRESOLVED ISSUES: None

ALTERNATIVES: As suggested by the City Commission

FISCAL EFFECTS: Debt Service for this project has been included in the approved Water Impact Fee CIP Fund.

Attachments:

[Uniform Application Form for Montana Public Facility](#)

[Projects.pdf](#)

Report compiled on: March 17, 2021

UNIFORM APPLICATION FORM FOR MONTANA PUBLIC FACILITY PROJECTS

(Please type or print legibly)

SECTION A - CERTIFICATION

To the best of my knowledge and belief, the information provided in this application and in the attached documents is true and correct.

Name (printed): Jeff Mihelich

Title (printed): City Manager
Chief Elected Official or Authorized Representative

Signature: _____

Date: _____

SECTION B - SUMMARY INFORMATION

1. NAME OF APPLICANT(S): City of Bozeman

2. TYPE OF ENTITY: Incorporated Municipality

3. FEDERAL TAX ID NUMBER: 81-6001238

4. TYPE OF PROJECT: Bozeman Sourdough Water Transmission Main - Phase 2

5. SENATE AND HOUSE DISTRICTS: Senate District 31, 32, & 33, House District 29

5.a NAMES OF SENATOR(S) AND REPRESENTATIVE(S): Senators Christopher Pope, Pat Flowers, & JP Pomnichowski; Representatives Jim Hamilton, Ed Stafman, Alice Buckley, Denise Hayman, & Kelly Kortum.

6. POPULATION SERVED BY PROJECT: 49,831

6.a NUMBER OF HOUSEHOLDS SERVED BY PROJECT: 22,049

7. DUNS Number: _____

8. CHIEF ELECTED OFFICIAL OR AUTHORIZED REPRESENTATIVE:

Jeff Mihelich

(Name)

City Manager

(Title)

121 N. Rouse / P.O. Box 1230

(Street/PO Box)

Bozeman, MT 59771

(City/State/Zip)

(406) 582-2306

(Telephone)

(FAX No)

JMihelich@Bozeman.net

(E Mail address)

10. PROJECT ENGINEER/ARCHITECT:

Chris Hayes, P.E.

(Name of Engineer)

Robert Peccia & Associates

(Name of Firm)

3147 Saddle Drive / P.O. Box 5653

(Street/PO Box)

Helena, MT 59604

(City/State/Zip)

(406) 447-5000

(406) 447-5036

(Telephone)

(FAX No)

chayes@rpa-hln.com

(E Mail address)

12. LEGAL COUNSEL:

Greg Sullivan

(Name)

City Attorney

(Title)

121 North Rouse Ave

(Street/PO Box)

Bozeman, MT 59715

(City/State/Zip)

(406) 582-2309

(Telephone)

(FAX No)

GSullivan@bozeman.net

(E Mail address)

14. Clerk/Chief Financial Officer:

Kristin Donald

(Name)

Finance Director

(Title)

121 N. Rouse / P.O. Box 1230

(Street/PO Box)

Bozeman, MT 59771

(City/State/Zip)

(406) 582-2318

(Telephone)

(FAX No)

KDonald@bozeman.net

(E Mail address)

9. PRIMARY ENTITY CONTACT PERSON:

Bob Murray, P.E.

(Name)

City Engineer

(Title)

20 E. Olive St. 1st Floor, P.O. Box 1230

(Street/PO Box)

Bozeman, MT 59771

(City/State/Zip)

(406) 582-2269

(406) 582-2263

(Telephone)

(FAX No)

BMurray@Bozeman.net

(E Mail address)

11. GRANT/LOAN ADMINISTRATOR:

Kristin Donald

(Name)

Finance Director

(Title)

121 N. Rouse / P.O. Box 1230

(Street/PO Box)

Bozeman, MT 59771

(City/State/Zip)

(406) 582-2318

(Telephone)

(FAX No)

KDonald@bozeman.net

(E Mail address)

13. BOND COUNSEL:

Dan Semmens

(Name)

Dorsey & Whitney, LLC

(Firm)

125 Bank Street, Suite 600

(Street/PO Box)

Missoula, MT 59802

(City/State/Zip)

406-721-6025

406-543-0863

(Telephone)

(FAX No)

semmens.dan@dorsey.com

(E Mail address)

15. ACCOUNTANT:

Kathleen Tonkovich

(Name of Accountant)

City Assistant Controller

(Name of Firm)

121 N. Rouse / P.O. Box 1230

(Street/PO Box)

Bozeman, MT 59771

(City/State/Zip)

(406) 582-2330

(Telephone)

(FAX No)

KTonkovich@bozeman.net

(E Mail address)

16. **BRIEF PROJECT SUMMARY:** (Refer to instructions and examples)

Historical Information -

Currently, water is delivered from the Hyalite/Sourdough Water Treatment Plant (WTP) to the City of Bozeman through an existing 42-inch DI pipe, a 96-inch pipe, a 30-inch concrete cylinder transmission main installed in 1984, and 48-inch DI pipe. Two (2) sections of 42-inch pipe were installed as part of the 5.3 MG Water Storage Tank (WTP Tank) project and a section of 48-inch water main was installed as part of the Bozeman Sourdough Water Transmission Main Phase 1 Project completed in 2019. This is currently the only infrastructure in place to convey water from the WTP to the City's distribution system. Water flows from the WTP chlorine contact chamber through 42-inch DI pipe and 30-inch concrete cylinder pipe and connects to the 42-inch ductile iron WTP Tank inlet piping. At this location, water flows through 42-inch ductile iron pipe to the WTP Tank or bypasses the WTP Tank and continues down the 30-inch transmission main. The WTP Tank outlet is a 42-inch ductile iron pipe and connects to the 30-inch concrete cylinder pipe. From the WTP Tank outlet connection, the 30-inch transmission main continues northerly to Nash Road to a tee. The 30-inch pipe heads easterly down Nash Road to Sourdough Road then heads northerly along Sourdough Road. The 48-inch piping installed in 2019 heads north easterly towards Sourdough Road where it ties back into the 30-inch transmission main approximately 2,600 feet north of the intersection of Sourdough Road and Nash Road.

Problem -

The reason for the project is to provide a redundant transmission main from the Hyalite/Sourdough Water Treatment Plant. This new main also increases capacity from the Water Treatment Plant and will be operated in parallel to the existing 30-inch main.

Proposed Solution -

The Bozeman Sourdough Water Transmission Main - Phase 2 project includes installing a 30-inch ductile-iron (DI) transmission main from the north end of the 48-inch DI Bozeman Sourdough Water Transmission Main Phase 1 project tie-in to the flow control station near the Sourdough Tank while leaving the existing 30-inch transmission main in operation. The new transmission main will run down the west lane of Sourdough Road located in Gallatin County and provide the City with a redundant transmission main supplying the distribution system. Butterfly valves for isolation, air releases, blowoffs and tie-in connections will be included in the design. Asphalt will be replaced by Gallatin County requirements and chip sealed. A Gallatin County application for Utility/ROW work permit will be required. There are 3 creek crossings that flow through culverts that will be crossed under along the route. A Joint Application including SPA 124 Permit, Section 404 Permit, 318 Authorization, and 401 Certification are required.

SECTION C - FINANCIAL INFORMATION

1. ESTIMATED TOTAL PROJECT COST: \$ 7,308,842 _____

2. PROPOSED FUNDING SOURCES (List loans and grants from same funding source separately) (Refer to the instructions and examples):

Source	Type of Funds	Amount	Status of Commitment	Loan Rates and Terms
SRF	Loan	\$7,308,842	Application submitted March 2021	2.5% at 20 years (assumed) with 10% excess coverage

3. FUNDING STRATEGY NARRATIVE

- Funding Strategy Narrative (**Complete and attach**)
(Refer to the instructions. Answer each question individually.)
 - a. What are the conditions on the use of each source of funds?
 - b. When will each source of funds listed be available (month and year)?
 - c. Is there any additional information on the level of commitment for each source of funds listed?
 - d. How will funding sources be coordinated with each other?
 - e. Will interim-loan funds be required as part of the project? If yes, how will they be used and coordinated with other funding sources?
 - f. What other sources of funds from public and private sources have been considered for this project? Explain why they are not being pursued or used for this project.
 - g. If a particular source of funding is not obtained, how will the applicant proceed? Explain how the funding strategy will change if a particular source of funding is not received.
 - h. What is the level of local financial participation in the project and is that level the maximum that the applicant can reasonably provide?

4. PROJECT BUDGET FORM

- Project Budget Form (**Complete form on next page**)
(Refer to the instructions and example)
- Project Budget Narrative (**Complete and attach**)
(Refer to the instructions and example)

Completed by: Robert Peccia & Associates		For: Bozeman Sourdough Water Transmission Main - Phase 2			Date: 3/11/2021
ADMINISTRATIVE and FINANCIAL COSTS:	SOURCE: SRF	SOURCE:	SOURCE:	SOURCE:	TOTAL
Personnel Costs					
Office Costs					
Grant & Loan Administration Services					
Legal Costs					
Audit Fees					
Travel & Training					
Loan Fees					
Loan Reserves	\$256,641				\$256,641
Interim Interest					
Bond Counsel and Related Costs	\$18,129				\$18,129
TOTAL ADMINISTRATIVE/FINANCIAL COSTS	\$274,770				\$274,770
ACTIVITY COSTS:					
Land Acquisition					
Engineering – Basic Services	\$494,586				\$494,586
Engineering – Resident Project Representative Services	\$494,586				\$494,586
Engineering – Additional Services					
Construction	\$5,495,400				\$5,495,400
Contingency	\$549,500				\$549,500
TOTAL ACTIVITY COSTS	\$7,034,072				\$7,034,072
TOTAL PROJECT COSTS	\$7,308,842				\$7,308,842

5. CURRENT DEBT (Refer to the instructions and example on pages 23-24)

Year Issued	Purpose	Type of Bond/ Security	Amount	Maturity Date (mo/yr)	Debt Holder	Coverage Requirement	Avg. Annual Payment Amount	Outstanding Balance
2011	Water	Loan		2032	SRF	25%	\$467,000	\$6,262,500
2011	Water	Loan		2033	SRF	25%	\$431,000	\$6,416,500
2017	Water	Loan		2037	SRF	10%	\$312,000	\$6,507,000

6. CURRENT ASSETS (Indicate if assets are obligated.) (Refer to the instructions on pages 23-24.)

Cash (Details) _____	\$ <u>18,323,317</u>
Investments (Details) _____	\$ _____
Certificates of Deposit (Details) _____	\$ _____
Accounts Receivable (Details) <u>special assessment-\$51; other-\$688; interest-\$72,727; cust.net-\$536,909</u>	\$ <u>610,375</u>
Any other current assets not specifically indicated above (Details) _____	\$ _____

7. BALANCE SHEET (Submit if applying to RD; contact the other programs to determine if or when this information is needed.)

Balance Sheet (Check if attached) (See Attachment C-7)

8. INCOME AND EXPENSE STATEMENT (Submit if applying to RD; contact the other programs to determine if or when this information is needed.)

Balance Sheet (Check if attached) (See Attachment C-8)

SECTION D - CENSUS INFORMATION

Do not fill in this section. The following information will be completed by the receiving agency using data supplied by the U.S. Bureau of the Census and the U.S. Department of Housing and Urban Development based on Census data.

- 1. MEDIAN HOUSEHOLD INCOME \$ _____
- 2. LOW TO MODERATE INCOME PERSONS: The percent of the population at or below the level designated as low to moderate income. % _____
- 3. POVERTY: The percent of the population characterized as at or below the level designated as poverty. % _____

SECTION E - SYSTEM INFORMATION (Refer to instructions)

Number of unimproved properties in jurisdiction: 1,266 (undeveloped-483; vacant-783)

• **Complete and attach the "System Information Worksheet."** The figures required for the items listed below that are denoted with an "•" are computed using the "System Information Worksheet." The letter in parenthesis following the "•" denotes the location in the worksheet to find the figure to be inserted.

	<u>Current</u>	<u>Projected</u>
1. Total System Annual Revenue <i>Current – from 2021 Water Enterprise Fund Budget</i> <i>Projected – No rate increase anticipated</i>	\$ <u>10,952,476</u>	\$ <u>10,952,476</u>
2. Total System Annual Operation and Maintenance Costs <i>Current – from 2021 Water Enterprise Fund Budget</i> <i>Projected – No increase in O&M anticipated</i>	\$ <u>10,355,250</u>	\$ <u>10,355,250</u>
3. Total System Equivalent Dwelling Units* •□(e) for current and (k) for projected	<u>21,133.25</u>	<u>21,133.25</u>
4. Total Residential Equivalent Dwelling Units* •□(f) for current and (m) for projected	<u>16,049.80</u>	<u>16,049.80</u>
5. Annual Revenue from Residential Hookups <i>Current - \$16.17 * 16,049.80 * 12 = \$3,114,303</i> <i>Projected – No rate increase anticipated</i>	\$ <u>3,114,303</u>	\$ <u>3,114,303</u>
6. Percent of Total Annual Revenue from Residential Hookups	<u>28.4%</u>	
7. Average Monthly Residential Rate <i>The City of Bozeman has built in future debt in their rates as part of a rate study through a resolution setting rates and an increase in user rates is not anticipated as part of this project.</i>	\$ <u>16.17</u> <input type="checkbox"/> Check box if this is a flat rate.	\$ <u>16.17</u> <u>Projected Average Monthly Residential Rate</u> • (w) or (x)
	\$ <u>22.86</u>	\$ <u>22.86</u>
8. <u>Other System</u> Average Monthly Residential Rate		

* If this application is for a solid waste project, see instructions.

SYSTEM INFORMATION WORKSHEET

(Refer to instructions)

SUBSECTION 1 – EQUIVALENT DWELLING UNIT COMPUTATION

Applicants with either a water and wastewater project must complete Section I, regardless of whether the applicant is served by a central water system or is planning to charge residential users a flat user fee. If the applicant is not served by a central water system, or it has water connections that provide service to multiple mixed uses, such as commercial and residential, refer to the instructions on page 26 for information on computing the number of EDU's. Applicants with solid waste projects are not required to complete Section I. Service connection diameters will be converted to EDU's according to the following table, with the exception of those situations noted on page 26:

<u>Service connection inside diameter (inches)</u>	<u>EDU's</u>
3/4" or smaller	1.00
1"	1.79
1-1/2"	4.00
2"	7.14
2-1/2"	11.16
3"	16.00
4"	28.57
5"	44.64
6"	64.29
7"	87.11
8"	113.78
9"	144.00
10"	177.78

PART A. CURRENT WATER HOOKUP SUMMARY

<u>Diameter (inches)</u>	<u>Current Total Hookups*</u>			<u>Diameter (inches)</u>	<u>Current Residential Hookups</u>		
	<u>(a) Total Number of Hookups</u>	<u>(b) EDU's per Hookup (from table)</u>	<u>Total EDU's [(a) x (b)]</u>		<u>(c) Number of Residential Hookups</u>	<u>(d) EDU's Per Hookup (from table)</u>	<u>Total Residential EDU's [(c) x (d)]</u>
5/8"	11,980	1.00	11,980.00	5/8"	11,326	1.00	11,326.00
1"	1,150	1.79	2,058.50	1"	871	1.79	1,559.09
1 1/2"	443	4.00	1,772.00	1 1/2"	291	4.00	1,164.00
2"	327	7.14	2,334.78	2"	150	7.14	1,071.00
3"	65	16.00	1,040.00	3"	34	16.00	544.00
4"	32	28.57	914.24	4"	9	28.57	257.13
6"	9	64.29	578.61	6"	2	64.29	128.58
8"	4	113.78	455.12				
<u>Totals</u>	<u>14,010</u>		<u>21,133.25 (e)</u>		<u>12,683</u>		<u>16,049.80 (f)</u>

* Includes both residential and non-residential hookups

PART B. PROJECTED WATER HOOKUP SUMMARY

Diameter (inches)	Projected Total Hookups*			Diameter (inches)	Projected Residential Hookups		
	(g) Total Number of Hookups	(h) EDU's per Hookup (from table)	Total EDU's [(g) x (h)]		(i) Number of Residential Hookups	(j) EDU's Per Hookup (from table)	Total Residential EDU's [(i) x (j)]
5/8"	11,980	1.00	11,980.00	5/8"	11,326	1.00	11,326.00
1"	1,150	1.79	2,058.50	1"	871	1.79	1,559.09
1 1/2"	443	4.00	1,772.00	1 1/2"	291	4.00	1,164.00
2"	327	7.14	2,334.78	2"	150	7.14	1,071.00
3"	65	16.00	1,040.00	3"	34	16.00	544.00
4"	32	28.57	914.24	4"	9	28.57	257.13
6"	9	64.29	578.61	6"	2	64.29	128.58
8"	4	113.78	455.12				
Totals	14,010		21,133.25 (e)		12,683		16,049.80 (f)

* Includes both residential and non-residential hookups

Projected average EDU's per residential hookup: $\frac{1.00 (n)}{[(m)/(l)]}$

Provide the following information if applying to the USDA RUS/RD program

Total water system flows (sales) last twelve months _____ [gallons or cubic feet (circle one) for all connections listed in (a) above]

Total residential water flows (sales) last twelve months _____ [gallons or cubic feet (circle one) for all connections listed in (c) above]

NOTE: In some cases it is necessary to provide a detailed monthly split of the residential and non-residential sales. A sample spreadsheet is available on the Montana USDA Rural Development website at <http://www.rd.usda.gov/programs-services/water-waste-disposal-loan-grant-program/mt>.

SUBSECTION 2 – PROJECTED AVERAGE MONTHLY RESIDENTIAL RATE COMPUTATION

Will debt be used to finance the project? Yes No If no, skip to PART E.

If yes, how will debt for the project be secured:

- A. Revenue Bond (complete Part A)
- B. General Obligation Bond _____ (complete Part B)
- C. Rural or Special Improvement District Bond _____ (complete Part C)
- D. Other (explain) _____ (complete Part D)

Debt (Loan) Amount: \$ 7,308,842 Interest Rate: 2.5% Terms: 20 years

COMPLETE THE APPLICABLE SECTIONS BELOW

PART A. REVENUE BOND SECURING DEBT OBLIGATION:

1. Debt election held? Yes _____ No X If no, when will election be held (date) N/A
2. Annual debt service for new loan, including coverage: \$ 513,282 (i)
3. Monthly debt service for new loan, including coverage: (line i / 12) \$ 42,773.50 (ii)
4. Total number of projected EDU's after completion of project: 21,133.25 (iii)
5. Average (per total projected EDU's) monthly debt service for new loan: (line ii / line iii) \$ 2.02 (iv)

PART B. GENERAL OBLIGATION BOND SECURING DEBT OBLIGATION:

1. Debt election held? Yes No If no, when will election be held? (date): _____
2. Amount of outstanding General Obligation Bonds \$ _____
3. Debt limitations of entity _____
4. Estimated average (per property) monthly assessment needed to repay debt (divide the annual assessment by 12 to obtain a monthly figure): \$ _____

PART C. RURAL OR SPECIAL IMPROVEMENT DISTRICT BOND SECURING DEBT OBLIGATION:

1. Type of special assessment:
 - a. SID
 - b. RID
 - c. Other (specify) _____
2. Proposed method of assessment:
 - a. Assessable Area _____
 - b. Area _____
 - c. Ad Valorem Tax _____
 - d. Lineal Front Footage _____
 - e. Combination of a. through d. above (explain) _____
3. Number of parcels in the district _____
4. What percentage of the property (based on the methods of assessment) within the district fits these descriptions?

TYPE OF PROPERTY	PERCENT DEVELOPED	PERCENT UNDEVELOPED
Commercial		
Industrial		
Single-Family Residential		
Multi-Family Residential		
Agricultural		

5. Number of property owners in district _____
6. Estimated average (per property) monthly assessment needed to repay debt (divide the annual assessment by 12 to obtain a monthly figure): \$ _____

PART D. OTHER TYPE OF DEBT INSTRUMENT SECURING DEBT OBLIGATION THAT IS NOT INDICATED ABOVE

1. Explain how debt will be secured: _____
2. Estimated average (per property) monthly cost to repay debt: \$ _____

PART E. CALCULATION OF THE PROJECTED AVERAGE MONTHLY RESIDENTIAL USER RATE:

1. Estimated increase in average monthly debt service (per projected EDU, monthly assessment per property for General Obligation Bond or SID, or per customer for solid waste projects) as the result of this project. Enter \$0 if no increase is projected:

The City of Bozeman has built in future debt in their rates as part of a rate study through a resolution setting rates and an increase in user rates is not anticipated as part of this project.

\$ 0.00 _____ (o)
[From Part A, B, C, or D]

2. Estimated increase or decrease in total monthly operation and maintenance (O&M) costs (including depreciation and replacement reserves) as the result of this project:

\$ 0.00 _____ (p)

3. List and explain estimated increases or decreases in O&M costs, including depreciation and replacement reserves (Provide a reasonably detailed explanation regarding the reason for the increase or decrease):

An increase in O&M cost is not anticipated as part of this project.

4. Estimated increase or decrease in monthly O&M costs (including depreciation and replacement reserves) (per projected EDU, monthly assessment per property for General Obligation Bond or SID, or per customer for solid waste projects) as the result of this project:

\$ 0.00 _____ (q)
[(p) / (k)]

5. Estimated increase or decrease in total monthly costs (per projected EDU, monthly assessment per property for General Obligation Bond or SID, or per customer for solid waste projects) as the result of this project:

\$ 0.00 _____ (r)
[(o) + (q)]

6. Projected average EDU's per residential hookup: 1.00 (s) [(n)]
7. Estimated increase or decrease in total monthly costs per average residential hookup/customer as the result of this project: \$ 0.00 (t) [(r) x (s)]
8. Existing average monthly residential debt service, including coverage and bond reserve (subtract any existing debt service if the loan will expire before the completion of the project): \$4.77 (u)
 Current annual debt service - \$1,210,000
 $\$1,210,000/21,133.25/12 = \4.77
9. Existing average monthly residential O&M costs and replacement and depreciation reserves: \$11.40 (v)
 $\$16.17 - \$4.77 = \$11.40$
- Note: (u) plus (v) should equal the current average monthly residential rate as stated in Section E, Line 7. If these amounts do not equal, provide an explanation of why the numbers differ.*
10. Projected average monthly residential user rate after completion of this project: \$16.17 (w)
 [(t) + (u) + (v)]
11. Projected flat user rate: \$ (x)
-

Attachments:

- C-3: Funding Strategy Narrative**
- C-4: Project Budget Narrative**
- C-7: City of Bozeman Statement of Net Position FY20**
- C-8: City of Bozeman Water Enterprise Fund FY 21 YTD Budget vs. Actual, Statement of Revenues, Expenses and Changes in Net Position Year Ended June 30, 2020**

ATTACHMENT C-3
FUNDING STRATEGY NARRATIVE

Funding Strategy Narrative Attachment C-3

a. What are the conditions on the use of each source of funds?

Drinking Water State Revolving Fund: In order to be eligible for this funding, the City of Bozeman was required to request this project be added to the *Drinking Water Project Priority List and Intended Use Plan*. A DWSRF survey was submitted for the proposed Bozeman Sourdough Water Transmission Main - Phase 2 project and the project is on the State Fiscal Year 2021 *Drinking Water State Revolving Fund Intended Use Plan and Project Priority List*.

b. When will each source of funds listed be available (month and year):

SRF:	Commitment:	May 2021
	Loan Closing:	July 2021
	Funds Availability:	July 2021

The anticipated construction start-up is the Summer of 2021.

c. Is there any additional information on the level of commitment for each source of funds listed?

This *Uniform Application*, along with the *Bozeman Sourdough Water Transmission Main – Phase 2 Design Report* will be provided to SRF in March 2021. After SRF's review of the application, follow-up documentation will be provide as requested by the agency including updated financials. Debt service with SRF financing has been calculated using 2.5% interest and 20-year loan terms for the project.

d. How will funding sources be coordinated with each other?

The City will be using only SRF funds for this project. The funding source will be accounted and precisely tracked along with monthly project expenditures. Regular financial tracking and progress reports will be provided during the duration of the project.

e. Will interim-loan funds be required as part of the project? If yes, how will they be used and coordinated with other funding sources?

Interim financing will not be required for these improvements.

f. What other sources of funds from public and private sources have been considered for this project? Explain why they are not being pursued or used for this project.

Other funding sources for the Bozeman Water improvements project considered but not pursued include:

TSEP: An application to the Treasure State Endowment Program were not considered for this project. The City of Bozeman's user rates are below the Montana Department of Commerce's Target Rate for the City and therefore, does not qualify for a TSEP grant.

DNRC RRGL: To be eligible for an RRGL grant, the project must conserve, manage, develop, or preserve Montana's renewable resources. This is a highly competitive process, and the proposed project did not fit well with the overall objective of the project.

CDBG: Application to the CDBG Public Facilities grant program was considered but eliminated. According to the MDOC's Montana Community Target Rate Calculator, the City of Bozeman has a 53.6% low-and-moderate household income (2015 Estimate). While this is over the threshold to apply for CDBG funds, the applications are very competitive, and it is believed that this project is not a good candidate for the grant.

USDA Rural Development: The City of Bozeman is not considered a rural town and has a population greater than 10,000. Therefore, they do not qualify for the USDA Rural Development's Water & Waste Disposal Loan and Grant Program.

INTERCAP Loan Program: The maximum term of an INTERCAP loan is 15 years or useful life of the project, whichever is less. Although INTERCAP loans are at a variable low interest rate of 3.15%, the 20-year term from SRF at an interest rate of 2.50% is a more attractive option for the Bozeman water system improvements. Therefore, the INTERCAP Loan was not pursued for long-term financing of the water improvements.

Federal Economic Development Administration (EDA) Grants: This program is administered by the Federal Economic Development Administration (EDA) and is used to fund public infrastructure as related to economic development. It would likely be difficult to link the Bozeman water system improvements to broader economic or business enhancement. The project would likely not qualify under the investment attraction and job creation mission of the program.

Banks: Current bank lending rates are significantly higher than SRF for long-term financing. Therefore, bank financing for the project was not pursued.

- g. If a particular source of funding is not obtained, how will the applicant proceed? Explain how the funding strategy will change if a particular source of funding is not received.**

If the City of Bozeman is not able to secure an SRF loan, their only other option would be a higher interest bank loan. If that option was not available, the City would not be able to proceed with the project until funds became available.

- h. What is the level of local financial participation in the project and is that level the maximum that the applicant can reasonably provide?**

The City of Bozeman used all local funds for Phase I of the Bozeman Sourdough Water Transmission Main project. Therefore, an SRF loan is needed in order to complete Phase 2. However, the City of Bozeman has built in future debt in their rates as part of a rate study that was completed through a resolution setting City user rates. Therefore, the City will not need to increase user rates to cover the debt of the project.

ATTACHMENT C-4
PROJECT BUDGET NARRATIVE

Project Budget Narrative

Attachment C-4

Total Project Cost (proposed): \$7,308,842 – SRF (2.5%, 20 years)

ADMINISTRATIVE/FINANCIAL COSTS

Loan Reserves	\$256,641.00
Based on the projected \$7,308,842 SRF loan at 2.5% interest and 20-year term, one half of an annual payment of \$256,641 will be placed in reserve. This reserve will be paid by SRF loan proceeds.	
Bond Counsel	\$18,129.00
Relative to SRF financing and related documentation, a bond counsel will be retained. Bond counsel services are estimated to cost \$18,129, which is budgeted from SRF loan proceeds.	
TOTAL ADMINISTRATIVE/FINANCIAL COSTS (3.8%)	\$274,770.00

ACTIVITY COSTS

Engineering – Basic Services	\$494,586.00
Based on the construction cost estimate, engineering design and inspection are estimated at approximately 18% of the construction cost. Of this amount, \$494,586 is estimated for final engineering design and is budgeted from SRF loan funds.	
Engineering – Resident Project Representative Services	\$494,586.00
The remaining amount of the 18% of the construction cost is budgeted for construction inspection and administration. This amount is budgeted from SRF funds.	
Construction	\$5,495,400.00
The project is estimated to cost \$5,495,400 to construct and is budgeted from SRF loan funds.	
Contingency	\$549,500.00
Contingency of approximately 10% of the construction cost is included in the project cost estimate. Contingency provides a buffer for future construction cost inflation, and construction Change Orders or other unanticipated costs. Contingency has been budgeted from SRF loan funds.	
TOTAL ACTIVITY COSTS (96.2%)	\$7,034,072.00
TOTAL PROJECT BUDGET	\$7,308,842.00

ATTACHMENT C-7

City of Bozeman Statement of Net Position FY20

CITY OF BOZEMAN, MONTANA
STATEMENT OF NET POSITION
PROPRIETARY FUNDS
June 30, 2020

	Business-type Activities					Governmental Activities
	Enterprise Funds					
	Water Fund	Waste Water Fund	Solid Waste Fund	Nonmajor Enterprise Funds	Total	
ASSETS						
Current assets						
Cash and investments	\$ 18,323,317	\$ 7,471,620	\$ 718,952	\$ 2,340,182	\$ 28,854,071	\$ 1,497,631
Receivables:						
Accrued interest	72,727	31,873	-	-	104,600	-
Customers, net	536,909	550,064	394,926	247,584	1,729,483	24,507
Special assessments	51	-	526	374	951	-
Other governments	688	22	-	25	735	-
Prepaid expenses	-	-	-	-	-	455,755
Total current assets	<u>18,933,692</u>	<u>8,053,579</u>	<u>1,114,404</u>	<u>2,588,165</u>	<u>30,689,840</u>	<u>1,977,893</u>
Non-current assets						
Other assets:						
Restricted cash and investments	11,774,620	5,266,786	5,234	556,413	17,603,053	-
Total other assets	<u>11,774,620</u>	<u>5,266,786</u>	<u>5,234</u>	<u>556,413</u>	<u>17,603,053</u>	<u>-</u>
Property, plant and equipment						
Nondepreciable:						
Land	573,847	1,112,597	228,673	303,436	2,218,553	-
Water rights	2,120,142	-	-	-	2,120,142	-
Depreciable:						
Buildings	40,620,000	60,390,526	746,509	11,891,280	113,648,315	1,496,540
Other structures and improvements	13,646,910	14,745,401	2,155,300	-	30,547,611	-
Machinery and equipment	1,660,076	3,180,240	5,319,364	658,705	10,818,385	491,476
Vehicles	604,622	755,997	482,954	248,145	2,091,718	197,356
Infrastructure	203,811,400	134,320,952	118,081	5,049,189	343,299,622	-
Property under capital lease	-	-	-	519,943	519,943	-
Accumulated depreciation and amortization	(112,917,257)	(84,338,458)	(6,954,125)	(5,568,476)	(209,778,316)	(945,274)
Net property, plant and equipment	<u>150,119,740</u>	<u>130,167,255</u>	<u>2,096,756</u>	<u>13,102,222</u>	<u>295,485,973</u>	<u>1,240,098</u>
Total non-current assets	161,894,360	135,434,041	2,101,990	13,658,635	313,089,026	1,240,098
Deferred outflows of resources						
Other post-employment benefits	12,515	11,499	10,958	6,938	41,910	13,654
Pension plan contributions	256,553	246,177	185,638	120,587	808,955	317,593
Total deferred outflows of resources	<u>269,068</u>	<u>257,676</u>	<u>196,596</u>	<u>127,525</u>	<u>850,865</u>	<u>331,247</u>
Total assets and deferred outflows of resources	<u>\$ 181,097,120</u>	<u>\$ 143,745,296</u>	<u>\$ 3,412,990</u>	<u>\$ 16,374,325</u>	<u>\$ 344,629,731</u>	<u>\$ 3,549,238</u>

The Notes to Financial Statements are an integral part of this statement.

CITY OF BOZEMAN, MONTANA
STATEMENT OF NET POSITION (CONTINUED)
PROPRIETARY FUNDS
June 30, 2020

	Business-type Activities					Governmental Activities
	Enterprise Funds					
	Water Fund	Waste Water Fund	Solid Waste Fund	Nonmajor Enterprise Funds	Total	
LIABILITIES						
Current liabilities						
Accounts payable and accrued expenses	\$ 371,529	\$ 807,114	\$ 463,923	\$ 76,803	\$ 1,719,369	\$ 205,862
Compensated absences payable	80,476	154,394	58,929	65,421	359,220	184,986
Due to other city funds	-	-	-	-	-	380,043
Capital lease obligations due in one year	5,477	-	-	55,936	61,413	7,765
Closure and post-closure care costs, current portion	-	-	310,773	-	310,773	-
Bonds, notes, and loans payable	1,244,000	1,209,000	-	80,000	2,533,000	-
Total current liabilities	<u>1,701,482</u>	<u>2,170,508</u>	<u>833,625</u>	<u>278,160</u>	<u>4,983,775</u>	<u>778,656</u>
Noncurrent liabilities						
Closure and post-closure care costs	-	-	1,498,755	-	1,498,755	-
Revenue bonds due after one year	18,547,000	12,848,000	-	1,362,000	32,757,000	-
Compensated absences payable	102,184	-	71,293	-	173,477	-
Capital lease obligations	9,664	-	-	-	9,664	13,701
Other post-employment health benefits implicit rate subsidy	130,480	163,600	121,711	52,796	468,587	155,953
Appearance bond and other liabilities	-	-	-	-	-	-
Solvent site remediation liability	-	1,060,346	-	-	1,060,346	-
Net pension liability	1,502,068	1,441,320	1,086,874	706,017	4,736,279	1,859,447
Total noncurrent liabilities	<u>20,291,396</u>	<u>15,513,266</u>	<u>2,778,633</u>	<u>2,120,813</u>	<u>40,704,108</u>	<u>2,029,101</u>
Total liabilities	<u>21,992,878</u>	<u>17,683,774</u>	<u>3,612,258</u>	<u>2,398,973</u>	<u>45,687,883</u>	<u>2,807,757</u>
Deferred inflows of resources						
Other post-employment benefits	40,546	46,925	36,764	17,894	142,129	45,496
Pension deferrals	179,292	172,041	129,733	84,274	565,340	221,951
Total deferred inflows of resources	<u>219,838</u>	<u>218,966</u>	<u>166,497</u>	<u>102,168</u>	<u>707,469</u>	<u>267,447</u>
NET POSITION						
Net investment in capital assets	130,313,599	116,110,255	2,096,756	11,604,286	260,124,896	1,218,632
Restricted for impact capital projects	5,667,780	3,330,367	-	-	8,998,147	-
Restricted for infrastructure capital projects	410,599	-	-	-	410,599	-
Restricted for parking capital projects	-	-	-	130,316	130,316	-
Restricted for debt service	898,929	1,811,286	-	58,288	2,768,503	-
Unrestricted	21,593,497	4,590,648	(2,462,521)	2,080,294	25,801,918	(744,598)
Total net position	<u>158,884,404</u>	<u>125,842,556</u>	<u>(365,765)</u>	<u>13,873,184</u>	<u>298,234,379</u>	<u>474,034</u>
Total liabilities, deferred inflows of resources, and net position	<u>\$ 181,097,120</u>	<u>\$ 143,745,296</u>	<u>\$ 3,412,990</u>	<u>\$ 16,374,325</u>	<u>\$ 344,629,731</u>	<u>\$ 3,549,238</u>

The Notes to Financial Statements are an integral part of this statement.

ATTACHMENT C-8

**City of Bozeman Water Enterprise Fund FY 21
YTD Budget vs. Actual
Statement of Revenues, Expenses and Changes in Net Position
Year Ended June 30, 2020**

Water Fund FY21 YTD Budget vs. Actual

Account	Description	Budget	Actual	Balance
Basic Act 33	INTERGOVERNMENTAL REVENUE	1,500.00		1,500.00
Basic Act 34	CHARGES FOR SERVICES	10,952,476.00	7,799,647.58	3,152,828.42
Basic Act 36	INTEREST INCOME	160,000.00	(8,863.81)	168,863.81
Basic Act 38	OTHER REVENUES	135,000.00	62,518.50	72,481.50
Basic Act 39	OTHER FINANCING SOURCES	600,000.00		600,000.00
Fund 600 Rev	WATER	11,848,976.00	7,853,302.27	3,995,673.73
Division 4610	WATER TREATMNT PLANT OPER	5,111,197.00	1,530,011.89	3,581,185.11
Division 4640	WATER CONSERVATION	658,829.00	219,549.08	439,279.92
Division 5010	WATER OPERATIONS	2,528,263.00	1,204,968.01	1,323,294.99
Division 5020	UTILITIES LOCATES	93,750.00	48,376.54	45,373.46
Division 5030	WATER SERVICES	35,000.00	29,124.77	5,875.23
Division 5040	WATER CONSTRUCTION	1,222,500.00	379,752.56	842,747.44
Division 5060	METER READING	588,211.00	444,492.62	143,718.38
Division 5070	HYDRANTS	80,000.00	47,881.60	32,118.40
Division 5080	WATER VALVES	17,500.00	202.16	17,297.84
Division 5090	MAIN REPAIRS	20,000.00	10,883.54	9,116.46
Fund 600 Exp	WATER	10,355,250.00	3,915,242.77	6,440,007.23

CITY OF BOZEMAN, MONTANA
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
PROPRIETARY FUNDS
Year Ended June 30, 2020

	Business-type Activities				Totals	Governmental Activities
	Enterprise Funds			Nonmajor Enterprise Funds		
	Water Fund	Waste Water Fund	Solid Waste Fund	Enterprise Funds		Internal Service Funds
OPERATING REVENUES	\$ 9,852,375	\$ 9,441,672	\$ 4,631,523	\$ 2,457,485	\$ 26,383,055	\$ 9,636,130
OPERATING EXPENSES						
Salaries and benefits	2,087,764	1,833,465	1,518,652	1,058,393	6,498,274	2,782,330
Materials and supplies	791,892	417,238	445,987	48,232	1,703,349	770,544
Repairs and maintenance	99,927	177,095	277,617	26,098	580,737	21,914
Utilities	260,179	653,465	600,882	38,886	1,553,412	33,568
Administrative charges	1,871,212	1,517,040	803,532	246,532	4,438,316	204,233
Insurance claims	-	-	-	-	-	5,060,983
Other expenses	1,134,184	959,256	679,528	347,115	3,120,083	450,412
Depreciation and amortization	2,975,462	3,206,066	339,415	548,627	7,069,570	112,523
Changes in estimated closure and post-closure care costs	-	-	-	-	-	-
Total operating expenses	9,220,620	8,763,625	4,665,613	2,313,883	24,963,741	9,436,507
Operating income (loss)	631,755	678,047	(34,090)	143,602	1,419,314	199,623
NON-OPERATING REVENUES (EXPENSES)						
Interest income	564,871	233,003	7,609	40,848	846,331	17,526
Interest expense	(587,350)	(446,064)	-	(42,079)	(1,075,493)	(3,351)
Other income	393,569	30,359	59,183	35,051	518,162	6,675
Intergovernmental income	33,712	31,711	23,896	15,549	104,868	42,801
Impact fees	2,061,504	1,229,689	-	-	3,291,193	-
Gain (loss) on disposal of assets	4,012	-	-	-	4,012	-
Total non-operating revenues (expenses)	2,470,318	1,078,698	90,688	49,369	3,689,073	63,651
Income (loss) before contributions and transfers	3,102,073	1,756,745	56,598	192,971	5,108,387	263,274
Contributions of infrastructure - developers	6,674,606	5,798,153	-	839,745	13,312,504	-
Transfers in	600,000	-	280,000	266,353	1,146,353	-
Transfers out	(600,000)	-	-	-	(600,000)	-
Change in net position	9,776,679	7,554,898	336,598	1,299,069	18,967,244	263,274
NET POSITION, beginning of year	149,000,134	118,171,536	(782,728)	12,527,098	278,916,040	79,328
Restatement	107,591	116,122	80,365	47,017	351,095	131,432
NET POSITION, beginning of year, restated	149,107,725	118,287,658	(702,363)	12,574,115	279,267,135	210,760
NET POSITION, end of year	\$ 158,884,404	\$ 125,842,556	\$ (365,765)	\$ 13,873,184	\$ 298,234,379	\$ 474,034

The Notes to Financial Statements are an integral part of this statement.

Memorandum

REPORT TO: City Commission

FROM: Bob Murray, Project Engineer
Shawn Kohtz, City Engineer
Mitch Reister, Public Works Director

SUBJECT: Authorize City Manager to Sign a Professional Services Agreement with Morrison Maierle for the West Babcock Street (11th to 19th) Reconstruction Project

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Agreement - Vendor/Contract

RECOMMENDATION: Authorize City Manager to sign the Professional Services Agreement with Morrison Maierle for the West Babcock Street (11th to 19th) Reconstruction Project.

STRATEGIC PLAN: 2.2 Infrastructure Investments: Strategically invest in infrastructure as a mechanism to encourage economic development.

BACKGROUND: Attached is a copy of the partially executed Professional Services Agreement with Morrison Maierle for the West Babcock Street (11th to 19th) Reconstruction Project. The document is in the City's standard format.

These services were procured through the City's consultant selection process. A Request for Proposals was published in the Bozeman Daily Chronicle on September 20th and 27th, with the proposals being due on October 9th. Proposals were received from 2 firms on the project which were distributed to a selection committee of 3 city employees. The written proposals were scored by the selection committee and Morrison Maierle was selected the most qualified to complete the project.

The current contract is for the predesign services only. In this phase the consultant will complete the surveying, geotechnical investigation, review traffic, complete preliminary layouts of utilities, lighting, and stormwater and provide and updated project budget. Once this phase is complete and accepted, an amendment will be negotiated to add the design phase services.

UNRESOLVED ISSUES: None.

ALTERNATIVES: As suggested by the City Commission.

FISCAL EFFECTS: \$110,937 from the Street Impact Fee Fund (SIF118).

Attachments:

[West Babcock Professional Services Agreement.pdf](#)

Report compiled on: March 16, 2021

PROFESSIONAL SERVICES AGREEMENT

THIS IS AN AGREEMENT made as of _____, between **THE CITY OF BOZEMAN**, a self-governing municipal corporation organized and existing under its Charter and the laws of the State of Montana, 121 N. Rouse Ave., Bozeman, Montana, 59771 (OWNER) and **Morrison Maierle, Inc, 2880 Technology Blvd West, Bozeman, Montana, 59718** (ENGINEER).

Whereas the accomplishment of the work and services described in this Agreement is essential to the OWNER'S public works improvement program.

Whereas the OWNER intends to and has selected the ENGINEER to provide necessary and professional engineering services for the project.

Whereas the ENGINEER represents that it is willing and qualified to perform the professional engineering services for this project described in this Agreement.

Therefore, in consideration of the foregoing recitals and the mutual covenants and conditions contained herein, the parties agree as follows:

ARTICLE 1 - ENGINEERING SERVICES

1.1. The detailed description of the specific project components is described as follows:

Reconstruct West Babcock Street from South 11th Avenue to South 19th Avenue to a three lane collector street.

1.2. The scope of services under this contract is set forth in this Agreement and the attached EXHIBIT C-1 "West Babcock Street Reconstruction (11th Avenue – 19th Avenue) Scope of Work – Pre-Design Services " and EXHIBIT D-1 "Engineering Fee Estimate West Babcock Street (11th - 19th) – Pre-Design Services.

ARTICLE 2 - ENGINEER'S RESPONSIBILITIES

2.1. ENGINEER shall perform for OWNER professional engineering services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include, but not be limited to, serving as OWNER'S professional engineering representative for the Project, providing professional engineering consultation and advice and furnishing customary civil and structural engineering services incidental thereto.

2.2. The ENGINEER shall furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the ENGINEER'S portions of the Project and to prepare and deliver to the OWNER all data, reports, plans, specifications, and recommendations as designated herein.

2.3. The ENGINEER shall ascertain such information as may have a bearing on the work from local units of government, public, and private organizations and shall be authorized to procure information from other authorities as to the extent of these contacts and the results thereof.

2.4. The ENGINEER'S work shall be in accordance with the standards of sound engineering practices.

2.5. The ENGINEER shall name a Principal-In-Charge for the duration of the project. The Principal-In-Charge shall be Travis Eickman, PE.

2.6. The ENGINEER shall name a Project Manager who shall be the liaison between the ENGINEER and the OWNER. The Project Manager shall be James Nickelson, PE. The OWNER may name a Task Director who would be the liaison between the ENGINEER and the OWNER during the design segment of the Project.

2.7. The ENGINEER shall submit an estimated progress schedule at the beginning of the work, and monthly progress reports thereafter until the project is completed.

ARTICLE 3 - OWNER'S RESPONSIBILITIES

3.1 The OWNER shall name a Task Director who shall be the liaison between the ENGINEER and the OWNER during DESIGN segment of the Project. The Task Director designated shall be Bob Murray, Jr., PE.

3.2 The OWNER shall have the right of review and examination of the ENGINEER'S work at all times.

3.3 The OWNER shall make available all records (record drawings, construction records, etc.) indicating the existing configuration of the city utilities.

3.4 The OWNER will be responsible for advertising bid openings.

3.5 The OWNER shall attend the pre-bid conferences, bid openings, pre-construction conferences, construction progress and other job related meetings, substantial completion inspections and final payment inspections.

ARTICLE 4 - BASIC ENGINEERING SERVICES

The ENGINEER shall render professional Engineering Services as follows:

4.1 PRE-DESIGN INVESTIGATION PHASE

After written authorization to proceed, ENGINEER shall:

4.1.1 Consult with OWNER to clarify and define OWNER's requirements for the Project and review available data.

4.1.2 Advise OWNER as to the necessity of OWNER's providing or obtaining from others, data or services and assist OWNER in obtaining such data or services.

4.1.3 Identify and analyze requirements of governmental authorities having jurisdiction to approve the design of the Project and participate in consultations with such authorities.

4.1.4. Provide analyses of OWNER's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

4.1.5. Provide a general economic analysis of OWNER's requirements applicable to various alternatives.

4.1.7. Prepare a Report containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate clearly the considerations involved (including applicable requirements of governmental authorities having jurisdiction as aforesaid) and the alternative solutions available to OWNER and setting forth ENGINEER's findings and recommendations. This Report will be accompanied by ENGINEER's opinion of probable costs for the Project, including the following which will be separately itemized: Construction Cost, allowance for engineering costs and contingencies, and (on the basis of information furnished by OWNER) allowances for such other items as charges of all other professionals and consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided by others for Owner. The total of all such costs, allowance, etc. are hereinafter called "Total Project Costs".

4.1.8. Furnish 3 copies and an electronic copy of the Study and Report documents and review them in person with OWNER.

The Pre-design Investigation Phase will be completed and submitted within 60 calendar days following written authorization from OWNER to ENGINEER to proceed with that phase of services.

- 4.2 **PRELIMINARY DESIGN PHASE – NOT USED**
- 4.3 **FINAL DESIGN PHASE – NOT USED**
- 4.4 **BIDDING OR NEGOTIATING PHASE – NOT USED**
- 4.5 **CONSTRUCTION PHASE – NOT USED**
- 4.6 **PROJECT DOCUMENTATION – NOT USED**
- 4.7 **CONSTRUCTION TESTING – NOT USED**

ARTICLE 5 - ADDITIONAL SERVICES

5.1. If OWNER wishes ENGINEER to perform any of the following Additional Services, OWNER shall so instruct ENGINEER in writing, and ENGINEER shall perform or obtain from others such services and will be paid therefor as provided in this Agreement:

- 5.1.1. Legal land surveys performed to obtain data for preparing easements and rights-of-way descriptions.
- 5.1.2. Preparation of applications and supporting documents for governmental agencies in addition to those required under Basic Services; preparation or review of environmental studies and related services; and assistance in obtaining environmental approvals.
- 5.1.3. Services resulting from significant changes in the general scope, extent or character of the Project or major changes in documentation previously accepted by OWNER where changes are due to causes beyond ENGINEER's control.
- 5.1.4. Providing renderings or models.
- 5.1.5. Preparing documents for alternate bids requested by OWNER for work not executed or for out-of-sequence work.
- 5.1.6. Providing other services not otherwise provided for in this Agreement, including services normally furnished by the OWNER as elsewhere herein described.
- 5.1.7. Furnishing the services of independent professional associates or consultants for other than Basic Services.

5.2. When required by the Contract Documents in circumstances beyond ENGINEER's control, ENGINEER shall perform or obtain from others any of the following Additional Services as circumstances require during construction and without waiting for specific instructions from OWNER, and ENGINEER will be paid therefor as provided in this Agreement:

- 5.2.1. Services in connection with work directive changes and change orders to reflect the changes requested by OWNER if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.

5.2.2. Services in making revisions to Drawings and Specifications occasioned by the OWNER'S acceptance of substitutions proposed by Contractor(s); services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor; and evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.

5.2.3. Services resulting from significant delays, changes or price increases occurring as a direct result of materials, equipment or energy shortages.

5.2.4. Additional or extended services during construction made necessary by (1) work damage by fire or other causes during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, (4) default by any Contractor.

ARTICLE 6 - COMPENSATION FOR ENGINEERING SERVICE

6.1 LUMP SUM AGREEMENT FOR BASIC SERVICES AND EXPENSES OF ENGINEER

6.1.1 Payment. The OWNER shall for design phase services performed as Basic Engineering Services under section 4.1 of this Agreement pay a total sum in the amount of \$ 110,937.00 for such services.

6.1.2 Payment Schedule. Total cumulative payments for the design phase engineering services (section 4.1) shall not exceed the following ceilings:

\$ 88,750 (80% of design fee) until the Pre-Design Report has been submitted to the OWNER.

\$ 110,937 (100% of design fee) until the Final Pre-Design Report is accepted by the OWNER.

6.1.3 General. Engineer shall submit monthly statements for services rendered. The statements shall be based upon Engineer's estimate of the proportion of the total services actually completed at the time of billing, subject to any limitations on Payments based on completion of tasks or specific retainage requirements pursuant to the payment provisions of this Agreement.

6.1.4 Reimbursable Expenses. Only those expenses specifically identified for payment under section 6.2 of this Agreement are reimbursable. All other design related expenses are included in the Lump Sum Payment for the Basic services (4.1 through 4.4) and are not separately reimbursable. Additional Services specifically identified under the scope of design services for payment under 6.1 are not separately reimbursable.

6.2 DIRECT LABOR COST PAYMENT FOR BASIC SERVICES AND EXPENSES OF ENGINEER.

Construction and project documentation services performed as Additional Services under section 5 shall be compensated in accordance with the following:

6.2.4 The OWNER shall pay an amount for Additional Services rendered by the ENGINEER and approved in writing by the OWNER on the basis of the ENGINEER'S Direct Labor Costs times a factor of 3.44, or an amount otherwise negotiated at the time such services are requested and approved by the OWNER.

ARTICLE 7 - MEANING OF TERMS

7.1 AGREEMENT

As used herein the term "this Agreement" refers to the contents of this document and its Exhibits attached hereto and referred to as if they were part of one and the same document.

7.2 CONSTRUCTION COSTS

The construction cost of the entire Project (herein referred to as "Construction Cost") means the total cost to OWNER of those portions of the entire Project designed and specified by ENGINEER, but it will not include ENGINEER's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to, properties unless this Agreement so specifies, nor will it include OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER.

7.3 DIRECT LABOR COSTS

Direct Labor Costs used as a basis for payment mean the actual salaries and wages paid to all ENGINEER's personnel engaged directly on the Project, including, but not limited to, engineers, architects, surveyors, designers, drafters, specification writers, estimators, other technical and business personnel; but does not include indirect payroll related costs or fringe benefits. For the purposes of this Agreement the principals and employees of the ENGINEER maximum billable Direct Labor Costs are:

Principal	\$70.00/hour
Supervising Engineer III	\$65.00/hour
Supervising Engineer II	\$58.00/hour
Senior Engineer II	\$50.00/hour
Senior Engineer I	\$47.00/hour
Design Engineer II	\$43.00/hour
Design Engineer I	\$39.00/hour
Engineer Intern II	\$34.00/hour
Engineer Intern I	\$30.00/hour
Environmental Scientist II	\$35.00/hour
CAD Designer	\$38.00/hour
CAD Tech II	\$27.00/hour
CAD Tech I	\$22.00/hour
Administrative Coordinator	\$22.00/hour
Land Surveyor IV	\$42.00/hour
Land Surveyor II	\$35.00/hour
Survey Technician III	\$27.00/hour
Technical Intern	\$20.00/hour

7.4 REIMBURSABLE EXPENSES

Reimbursable Expenses mean the actual expenses incurred by ENGINEER or ENGINEER's independent professional associates or consultants directly in connection with the Project, such as expenses for: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); subsistence and transportation of Resident Project Representatives and their assistants; toll telephone calls and telegrams; reproduction of reports, Drawings, Specifications, Bidding Documents and similar Project-related items; and if authorized in advance by OWNER, overtime work requiring higher than regular rates. In addition, when compensation for Basic Services is on the basis of Direct Labor Costs method of payment, Reimbursable Expenses will also include the amount billed to ENGINEER by special consultants employed by ENGINEER and authorized by OWNER (other than as an authorized Additional Services) and will also include expenses incurred for computer time and other specialized equipment, including an appropriate charge for previously established programs and expenses of photographic production techniques.

ARTICLE 8 - PAYMENT PROVISIONS

8.1 **TIMES OF PAYMENTS.** ENGINEER may submit monthly statements for Basic Services and approved Additional Services rendered and for Reimbursable Expenses incurred; however, payments shall not exceed the ceilings provided in 6.1 and 6.2. Final payment shall be made only after acceptance of the project by the OWNER. If OWNER disputes the amount of the billing, OWNER will notify the ENGINEER in writing within ten (10) calendar days of the receipt of bill of the dispute.

8.2 **REQUESTS FOR PAYMENT.** Each request for payment shall include a documentation summary of the period incremental man hours incurred, direct labor rates and billed rates, detail of reimbursable costs, total period billing, and total cumulative billing. When requested by OWNER services for distinct project segments shall be accounted and billed separately.

8.3 **PAYMENT UNDER TERMINATION.** In the event of termination by the OWNER upon the completion of any phase of the Basic Services, progress payments due ENGINEER for services rendered through such phase shall constitute total payment for such services. In the event of such termination by OWNER during any phase of the Basic Services, ENGINEER also will be reimbursed for the charges of pre-approved independent professional associates and consultants employed by ENGINEER to render Basic Services, and paid for services rendered during that phase on the basis of the payment provisions of the Agreement. In the event of any such termination, ENGINEER will be paid for unpaid pre-approved Additional Services and unpaid Reimbursable Expenses which are authorized under this agreement.

ARTICLE 9 - GENERAL CONSIDERATIONS

9.1 TERMINATION OF AGREEMENT

9.1.1 The sole right is hereby reserved to the OWNER to terminate this Engineering Agreement for any and all causes or for its convenience at any time upon fifteen (15) days written notice to the ENGINEER.

9.1.2 If termination for default is effected by the OWNER, an equitable adjustment in the price provided for in this Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the ENGINEER at the time of termination may be adjusted to cover any additional costs to the OWNER because of the ENGINEER's default. If termination for convenience is effected by the OWNER, the equitable adjustment shall include a reasonable profit, as determined by owner, for services or other work performed. The equitable adjustment for any termination shall provide for payment to the ENGINEER for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm prior to the termination.

9.1.3 Upon receipt of a termination action under paragraph 9.1.2, the ENGINEER shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the OWNER within ten (10) days copies of all data, design drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the ENGINEER in performing this Agreement, whether completed or in process.

9.1.4 In the event this Contract is terminated prior to completion, the original copies of the ENGINEER'S data, recommendations, plans, specifications, analysis and other related documents prepared by the ENGINEER prior to said termination shall be delivered to and become the property of the OWNER.

9.1.5 Upon termination, the OWNER may take over the work and may award another party an Agreement to complete the work under this Agreement.

9.1.6 OWNER'S right to terminate is in addition to any other remedies OWNER may have under the law.

9.2 INSPECTION AND AUDIT

All books, papers, records, payrolls, vouchers and invoices relating to costs and expenditures incurred as to the performance of the services by the ENGINEER hereunder shall be made available to the OWNER, or their authorized representatives for audit and review, at the ENGINEER'S respective offices at all reasonable times during the contract period and for three years from the date of final payment.

9.3 EMPLOYMENT

The ENGINEER warrants that he has not employed or retained any company or persons, other than a bona fide employee, working solely for the ENGINEER, to solicit to secure this contract, and that he has not paid or agreed to pay any company or person, other than bona fide employees working solely for the ENGINEER, any fee, commission, percentage, brokerage fee, gifts or any other considerations contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the OWNER shall have the right to annul the Contract without liability or in its discretion to deduct from the price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

All employees of the ENGINEER or other persons while engaged in the performance of work or services required by the ENGINEER shall be considered employees of the ENGINEER only and not of the OWNER.

9.4 NONDISCRIMINATION

The ENGINEER agrees that all hiring by ENGINEER of persons performing this Agreement shall be on the basis of merit and qualifications.

The ENGINEER will have a policy to provide equal employment opportunity in accordance with all applicable state and federal anti-discrimination laws, regulations, and contracts.

The ENGINEER will not refuse employment to a person, bar a person from employment, or discriminate against a person in compensation or in a term, condition, or privilege of employment because of race, color, religion, creed, political ideas, sex, age, marital status, national origin, actual or perceived sexual orientation, gender identity, physical or mental disability, except when the reasonable demands of the position require an age, physical or mental disability, marital status or sex distinction.

The ENGINEER shall be subject to and comply with Title VI of the Civil Rights Act of 1964; Section 140, Title 2, United States Code, and all regulations promulgated thereunder.

The ENGINEER shall require these nondiscrimination terms of its sub-consultants providing services under this agreement.

9.5 SUBLETTING OR ASSIGNING OF WORK

The ENGINEER shall not sublet or assign any of the work covered herein without prior written approval of the OWNER.

9.6 STANDARD OF CARE

In providing services under this agreement, the ENGINEER will perform in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. If any service should be found to be not in conformance with this standard, the ENGINEER shall, at the OWNER's request, re-perform the service at its own expense. Engineer shall also, at its own expense, make such changes, modifications or additions to the project which are made necessary as a result of the initial non-performance or the re-performance of services. The OWNER's rights herein are in addition to any other remedies the OWNER may have under the law.

9.7 LEGAL RELATIONS:

9.7.1 The ENGINEER shall, consistent with the standard care, comply with those Federal, State, and Local laws and ordinances applicable to the work to be done.

9.7.2 The ENGINEER agrees to defend, indemnify and hold harmless the OWNER, its officers, directors, agents and employees from and against any suit, cause of action, claim, cost, expenses, obligation and liability of any character, including attorney's fees, which is brought or asserted for any bodily injury, death, or physical damage to property received or sustained by any person, persons, property, business or any other entity, arising out of or resulting from, or in connection with the ENGINEER'S negligent performance of the work specified in this agreement.

9.7.3. The ENGINEER agrees to defend, indemnify and hold harmless the OWNER, its officers, directors, agents and employees, should OWNER, its officers, directors, agents or employees be named as a defendant in any action where the OWNER'S alleged liability arises from the negligent performance of the ENGINEER'S work herein described. The obligations of the ENGINEER to defend, indemnify and hold harmless the OWNER will apply to any suit, cause of action, claim, cost or obligation including, without limitation, those alleged under the common law or pursuant to a federal or state statute or regulation including those arising in tort, trespass, nuisance, and strict liability.

9.7.4 In the event the OWNER is found proportionately responsible for any damages ultimately awarded to a plaintiff or plaintiffs in any lawsuit, the ENGINEER will be responsible for only those damages, costs, or liabilities as are attributable to the ENGINEER'S percent of fault as compared with 100% of the fault giving rise to the damages. Should the OWNER be found responsible for negligence by its own officers, directors, agents or employees, then in that event the OWNER agrees to reimburse the ENGINEER for the reasonable attorney's fees and costs incurred in any defense of the OWNER in an amount proportional to the fault attributed to the OWNER. The indemnity required herein shall not be limited by reason of the specification of any particular insurance coverage in this Agreement.

9.7.5 Should either OWNER or ENGINEER be held responsible, for any damages, costs or liabilities resulting from intentional misconduct by any officer, director, agent or employee in connection with the work specified in this Agreement, then in that event, that party shall indemnify and hold harmless the other as to any damages, costs or liabilities that result from or arise out of that intentional misconduct, including reasonable attorney's fees and costs which shall include costs and salary of the city attorney or other in-house counsel. Further, notwithstanding the obligations set forth in paragraphs 9.7.2 and 9.7.3 above, the ENGINEER agrees to defend OWNER where the OWNER'S alleged liability arises from intentional misconduct by the ENGINEER. Should the OWNER be found responsible for intentional misconduct by its own officer, director, agent or employee, then OWNER agrees to reimburse ENGINEER for the reasonable attorney's fees and costs incurred in any defense of the OWNER.

9.7.6 The ENGINEER shall perform this agreement as an independent contractor, and as such, is responsible to the OWNER only as to the results to be obtained in the work herein specified, and to the extent that the work shall be done in accordance with the terms, plans and specifications. The ENGINEER shall have and maintain complete control over all of its employees, subcontractors, agents and operations, being responsible for any required payroll deductions and providing required benefits, such as, but not limited to worker's compensation with statutory limits, and unemployment insurance.

9.8 INSURANCE

The ENGINEER shall secure and furnish to the OWNER certificate of insurance, therein, naming the OWNER as an additional insured, to include thirty (30) days notice of cancellation or non-renewal.

Without limiting any of ENGINEER's obligations hereunder, ENGINEER shall secure and maintain, until the work is completed and accepted by the OWNER, insurance coverage naming the OWNER as additional insured with minimum insurance coverage as follows:

<u>Type of Coverage</u>	<u>Limits</u>
<u>Employers' Liability:</u>	<u>\$ 1,000,000.</u> per accident

<u>General Liability:</u>	
<u>Bodily Injury & Property Damage</u>	
Single and combined	\$ 1,000,000. per accident
<u>General Aggregate:</u>	
	\$ 2,000,000.
<u>Excess Liability Coverage (umbrella)</u>	\$1,000,000. each occurrence
<u>Automobile:</u>	
<u>Bodily Injury</u> covering all automobiles, trucks, tractors, trailers, or other automotive equipment whether owned or rented by Engineer or owned by employees of Engineer.	\$ 1,000,000 each person \$ 1,000,000 each occurrence
<u>Property Damage</u> covering all automobiles, trucks, tractors, trailers or other automotive equipment whether owned or rented by Engineer or owned by employees of Engineer	\$ 1,000,000 each occurrence

OR

<u>Bodily Injury & Property Damage</u> Single and combined	\$1,000,000 each occurrence
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In addition to the above insurance coverage, the ENGINEER shall secure and maintain, until the work is completed and accepted by the OWNER, and without naming OWNER as an additional insured, professional errors and omissions coverage as follows:

<u>Professional Errors & Omissions:</u>	\$ 1,000,000 per claim and aggregate each occurrence
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9.9 ENDORSEMENT

The ENGINEER shall place his endorsement on all drawings and other data furnished by him.

9.10 OWNERSHIP OF DOCUMENTS

The parties admit and agree the documents produced under this agreement are not intended or represented to be suitable for reuse by OWNER or any other individual on any other project. Any reuse without written verification or adaptation by ENGINEER will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, or to ENGINEER's independent professional associates or consultants. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of owner. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

9.11 PUBLIC INFORMATION

The ENGINEER shall not issue any statements, releases or information for public dissemination without prior approval of the OWNER.

9.12 PROPRIETARY RIGHTS

If patentable discoveries or inventions should result from work required herein, all rights accruing from such discoveries or inventions shall be joint property of the ENGINEER and the OWNER. Provided that the OWNER, state agencies or political subdivisions and the United States Government shall have the irrevocable, nonexclusive, nontransferable and royalty-free license to use each invention in the manufacture, use and disposition, according to law, of any article or material, and in the use of any method that may be developed as part of the work described and contemplated herein.

9.13 RECORDS

The ENGINEER shall maintain accounting records and other evidence pertaining to the cost incurred and to make the records available at all reasonable times during the Contract term and for one (1) year from the date of final payment. Such accounting records and other evidence pertaining to the cost incurred will be made available for inspections by OWNER.

9.14 SUCCESSORS IN INTEREST

The covenants, agreements and all statements in this Contract apply to and shall be binding on the heirs, personal representatives, successors and assigns of the respective parties.

9.15 ATTORNEY'S FEES AND COSTS

That in the event it becomes necessary for either Party of this Contract to retain an attorney to enforce any of the terms or conditions of this Contract or to give any notice required herein, then the prevailing Party or the Party giving notice shall be entitled to reasonable attorney's fees and costs, including fees, salary, and costs of in-house counsel to include City Attorney.

9.16 MODIFICATIONS AND AMENDMENTS

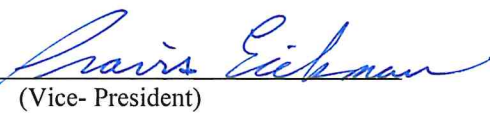
That any amendment or modification of this Contract or any provisions herein shall be made in writing or executed in the same manner as this original document and shall after execution become a part of this Contract.

In witness Whereof, the Parties hereto do make and execute this Agreement.

CITY OF BOZEMAN, MONTANA

ENGINEER

BY: _____
(City Manager)

BY: 
(Vice- President)

DATE: _____

DATE: 3/4/21

ATTEST:

BY: _____
(City Clerk)

EXHIBIT C-1

West Babcock Street Reconstruction (11th Avenue – 19th Avenue)

Scope of Work – Pre-Design Services

February 22, 2021

The intent of the pre-design phase is to identify design solution concepts, identify approximate rights-of-way needs, determine the need of the proposed northbound right-turn lane at the 19th Avenue intersection, document project parameters for use in the preliminary design phase of the project, and to estimate construction costs for the project.

Task 1.1 – Project Planning

This task includes initial project planning activities to develop scope and budget.

Task 1.2 – Survey and Research

This task includes surveying the project area. Subtasks include the following:

- Office research and computations - Complete research and computations as well as preparation of survey equipment and files required for field survey. This task also includes requesting permission to survey property outside of the existing right of way and easements in partnership with the City's right of way consultant where appropriate.
- Horizontal and Vertical Field Control - Establish vertical / horizontal control and provide horizontal control points and vertical benchmarks at each intersection or at intervals not to exceed 1,000 feet.
- Topographic Field Survey - Complete a topographic design survey of the area shown on the attached Figure A. Survey includes surface features and subsurface utilities, including depth information on water, sewer, and storm utilities. Horizontal locations of underground utilities provided by utility locates will be collected. This phase of the project will not include any subsurface utility surveys.
- Office Survey Data Processing - Download survey data and prepare topographic mapping drawings using standard Morrison-Maierle line work and symbols.
- Field Survey Verifications - Review topographic survey drawings for completeness and accuracy by walking the project area with drawings in hand. Based on field review, complete additional survey as necessary and update survey drawings.
- Right of Way Survey – This task includes the field and office efforts associated with finding an adequate amount of survey monuments in order to establish the location of the existing right of way.
- Property and Easement Research – The City, through their right of way consultant, shall supply title report information, including easement documents, to Morrison Maierle. The effort for this task is to assemble this information and graphically document in the survey drawings. Eight hours are allotted for this item. If conflicts are found or it is determined that additional research is needed, these items will be logged and addressed during the preliminary design phase.
- Survey Quality Assurance – Effort is budgeted to allow for review of the boundary survey.

Note: Due to snow cover it is possible that some topographic survey work will be delayed until Spring 2021.

Task 1.3 – Roadway Pre-Design

This task includes schematic roadway design to determine roadway parameters. Subtasks include the following:

- Horizontal and Vertical Alignment – The horizontal alignment of the roadway will be determined and documented. An approximate vertical alignment will be developed for use in other pre-design tasks as well as to establish approximate right of way needs.
- Typical Section – The typical section for the road will be developed based on the City's 2017 Transportation Plan recommendations and the geotechnical recommendations. As part of this task we will present alternate sketches of roadway sections in order to see if these may be appropriate solutions. On final typical section will be included in the report.
- Intersection Geometrics Layout – Limited to the layout of the intersection of Babcock Street/11th Avenue and showing curb returns for the intersection with 15th Avenue.
- Signing and Striping – These elements of the project will be minimally developed in order to determine approximate project costs.
- Preliminary Access Inventory – Due a basic inventory of the existing and proposed driveway approaches in order to develop costing information.



Task 1.4 – Signal/Right-Turn Lane Analysis

This task will determine the requirements for a dedicated northbound right-turn lane to include in the project at the intersection with 19th Avenue. Subtasks include the following:

- Develop a plan view concept layout of the intersection identifying the lane configuration and the location of signal heads.
- Discuss general concept with MDT prior to developing layout.
- Request that MDT review the layout and coordinate with them during their review.
- Prepare cost estimate for this element of the project.

Task 1.5 - Corridor Lighting

This task is limited to compiling an initial lighting layout in order to develop a construction cost estimate. No detailed design or photometrics will be completed as part of this task.

Task 1.6 – Stormwater and Utility Pre-Design

This task includes preparing a schematic stormwater solution and developing preliminary stormwater calculations in order to size and locate stormwater facilities for the project. The intent is to allow for construction costs to be developed and approximate right of way needs determined. This task will also prepare pre-design stormwater exhibits. Existing water and sewer service locations will be reviewed at a concept level and recommendations will be made for adding services and/or abandoning services in order to estimate project costs.

Task 1.7 – Environmental Planning

No environmental permitting is anticipated as part of the project. This task is limited to minimal research and contacting the Montana Department of Fish, Wildlife, and Parks to confirm they do not take jurisdiction over the piped section of Mandeville Creek.

Task 1.8 – Geotechnical Investigation

This task will include a geotechnical investigation and recommendations for the pavement section design. The scope of the investigation is fully described in the attached proposal from Rawhide Engineering.

Task 1.9 – Pre-Design Report

This task will compile the summary memos developed as part of the project element pre-design efforts. A project summary and executive summary will be included, and a project cost estimate prepared. We have included a few hours to discuss the preliminary project parameters before issuing a draft of the pre-design report and a few hours to answer questions on the report.

Task 1.10 – Quality Assurance

This task includes budget for senior staff to provide quality assurance reviews of the work products.

END



6871 King Avenue West, Suite G1K, Billings, MT 59106 (406) 969-5305

December 9, 2020

Mr. James Nickelson
Morrison-Maierle, Inc.
PO Box 1113
Bozeman, MT 59771

**SUBJECT: Proposal for Geotechnical Investigation
 West Babcock Street – 11th Ave. to 19th Ave.
 Bozeman, Montana**

Dear Mr. Nickelson:

This letter presents our proposal to perform a geotechnical investigation for the approximately 0.5 mile reconstruction of West Babcock Street between 11th Avenue and 19th Avenue in Bozeman, Montana. The purpose of our study is to explore and evaluate subsurface conditions for pavement section design.

Our proposed scope of services was developed from a request for proposal from Mr. James Nickelson on December 4, 2020.

Project Description and Scope of Services

This project will include the reconstruction of West Babcock Street between 11th Avenue and 19th Avenue. Rawhide Engineering is recommending drilling five borings for the approximate 0.5 miles of road. Our scope of services will also include the boring logs and report of our findings.

The following table lists the number of borings and the anticipated depth of each boring.

Facility	Number of Borings	Depth Each, Feet	Total Footage
West Babcock – 11 th Ave. to 19 th Ave.	5	5-10	25-50

The borings will be advanced using a truck mounted drill rig equipped with hollow and solid stem augers. Rawhide Engineering will make adjustments to the depths in the field to address the situation encountered. The borings will be logged by experienced personnel and bulk samples will be obtained from the borings and possibly Shelby Tubes, depending on the conditions. Groundwater levels will be measured at the completion of drilling operations.

The Client should be aware that penetrating the site's surface is inherently risky. Rawhide Engineering will be responsible to contact Call-Before-You-Dig, and make all attempts to locate buried utilities, prior to performing borings. It is impossible to determine with certainty the precise location of all structures which may be buried in the ground. Disruption of utilities or damage to underground structures will be the responsibility of the client.

Rawhide Engineering will provide a final report which will include the report will include the location of the boring logs and laboratory testing results.

Schedule

Rawhide Engineering will complete the utility locates and field exploration within two weeks of authorization. We anticipate providing a final report within three weeks of authorization.

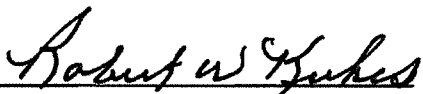
Fee and Payment

Our fees for the investigations described above would be a lump sum of \$4,000.00:

An invoice for our services will be submitted upon completion of our report. If our field exploration indicates that unanticipated conditions are present which would require additional study, we will discuss the situation with you prior to proceeding

We appreciate the opportunity to submit this proposal and look forward to working with you on this project. If you have any questions or need additional information, please contact the undersigned in our Billings office. If this proposal is acceptable, please sign below and return a signed copy to our office. The general conditions for this proposal are attached.

RAWHIDE ENGINEERING, INC.



Robert W. Kukes, P.E.
Principal
6871 King Avenue West, Suite G1K
Billings, MT 59106

MORRISON-MAIERLE, INC.

Mr. James Nickelson
Morrison-Maierle, Inc.
PO Box 1113
Bozeman, MT 59771

**EXHIBIT D-1 - Engineering Fee Estimate
West Babcock Street (11th-19th) - Pre-Design Services**

Pre-Design	TASK EXPENSES	TOTAL HOURS	STAFF HOUR ESTIMATE							SURVEY CREW	CADD DRAFTER	CLERICAL	TOTAL COST FOR TASK
			SUPERVISING ENGINEER III	SUPERVISING ENGINEER II	SENIOR ENGINEER I	DESIGN ENGINEER I	ENV SCIENTIST II	LAND SURVEYOR IV	LAND SURVEYOR II				
Task 1.1 Project Planning													
	General Project Management	16	16										
	Miscellaneous Expense	\$ -											
	Total for Task	\$ -	16	16								\$ 3,588	
Task 1.2 - Survey and Research													
	Office Research and Computations	24						10	14				
	Horizontal and Vertical Control	14							6	8			
	Topographic Field Survey	112							32	80			
	Office Survey Data Processing	48							16		32		
	Field Survey Verifications	12							12				
	Right of Way Survey	56						40		16			
	Property and Easement Research	8							8				
	Utility Company Coordination	8							8				
	Survey Quality Assurance	4						4					
	Survey Equipment	\$ 3,840											
	Miscellaneous Expense	\$ 500											
	Total for Task	\$ 4,340	286					54	96	104	32	\$ 47,023	
Task 1.3 Roadway Pre-Design													
	Project Coordination	12	4	4			4						
	Horizontal and Vertical Alignment	26		2			24						
	Concept grading in support of vertical alignment	8					8						
	Typical Section	10		2			8						
	Striping Layout	20		4			16						
	Right of Way Layout	8					8						
	Preliminary Access Inventory	8					8						
	Pre-Design Plans	10	2				8						
	Miscellaneous Expense	\$ 500											
	Total for Task	\$ 500	102	6	12		84					\$ 15,549	
Task 1.4 Signal / Intersection Geometry Analysis													
	Plan View Layout	30	2			4	24						
	Coordinate with MDT	4					4						
	Signal and Intersection Construction Cost Estimate	18		2			16						
	Miscellaneous Expense	\$ 50											
	Total for Task	\$ 50	52	2	2	4	44					\$ 7,468	
Task 1.5 Corridor Lighting Pre-Design													
	Project Coordination	4	2				2						
	Lighting Approximate Quantities	16					16						
	Miscellaneous Expense	\$ 50											
	Total for Task	\$ 50	20	2			18					\$ 2,920	
Task 1.6 Stormwater Pre-Design													
	Project Coordination	2	2										
	Stormwater Calculations	40				40							
	Stormwater Design	12					12						
	Sewer and Water Service Review and Recommendations	8				8							
	Miscellaneous Expense	\$ 100											
	Total for Task	\$ 100	62	2		48	12					\$ 9,946	
Task 1.7 Environmental Planning													
	Project Coordination	1	1										
	Coordination with FWP	4					4						
	Miscellaneous Expense	\$ -											
	Total for Task	\$ -	5	1			4					\$ 707	
Task 1.8 Geotechnical Investigation													
	Project Coordination	4	2						2				
	Geotechnical Investigation & Recommendations	\$ 4,000											
	Miscellaneous Expense	\$ -											
	Total for Task	\$ 4,000	4	2					2			\$ 4,690	
Task 1.9 Pre-Design Report													
	Project Coordination	6	2	4									
	Coordination with City	6	2	2			2						
	Construction Cost Estimate	36	2	2			32						
	Pre-Design Report Preparation	44	4	4	4		24				8		
	Miscellaneous Expense	\$ 200											
	Total for Task	\$ 200	92	10	12	4	58				8	\$ 13,903	
Task 1.10 Quality Assurance													
	Quality Assurance	24	12	12									
	Miscellaneous Expense	\$ 50											
	Total for Task	\$ 50	24	12	12							\$ 5,142	
SUBTOTAL OF STAFF HOURS REQUIRED			663	53	38	56	216	4	54	98	104	32	8
HOURLY PAY RATE				\$65	\$58	\$47	\$39	\$35	\$42	\$35	\$55	\$32	\$22
MULTIPLIER				3.45	3.45	3.45	3.45	3.45	3.45	3.45	3.45	3.45	3.45
HOURLY RATE				\$224	\$200	\$162	\$135	\$121	\$145	\$121	\$190	\$110	\$76
LABOR COST BY POSITION				\$11,885	\$7,604	\$9,080	\$29,063	\$483	\$7,825	\$11,834	\$19,734	\$3,533	\$607
TOTAL LABOR:				\$101,647									
TOTAL EXPENSES		\$ 9,290.00											
TOTAL COST OF PHASE:			\$110,937										\$ 110,937

Memorandum

REPORT TO: City Commission

FROM: Jessica Ahlstrom, Water Conservation Specialist
Mitch Reister, Director of Public Works

SUBJECT: Authorize the City Manager to Sign a Professional Services Agreement with G3LA, LLC dba G3, Green Gardens Group for a Bozeman Watershed Wise Landscape Webinar Series

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Agreement - Vendor/Contract

RECOMMENDATION: Authorize the City Manager to Sign a Professional Services Agreement with G3LA, LLC dba G3, Green Gardens Group for a Bozeman Watershed Wise Landscape Webinar Series

STRATEGIC PLAN: 6.1 Clean Water Supplies: Ensure adequate supplies of clean water for today and tomorrow.

BACKGROUND: The core objective of the City's water conservation program is to educate and empower residents to use water efficiently. With fifty percent of summer water use going into lawns and landscapes, expanding outdoor water use efficiency practices in the community is central to reducing overall water demand and extending the reach of the City's current reliable water supply. Program initiatives to reduce outdoor water use include free sprinkler system assessments and customer rebate incentives for the installation of drought tolerant landscaping and high efficiency irrigation equipment. The sprinkler system assessment service increases participation in the city's outdoor rebate program by arming customers with knowledge of how efficiency upgrades would benefit their sprinkler system and how to make changes themselves. The City has identified a need for water wise landscaping seminars targeted at homeowners in order to provide customers with the knowledge to maximize outdoor water use efficiency by making landscape changes. The Environmental Protection Agency's WaterSense® accredited Watershed Wise Landscape Webinar Series offered by Green Gardens Group will provide comprehensive guidance to water customers regarding landscaping basics, turf removal and organic maintenance, irrigation efficiency, composting and soil health, and drought tolerant landscape design. Taught by experienced landscape designers through a series of five interactive online courses, these topics will provide water customers with the information needed to transform their landscape to improve water quality

and reduce water use. All course content will be customized for the City of Bozeman and will be offered to customers throughout the months of May/June 2021. Considering the limitations imposed on in-person outreach events due to COVID-19, these online courses will provide the community with an opportunity to engage and learn about outdoor water use efficiency safely.

UNRESOLVED ISSUES: None.

ALTERNATIVES: As suggested by the Commission.

FISCAL EFFECTS: Total costs for this project equal \$9,200.00 and will be paid for out of the Water Conservation Division professional services fund.

Attachments:

[Professional Services Agreement_G3_Water Wise Landscape Webinar Series.pdf](#)

[Attachment A_G3_Scope of Services.pdf](#)

[Sole Source Approval_G3.pdf](#)

Report compiled on: March 12, 2021



PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2021 (“Effective Date”), by and between the **CITY OF BOZEMAN, MONTANA**, a self-governing municipal corporation organized and existing under its Charter and the laws of the State of Montana, 121 North Rouse Street, Bozeman, Montana, with a mailing address of PO Box 1230, Bozeman, MT 59771, hereinafter referred to as “City,” and, G3LA, LLC dba Green Gardens Group, 149 S. Barrington Ave. # 758, Los Angeles, CA 90049, hereinafter referred to as “Contractor.” The City and Contractor may be referred to individually as “Party” and collectively as “Parties.”

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Purpose:** City agrees to enter this Agreement with Contractor to perform for City services described in the Scope of Services attached hereto as Exhibit A and by this reference made a part hereof.
2. **Term/Effective Date:** This Agreement is effective upon the Effective Date, and will expire on the 5th day of March, 2022 unless earlier terminated in accordance with this Agreement.
3. **Scope of Services:** Contractor will perform the work and provide the services in accordance with the requirements of the Scope of Services. For conflicts between this Agreement and the Scope of Services, unless specifically provided otherwise, the Agreement governs.
4. **Payment:** City agrees to pay Contractor the amount specified in the Scope of Services. Any alteration or deviation from the described services that involves additional costs above the Agreement amount will be performed by Contractor after written request by the City, and will become an additional charge over and above the amount listed in the Scope of Services. The City must agree in writing upon any additional charges.
5. **Contractor’s Representations:** To induce City to enter into this Agreement, Contractor makes the following representations:
 - a. Contractor has familiarized itself with the nature and extent of this Agreement, the

Scope of Services, and with all local conditions and federal, state and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress or performance of the Scope of Services.

b. Contractor represents and warrants to City that it has the experience and ability to perform the services required by this Agreement; that it will perform the services in a professional, competent and timely manner and with diligence and skill; that it has the power to enter into and perform this Agreement and grant the rights granted in it; and that its performance of this Agreement shall not infringe upon or violate the rights of any third party, whether rights of copyright, trademark, privacy, publicity, libel, slander or any other rights of any nature whatsoever, or violate any federal, state and municipal laws. The City will not determine or exercise control as to general procedures or formats necessary to have these services meet this warranty.

6. Independent Contractor Status/Labor Relations: The parties agree that Contractor is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Contractor is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Contractor is not authorized to represent the City or otherwise bind the City in any dealings between Contractor and any third parties.

Contractor shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, Montana Code Annotated (MCA), and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Contractor shall maintain workers' compensation coverage for all members and employees of Contractor's business, except for those members who are exempted by law.

Contractor shall furnish the City with copies showing one of the following: (1) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (2) proof of exemption from workers' compensation granted by law for independent contractors.

In the event that, during the term of this Agreement, any labor problems or disputes of any type arise or materialize which in turn cause any services to cease for any period of time, Contractor specifically agrees to take immediate steps, at its own expense and without expectation of reimbursement from City, to alleviate or resolve all such labor problems or disputes. The specific steps Contractor shall take shall be left to the discretion of Contractor; provided, however, that Contractor shall bear all costs of any related legal action. Contractor shall provide immediate relief to the City so as to permit the services to continue at no additional cost to City.

Contractor shall indemnify, defend, and hold the City harmless from any and all claims, demands, costs, expenses, damages, and liabilities arising out of, resulting from, or occurring in connection with any labor problems or disputes or any delays or stoppages of work associated with such problems or disputes.

7. Indemnity/Waiver of Claims/Insurance: For other than professional services rendered, to the fullest extent permitted by law, Contractor agrees to release, defend, indemnify, and hold harmless the City, its agents, representatives, employees, and officers (collectively referred to for purposes of this Section as the City) from and against any and all claims, demands, actions, fees and costs (including attorney's fees and the costs and fees of expert witness and consultants), losses, expenses, liabilities (including liability where activity is inherently or intrinsically dangerous) or damages of whatever kind or nature connected therewith and without limit and without regard to the cause or causes thereof or the negligence of any party or parties that may be asserted against, recovered from or suffered by the City occasioned by, growing or arising out of or resulting from or in any way related to: (i) the negligent, reckless, or intentional misconduct of the Contractor; or (ii) any negligent, reckless, or intentional misconduct of any of the Contractor's agents.

For the professional services rendered, to the fullest extent permitted by law, Contractor agrees to indemnify and hold the City harmless against claims, demands, suits, damages, losses, and expenses, including reasonable defense attorney fees, to the extent caused by the negligence or intentional misconduct of the Contractor or Contractor's agents or employees.

Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist. The indemnification obligations of this Section must not be construed to negate, abridge, or reduce any common-law or statutory rights of the City as indemnitee(s) which would otherwise exist as to such indemnitee(s).

Contractor's indemnity under this Section shall be without regard to and without any right to contribution from any insurance maintained by City.

Should the City be required to bring an action against the Contractor to assert its right to defense or indemnification under this Agreement or under the Contractor's applicable insurance policies required below, the City shall be entitled to recover reasonable costs and attorney fees incurred in asserting its right to indemnification or defense but only if a court of competent jurisdiction determines the Contractor was obligated to defend the claim(s) or was obligated to indemnify the City for a claim(s) or any portion(s) thereof.

In the event of an action filed against the City resulting from the City's performance under

this Agreement, the City may elect to represent itself and incur all costs and expenses of suit.

Contractor also waives any and all claims and recourse against the City, including the right of contribution for loss or damage to person or property arising from, growing out of, or in any way connected with or incident to the performance of this Agreement except “responsibility for [City’s] own fraud, for willful injury to the person or property of another, or for violation of law, whether willful or negligent” as per 28-2-702, MCA.

These obligations shall survive termination of this Agreement and the services performed hereunder.

In addition to and independent from the above, Contractor shall at Contractor’s expense secure insurance coverage through an insurance company or companies duly licensed and authorized to conduct insurance business in Montana which insures the liabilities and obligations specifically assumed by the Contractor in this Section. The insurance coverage shall not contain any exclusion for liabilities specifically assumed by the Contractor in this Section.

The insurance shall cover and apply to all claims, demands, suits, damages, losses, and expenses that may be asserted or claimed against, recovered from, or suffered by the City without limit and without regard to the cause therefore and which is acceptable to the City. Contractor shall furnish to the City an accompanying certificate of insurance and accompanying endorsements in amounts not less than as follows:

- Workers’ Compensation – statutory;
- Employers’ Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate;
- Commercial General Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate;
- Automobile Liability - \$1,000,000 property damage/bodily injury per accident; and
- Professional Liability - \$1,000,000 per claim; \$2,000,000 annual aggregate.

The above amounts shall be exclusive of defense costs. The City shall be endorsed as an additional or named insured on a primary non-contributory basis on both the Commercial General and Automobile Liability policies. The insurance and required endorsements must be in a form suitable to City and shall include no less than a thirty (30) day notice of cancellation or non-renewal. Contractor shall notify City within two (2) business days of Contractor’s receipt of notice that any required insurance coverage will be terminated or Contractor’s decision to terminate any required insurance coverage for any reason.

The City must approve all insurance coverage and endorsements prior to the Contractor commencing work.

8. Termination for Contractor's Fault:

a. If Contractor refuses or fails to timely do the work, or any part thereof, or fails to perform any of its obligations under this Agreement, or otherwise breaches any terms or conditions of this Agreement, the City may, by written notice, terminate this Agreement and the Contractor's right to proceed with all or any part of the work ("Termination Notice Due to Contractor's Fault"). The City may then take over the work and complete it, either with its own resources or by re-letting the contract to any other third party.

b. In the event of a termination pursuant to this Section 8, Contractor shall be entitled to payment only for those services Contractor actually rendered.

c. Any termination provided for by this Section 8 shall be in addition to any other remedies to which the City may be entitled under the law or at equity.

d. In the event of termination under this Section 8, Contractor shall, under no circumstances, be entitled to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature arising, or claimed to have arisen, as a result of the termination.

9. Termination for City's Convenience:

a. Should conditions arise which, in the sole opinion and discretion of the City, make it advisable to the City to cease performance under this Agreement, the City may terminate this Agreement by written notice to Contractor ("Notice of Termination for City's Convenience"). The termination shall be effective in the manner specified in the Notice of Termination for City's Convenience and shall be without prejudice to any claims that the City may otherwise have against Contractor.

b. Upon receipt of the Notice of Termination for City's Convenience, unless otherwise directed in the Notice, the Contractor shall immediately cease performance under this Agreement and make every reasonable effort to refrain from continuing work, incurring additional expenses or costs under this Agreement and shall immediately cancel all existing orders or contracts upon terms satisfactory to the City. Contractor shall do only such work as may be necessary to preserve, protect, and maintain work already completed or immediately

in progress.

c. In the event of a termination pursuant to this Section 9, Contractor is entitled to payment only for those services Contractor actually rendered on or before the receipt of the Notice of Termination for City's Convenience.

d. The compensation described in Section 9(c) is the sole compensation due to Contractor for its performance of this Agreement. Contractor shall, under no circumstances, be entitled to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature arising, or claimed to have arisen, as a result of the termination.

10. Limitation on Contractor's Damages; Time for Asserting Claim:

a. In the event of a claim for damages by Contractor under this Agreement, Contractor's damages shall be limited to contract damages and Contractor hereby expressly waives any right to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature or kind.

b. In the event Contractor wants to assert a claim for damages of any kind or nature, Contractor shall provide City with written notice of its claim, the facts and circumstances surrounding and giving rise to the claim, and the total amount of damages sought by the claim, within thirty (30) days of the facts and circumstances giving rise to the claim. In the event Contractor fails to provide such notice, Contractor shall waive all rights to assert such claim.

11. Representatives and Notices:

a. **City's Representative:** The City's Representative for the purpose of this Agreement shall be Jessica Ahlstrom, Water Conservation Specialist, or such other individual as City shall designate in writing. Whenever approval or authorization from or communication or submission to City is required by this Agreement, such communication or submission shall be directed to the City's Representative and approvals or authorizations shall be issued only by such Representative; provided, however, that in exigent circumstances when City's Representative is not available, Contractor may direct its communication or submission to other designated City personnel or agents as designated by the City in writing and may receive approvals or authorization from such persons.

b. Contractor's Representative: The Contractor's Representative for the purpose of this Agreement shall be Pamela Berstler, CEO G3LA, LLC dba G3, Green Gardens Group, or such other individual as Contractor shall designate in writing. Whenever direction to or communication with Contractor is required by this Agreement, such direction or communication shall be directed to Contractor's Representative; provided, however, that in exigent circumstances when Contractor's Representative is not available, City may direct its direction or communication to other designated Contractor personnel or agents.

c. Notices: All notices required by this Agreement shall be in writing and shall be provided to the Representatives named in this Section. Notices shall be deemed given when delivered, if delivered by courier to Party's address shown above during normal business hours of the recipient; or when sent, if sent by email or fax (with a successful transmission report) to the email address or fax number provided by the Party's Representative; or on the fifth business day following mailing, if mailed by ordinary mail to the address shown above, postage prepaid.

12. Permits: Contractor shall provide all notices, comply with all applicable laws, ordinances, rules, and regulations, obtain all necessary permits, licenses, including a City of Bozeman business license, and inspections from applicable governmental authorities, and pay all fees and charges in connection therewith.

13 Laws and Regulations: Contractor shall comply fully with all applicable state and federal laws, regulations, and municipal ordinances including, but not limited to, all workers' compensation laws, all environmental laws including, but not limited to, the generation and disposal of hazardous waste, the Occupational Safety and Health Act (OSHA), the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA, all applicable City, County, and State building and electrical codes, the Americans with Disabilities Act, and all non-discrimination, affirmative action, and utilization of minority and small business statutes and regulations.

14. Nondiscrimination and Equal Pay: The Contractor agrees that all hiring by Contractor of persons performing this Agreement shall be on the basis of merit and qualifications. The Contractor will have a policy to provide equal employment opportunity in accordance with all applicable state and federal anti-discrimination laws, regulations, and contracts. The Contractor will not refuse employment to a person, bar a person from employment, or discriminate against a person in compensation or in a term, condition, or privilege of employment because of race, color, religion, creed, political ideas, sex, age, marital status, national origin, actual or perceived sexual orientation, gender identity, physical or mental disability, except when the reasonable demands of the position

require an age, physical or mental disability, marital status or sex distinction. The Contractor shall be subject to and comply with Title VI of the Civil Rights Act of 1964; Section 140, Title 2, United States Code, and all regulations promulgated thereunder.

Contractor represents it is, and for the term of this Agreement will be, in compliance with the requirements of the Equal Pay Act of 1963 and Section 39-3-104, MCA (the Montana Equal Pay Act). Contractor must report to the City any violations of the Montana Equal Pay Act that Contractor has been found guilty of within 60 days of such finding for violations occurring during the term of this Agreement.

Contractor shall require these nondiscrimination terms of its subcontractors providing services under this Agreement.

15. Intoxicants; DOT Drug and Alcohol Regulations/Safety and Training: Contractor shall not permit or suffer the introduction or use of any intoxicants, including alcohol or illegal drugs, by any employee or agent engaged in services to the City under this Agreement while on City property or in the performance of any activities under this Agreement. Contractor acknowledges it is aware of and shall comply with its responsibilities and obligations under the U.S. Department of Transportation (DOT) regulations governing anti-drug and alcohol misuse prevention plans and related testing. City shall have the right to request proof of such compliance and Contractor shall be obligated to furnish such proof.

The Contractor shall be responsible for instructing and training the Contractor's employees and agents in proper and specified work methods and procedures. The Contractor shall provide continuous inspection and supervision of the work performed. The Contractor is responsible for instructing its employees and agents in safe work practices.

16. Modification and Assignability: This Agreement may not be enlarged, modified or altered except by written agreement signed by both parties hereto. The Contractor may not subcontract or assign Contractor's rights, including the right to compensation or duties arising hereunder, without the prior written consent of the City. Any subcontractor or assignee will be bound by all of the terms and conditions of this Agreement.

17. Reports/Accountability/Public Information: Contractor agrees to develop and/or provide documentation as requested by the City demonstrating Contractor's compliance with the requirements of this Agreement. Contractor shall allow the City, its auditors, and other persons authorized by the City to inspect and copy its books and records for the purpose of verifying that the reimbursement of monies distributed to Contractor pursuant to this Agreement was used in

compliance with this Agreement and all applicable provisions of federal, state, and local law. The Contractor shall not issue any statements, releases or information for public dissemination without prior approval of the City.

18. Non-Waiver: A waiver by either party of any default or breach by the other party of any terms or conditions of this Agreement does not limit the other party's right to enforce such term or conditions or to pursue any available legal or equitable rights in the event of any subsequent default or breach.

19. Attorney's Fees and Costs: In the event it becomes necessary for either Party to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing Party or the Party giving notice shall be entitled to reasonable attorney's fees and costs, including fees, salary, and costs of in-house counsel including the City Attorney's Office staff.

20. Taxes: Contractor is obligated to pay all taxes of any kind or nature and make all appropriate employee withholdings.

21. Dispute Resolution:

a. Any claim, controversy, or dispute between the parties, their agents, employees, or representatives shall be resolved first by negotiation between senior-level personnel from each party duly authorized to execute settlement agreements. Upon mutual agreement of the parties, the parties may invite an independent, disinterested mediator to assist in the negotiated settlement discussions.

b. If the parties are unable to resolve the dispute within thirty (30) days from the date the dispute was first raised, then such dispute may only be resolved in a court of competent jurisdiction in compliance with the Applicable Law provisions of this Agreement.

22. Survival: Contractor's indemnification shall survive the termination or expiration of this Agreement for the maximum period allowed under applicable law.

23. Headings: The headings used in this Agreement are for convenience only and are not be construed as a part of the Agreement or as a limitation on the scope of the particular paragraphs to which they refer.

24. Severability: If any portion of this Agreement is held to be void or unenforceable, the

balance thereof shall continue in effect.

25. **Applicable Law**: The parties agree that this Agreement is governed in all respects by the laws of the State of Montana.

26. **Binding Effect**: This Agreement is binding upon and inures to the benefit of the heirs, legal representatives, successors, and assigns of the parties.

27. **No Third-Party Beneficiary**: This Agreement is for the exclusive benefit of the parties, does not constitute a third-party beneficiary agreement, and may not be relied upon or enforced by a third party.

28. **Counterparts**: This Agreement may be executed in counterparts, which together constitute one instrument.

29. **Integration**: This Agreement and all Exhibits attached hereto constitute the entire agreement of the parties. Covenants or representations not contained herein or made a part thereof by reference, are not binding upon the parties. There are no understandings between the parties other than as set forth in this Agreement. All communications, either verbal or written, made prior to the date of this Agreement are hereby abrogated and withdrawn unless specifically made a part of this Agreement by reference.

30. **Consent to Electronic Signatures**: The Parties have consented to execute this Agreement electronically in conformance with the Montana Uniform Electronic Transactions Act, Title 30, Chapter 18, Part 1, MCA.

****** END OF AGREEMENT EXCEPT FOR SIGNATURES ******

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written or as recorded in an electronic signature.

CITY OF BOZEMAN, MONTANA

G3LA, LLC dba Green Gardens Group

By _____

By _____

Jeff Mihelich, City Manager

Pamela Berstler, CEO

APPROVED AS TO FORM:

By _____

Greg Sullivan, Bozeman City Attorney

Attachment A: Scope of Services

G3LA, LLC dba G3, Green Gardens Group Watershed Wise Landscape Webinar Series

I. Introduction

This document outlines the tasks to be completed by G3LA, LLC dba G3, Green Gardens Group, (hereinafter “Contractor”) for the Watershed Wise Landscape Webinar Series for the City of Bozeman, Department of Public Works (hereinafter “City”), 20 East Olive Street Bozeman, Montana 59715.

II. Purpose

The City requires an organization with the skills and expertise to host a watershed wise landscape webinar series to educate and inspire Bozeman residents to establish beautiful low water use landscapes and reduce outdoor water use. Bozeman residents have expressed interest in gaining a better understanding on how to transform high water use lawns into water-efficient landscapes. The intent of this project is to provide Bozeman residents with the knowledge to make water-saving landscape transformations from an accredited WaterSense® professional certifying organization.

III. Scope of Services

Contractor will provide an interactive online program consisting of five classes to educate, inspire and motivate homeowners to transform yards into watershed-wise landscapes. Throughout the webinars, attendees are invited to submit their questions in the online Q/A chat box. Live responses to questions will be provided by professional landscape designers and various polls create an interactive environment and an opportunity to engage the audience.

Learning Objectives:

- Evaluate a property as though it were a mini-watershed
- Use soil food web principles to remove lawn without chemicals and build living soil
- Review irrigation methods and practices to maximize water use efficiency
- Select and place plants on a property according to water needs and key design principles
- Tips and techniques to compost building for a healthy soil sponge

Description of Classes:

Each webinar within the series must have at least 5, but no more than 100 attendees. The webinar series is to be completed in May/June 2021 and the format for each webinar within the series is as follows:

- Instructor welcome attendees
- Discuss any relevant City rebates or water conservation programs
- Cover curriculum and offer ongoing Q/A throughout
- Follow up with links to resources and City rebates

Each webinar included in the series is listed below:

Watershed Wise Landscaping – 60 minute webinar that discusses key principles of a watershed wise landscape, the recommended model for any landscape transformation program and outlines the following information:

- Building healthy living soil
- Utilizing passive rainwater
- Selecting local climate appropriate/native plants
- Using high efficiency irrigation

Turf: Remove, Replace, or Maintain It (Organically) – 60 minute webinar that discusses removing and managing turf using the following information:

- Removing turf without the use of chemicals
- Replacing turf with climate appropriate plantings
- Keeping the turf in place but maintaining it in an organic manner
 - Building soil for healthy lawns
 - Properly irrigating a lawn
 - Simple lawn care strategies to improve resilience
 - Managing the big three: weeds, pests, and disease

Irrigation Basics and Water-Use Efficiency – 60 minute webinar that reviews best practices for irrigation and water use efficiency, including the following topics:

- Overview of an irrigation system
- Irrigation and the soil moisture balance
- Typical irrigation problems in the landscape
- Tips for conservation
- Converting to drip irrigation

Compost, Building the Soil Sponge – 60 minute webinar that covers the following process for creating healthy soil:

- Understanding how plants work with their soil
- Introducing the soil food web
- Techniques and tips for making compost
- Sheet mulching to build healthy soil
- Selecting other soil amendments for the garden

Garden Design Workshop – 90 minute webinar that takes attendees through the step-by-step process of creating a successful watershed wise design and include the following information:

- Raingarden design and placement
- Selecting a plant palette
- Role of native plants
- Layout recommendations

- Design considerations

IV. Contractor Responsibilities

Contractor shall:

- Set up a secure calendar of classes and online registration database through Contractor’s website to manage and deliver the webinar program via Zoom online meeting platform;
- Communicate with participants through email as needed before the webinar takes place, including registration confirmation and reminders;
- Provide two qualified instructors for each webinar; one instructor to lead the webinar and another instructor to be available throughout the webinar to answer questions submitted by attendees via the Q/A chat box, manage polls, and provide backend support during events;
- Ensure that the class curriculum is regionally appropriate within the Bozeman service area. All customized content shall be approved by City;
- Provide City with registration and attendance detail;
- Collect, tally and submit class evaluation forms.

V. City Responsibilities

City shall:

- Provide webinar advertising and marketing to the public;
- Provide Contractor with access to relevant images and information to be used in customizing webinars for regional appropriateness;
- Provide resources and information on relevant programs to be included in webinars;
- Provide input and final approval of customized class content;
- Attend each webinar.

VI. Cost and Timeline

The five webinars included in the Watershed Wise Landscape Webinar Series are to be hosted one time each in May/June 2021. The total cost to host each of the five webinars once, plus a one-time customization fee for each webinar, totals \$9,200.00.

Cost	\$1,250.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,950.00	TOTAL: \$9,200.00
	One-Time Customization Fee of \$250.00 per class	Watershed Wise Landscaping Class	Turf: Remove, Replace or Maintain It (Organically) Class	Irrigation Basics and Water Use Efficiency Class	Compost, Building the Soil Sponge Class	Garden Design Workshop Class	

If after the third presentation of a webinar topic of Contractor's curriculum, City wishes to take over the instructions, each webinar can be licensed indefinitely for a one-time payment of \$750.00 per presentation. The license includes both virtual and in-person rights to the presentations. The license is limited to the Bozeman, MT service area and Contractor will retain all intellectual property rights to the material.

From: [Kristin Donald](#)
To: [Jessica Ahlstrom](#)
Subject: RE: Procurement process question
Date: Wednesday, February 17, 2021 5:22:17 PM
Attachments: [image001.png](#)
[image002.jpg](#)
[image003.jpg](#)

Sole source approved. Please attach this email to any invoices.

Kristin Donald, MBA
Finance Director
City of Bozeman
Office: (406) 582-2318
Cell: (406) 595-5366
kdonald@bozeman.net



From: Jessica Ahlstrom <JAhlstrom@BOZEMAN.NET>
Sent: Wednesday, February 17, 2021 3:57 PM
To: Kristin Donald <KDonald@BOZEMAN.NET>
Subject: Procurement process question

Hi Kristin,

We are looking to hire a consultant to provide water conservation landscaping seminars to water customers to educate and empower customers to make water efficient changes in their landscape. It is important for us that the group we hire for this be accredited by EPA's WaterSense program – which is sort of the gold standard for water use efficiency at a national scale. WaterSense only has one customer-facing program that does this work - Green Gardens Group. This group is led by experienced landscape designers and architects, and as mentioned, their curriculum has been approved by EPA WaterSense.

We anticipate spending a total of up to \$10,000 on these classes with them this year. This includes their time customizing the curriculum for Bozeman, their time hosting the seminars, and ultimately a fee for us to buy the rights to use the curriculum in the future so that we can continue to offer this service in a more cost-effective manner in the long term.

Since they are the only group that offers this service and also meets EPA's WaterSense certification, is this something that I can hire them directly to do, without getting additional quotes?

Thanks

Jessica Ahlstrom | [Water Conservation Program Manager](#)
City of Bozeman | 20 E. Olive St. | PO Box 1230 | Bozeman, MT 59771
P: 406.582.2265
Visit our [website](#)
Watch our [video](#)



Memorandum

REPORT TO: City Commission

FROM: Luke Kline, Parks and Recreation Contracts Coordinator
Mitch Overton, Parks and Recreation Department Director
Chuck Winn, Assistant City Manager

SUBJECT: Authorize the City Manager to Sign a Professional Services Agreement with Advantage Spraying Services, Inc. for Landscape Maintenance Services in the Parks and Trails District

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Agreement - Vendor/Contract

RECOMMENDATION: Authorize the City Manager to sign a professional services agreement with Advantage Spraying Services, Inc. for Landscape maintenance services in the Parks and Trails District.

STRATEGIC PLAN: 6.5 Parks, Trails & Open Space: Support the maintenance and expansion of an interconnected system of parks, trails and open spaces.

BACKGROUND: On June 1, 2020, the Bozeman City Commission approved [Resolution 5180](#) creating the Bozeman Parks and Trails Special District (District). To accomplish the District objectives the City has developed a multi-year District implementation plan designed to achieve steady calculated increases in level of service standards and sustainable maintenance practices in all City Parks. Beginning July 1, 2020 City's Parks and Recreation Department assumed full responsibility for all of the District's designated park properties including the addition of 235 acres of park land located within subdivision parks previously maintained by home owners/community associations. To address the maintenance required in the new District the City will establish contracts for professional services with qualified contractors. In February 2021, the Parks and Recreation Department conducted a request for proposals process to acquire professional services required to maintain parks grounds and landscape areas in the District. After careful evaluation and review, Advantage Spraying Services, Inc. was determined to be the most qualified vendor for Parks and Trails District Landscape Maintenance Services Zone 1 area. Advantage Spraying Services, Inc. has demonstrated capacity to accomplish landscape services as requested and a comprehensive understanding of City Parks being maintained in the Zone 1 area. The selected contractor Advantage Spraying Services, Inc. will complete the services as defined in attached Exhibit A: Scope of Services and Exhibit B: Quote for Landscape Maintenance services beginning in spring of 2021.

UNRESOLVED ISSUES: None

ALTERNATIVES: As suggested by the City Commission.

FISCAL EFFECTS: Funding is currently allocated for this maintenance within the FY21 and FY22 budget in the Parks and Trails District Maintenance Fund account.

Attachments:

[Professional Services Contract.pdf](#)

[Exhibit A Scope of Services Landscape Maintenance Zone 1.pdf](#)

[Exhibit B Quote for Landscape Maintenance Zone 1 \(Advantage\).pdf](#)

Report compiled on: March 25, 2021



PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this 6th day of April, 2021, by and between the **CITY OF BOZEMAN, MONTANA**, a self-governing municipal corporation organized and existing under its Charter and the laws of the State of Montana, 121 North Rouse Street, Bozeman, Montana, with a mailing address of PO Box 1230, Bozeman, MT 59771, hereinafter referred to as “City,” and, Advantage Spraying Services Inc., 144 Wildcat Way, Bozeman MT 59718, hereinafter referred to as “Contractor.” The City and Contractor may be referred to individually as “Party” and collectively as “Parties.”

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Purpose:** City agrees to enter this Agreement with Contractor to perform for City services described in the Scope of Services attached hereto as Exhibit A and by this reference made a part hereof.
2. **Term/Effective Date:** This Agreement is effective upon the Effective Date unless earlier terminated in accordance with this Agreement.
3. **Scope of Services:** Contractor will perform the work and provide the services in accordance with the requirements of the Scope of Services. For conflicts between this Agreement and the Scope of Services, unless specifically provided otherwise, the Agreement governs.
4. **Payment:** City agrees to pay Contractor specified in the Appendix C Maintenance Schedule Zone 1 (LANDSCAPE) attached hereto as Exhibit B. Any alteration or deviation from the described services that involves additional costs above the Agreement amount will be performed by Contractor after written request by the City, and will become an additional charge over and above the amount listed in the Scope of Services. The City must agree in writing upon any additional charges.
5. **Contractor’s Representations:** To induce City to enter into this Agreement, Contractor makes the following representations:
 - a. Contractor has familiarized itself with the nature and extent of this Agreement, the

Scope of Services, and with all local conditions and federal, state and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress or performance of the Scope of Services.

b. Contractor represents and warrants to City that it has the experience and ability to perform the services required by this Agreement; that it will perform the services in a professional, competent and timely manner and with diligence and skill; that it has the power to enter into and perform this Agreement and grant the rights granted in it; and that its performance of this Agreement shall not infringe upon or violate the rights of any third party, whether rights of copyright, trademark, privacy, publicity, libel, slander or any other rights of any nature whatsoever, or violate any federal, state and municipal laws. The City will not determine or exercise control as to general procedures or formats necessary to have these services meet this warranty.

6. Independent Contractor Status/Labor Relations: The parties agree that Contractor is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Contractor is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Contractor is not authorized to represent the City or otherwise bind the City in any dealings between Contractor and any third parties.

Contractor shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, Montana Code Annotated (MCA), and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Contractor shall maintain workers' compensation coverage for all members and employees of Contractor's business, except for those members who are exempted by law.

Contractor shall furnish the City with copies showing one of the following: (1) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (2) proof of exemption from workers' compensation granted by law for independent contractors.

In the event that, during the term of this Agreement, any labor problems or disputes of any type arise or materialize which in turn cause any services to cease for any period of time, Contractor specifically agrees to take immediate steps, at its own expense and without expectation of reimbursement from City, to alleviate or resolve all such labor problems or disputes. The specific steps Contractor shall take shall be left to the discretion of Contractor; provided, however, that Contractor shall bear all costs of any related legal action. Contractor shall provide immediate relief to the City so as to permit the services to continue at no additional cost to City.

Contractor shall indemnify, defend, and hold the City harmless from any and all claims, demands, costs, expenses, damages, and liabilities arising out of, resulting from, or occurring in connection with any labor problems or disputes or any delays or stoppages of work associated with such problems or disputes.

7. Indemnity/Waiver of Claims/Insurance: For other than professional services rendered, to the fullest extent permitted by law, Contractor agrees to release, defend, indemnify, and hold harmless the City, its agents, representatives, employees, and officers (collectively referred to for purposes of this Section as the City) from and against any and all claims, demands, actions, fees and costs (including attorney's fees and the costs and fees of expert witness and consultants), losses, expenses, liabilities (including liability where activity is inherently or intrinsically dangerous) or damages of whatever kind or nature connected therewith and without limit and without regard to the cause or causes thereof or the negligence of any party or parties that may be asserted against, recovered from or suffered by the City occasioned by, growing or arising out of or resulting from or in any way related to: (i) the negligent, reckless, or intentional misconduct of the Contractor; or (ii) any negligent, reckless, or intentional misconduct of any of the Contractor's agents.

For the professional services rendered, to the fullest extent permitted by law, Contractor agrees to indemnify and hold the City harmless against claims, demands, suits, damages, losses, and expenses, including reasonable defense attorney fees, to the extent caused by the negligence or intentional misconduct of the Contractor or Contractor's agents or employees.

Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist. The indemnification obligations of this Section must not be construed to negate, abridge, or reduce any common-law or statutory rights of the City as indemnitee(s) which would otherwise exist as to such indemnitee(s).

Contractor's indemnity under this Section shall be without regard to and without any right to contribution from any insurance maintained by City.

Should the City be required to bring an action against the Contractor to assert its right to defense or indemnification under this Agreement or under the Contractor's applicable insurance policies required below, the City shall be entitled to recover reasonable costs and attorney fees incurred in asserting its right to indemnification or defense but only if a court of competent jurisdiction determines the Contractor was obligated to defend the claim(s) or was obligated to indemnify the City for a claim(s) or any portion(s) thereof.

In the event of an action filed against the City resulting from the City's performance under

this Agreement, the City may elect to represent itself and incur all costs and expenses of suit.

Contractor also waives any and all claims and recourse against the City, including the right of contribution for loss or damage to person or property arising from, growing out of, or in any way connected with or incident to the performance of this Agreement except “responsibility for [City’s] own fraud, for willful injury to the person or property of another, or for violation of law, whether willful or negligent” as per 28-2-702, MCA.

These obligations shall survive termination of this Agreement and the services performed hereunder.

In addition to and independent from the above, Contractor shall at Contractor’s expense secure insurance coverage through an insurance company or companies duly licensed and authorized to conduct insurance business in Montana which insures the liabilities and obligations specifically assumed by the Contractor in this Section. The insurance coverage shall not contain any exclusion for liabilities specifically assumed by the Contractor in this Section.

The insurance shall cover and apply to all claims, demands, suits, damages, losses, and expenses that may be asserted or claimed against, recovered from, or suffered by the City without limit and without regard to the cause therefore and which is acceptable to the City. Contractor shall furnish to the City an accompanying certificate of insurance and accompanying endorsements in amounts not less than as follows:

- Workers’ Compensation – statutory;
- Employers’ Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate;
- Commercial General Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate;
- Automobile Liability - \$1,000,000 property damage/bodily injury per accident; and
- Professional Liability - \$1,000,000 per claim; \$2,000,000 annual aggregate.

The above amounts shall be exclusive of defense costs. The City shall be endorsed as an additional or named insured on a primary non-contributory basis on both the Commercial General and Automobile Liability policies. The insurance and required endorsements must be in a form suitable to City and shall include no less than a thirty (30) day notice of cancellation or non-renewal. Contractor shall notify City within two (2) business days of Contractor’s receipt of notice that any required insurance coverage will be terminated or Contractor’s decision to terminate any required insurance coverage for any reason.

The City must approve all insurance coverage and endorsements prior to the Contractor commencing work.

8. Termination for Contractor's Fault:

a. If Contractor refuses or fails to timely do the work, or any part thereof, or fails to perform any of its obligations under this Agreement, or otherwise breaches any terms or conditions of this Agreement, the City may, by written notice, terminate this Agreement and the Contractor's right to proceed with all or any part of the work ("Termination Notice Due to Contractor's Fault"). The City may then take over the work and complete it, either with its own resources or by re-letting the contract to any other third party.

b. In the event of a termination pursuant to this Section 8, Contractor shall be entitled to payment only for those services Contractor actually rendered.

c. Any termination provided for by this Section 8 shall be in addition to any other remedies to which the City may be entitled under the law or at equity.

d. In the event of termination under this Section 8, Contractor shall, under no circumstances, be entitled to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature arising, or claimed to have arisen, as a result of the termination.

9. Termination for City's Convenience:

a. Should conditions arise which, in the sole opinion and discretion of the City, make it advisable to the City to cease performance under this Agreement, the City may terminate this Agreement by written notice to Contractor ("Notice of Termination for City's Convenience"). The termination shall be effective in the manner specified in the Notice of Termination for City's Convenience and shall be without prejudice to any claims that the City may otherwise have against Contractor.

b. Upon receipt of the Notice of Termination for City's Convenience, unless otherwise directed in the Notice, the Contractor shall immediately cease performance under this Agreement and make every reasonable effort to refrain from continuing work, incurring additional expenses or costs under this Agreement and shall immediately cancel all existing orders or contracts upon terms satisfactory to the City. Contractor shall do only such work as may be necessary to preserve, protect, and maintain work already completed or immediately

in progress.

c. In the event of a termination pursuant to this Section 9, Contractor is entitled to payment only for those services Contractor actually rendered on or before the receipt of the Notice of Termination for City's Convenience.

d. The compensation described in Section 9(c) is the sole compensation due to Contractor for its performance of this Agreement. Contractor shall, under no circumstances, be entitled to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature arising, or claimed to have arisen, as a result of the termination.

10. Limitation on Contractor's Damages; Time for Asserting Claim:

a. In the event of a claim for damages by Contractor under this Agreement, Contractor's damages shall be limited to contract damages and Contractor hereby expressly waives any right to claim or recover consequential, special, punitive, lost business opportunity, lost productivity, field office overhead, general conditions costs, or lost profits damages of any nature or kind.

b. In the event Contractor wants to assert a claim for damages of any kind or nature, Contractor shall provide City with written notice of its claim, the facts and circumstances surrounding and giving rise to the claim, and the total amount of damages sought by the claim, within thirty (30) days of the facts and circumstances giving rise to the claim. In the event Contractor fails to provide such notice, Contractor shall waive all rights to assert such claim.

11. Representatives and Notices:

a. **City's Representative:** The City's Representative for the purpose of this Agreement shall be Luke Kline, Contracts Coordinator or such other individual as City shall designate in writing. Whenever approval or authorization from or communication or submission to City is required by this Agreement, such communication or submission shall be directed to the City's Representative and approvals or authorizations shall be issued only by such Representative; provided, however, that in exigent circumstances when City's Representative is not available, Contractor may direct its communication or submission to other designated City personnel or agents as designated by the City in writing and may receive approvals or authorization from such persons.

b. Contractor's Representative: The Contractor's Representative for the purpose of this Agreement shall be Patrick Doran or such other individual as Contractor shall designate in writing. Whenever direction to or communication with Contractor is required by this Agreement, such direction or communication shall be directed to Contractor's Representative; provided, however, that in exigent circumstances when Contractor's Representative is not available, City may direct its direction or communication to other designated Contractor personnel or agents.

c. Notices: All notices required by this Agreement shall be in writing and shall be provided to the Representatives named in this Section. Notices shall be deemed given when delivered, if delivered by courier to Party's address shown above during normal business hours of the recipient; or when sent, if sent by email or fax (with a successful transmission report) to the email address or fax number provided by the Party's Representative; or on the fifth business day following mailing, if mailed by ordinary mail to the address shown above, postage prepaid.

12. Permits: Contractor shall provide all notices, comply with all applicable laws, ordinances, rules, and regulations, obtain all necessary permits, licenses, including a City of Bozeman business license, and inspections from applicable governmental authorities, and pay all fees and charges in connection therewith.

13 Laws and Regulations: Contractor shall comply fully with all applicable state and federal laws, regulations, and municipal ordinances including, but not limited to, all workers' compensation laws, all environmental laws including, but not limited to, the generation and disposal of hazardous waste, the Occupational Safety and Health Act (OSHA), the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA, all applicable City, County, and State building and electrical codes, the Americans with Disabilities Act, and all non-discrimination, affirmative action, and utilization of minority and small business statutes and regulations.

14. Nondiscrimination and Equal Pay: The Contractor agrees that all hiring by Contractor of persons performing this Agreement shall be on the basis of merit and qualifications. The Contractor will have a policy to provide equal employment opportunity in accordance with all applicable state and federal anti-discrimination laws, regulations, and contracts. The Contractor will not refuse employment to a person, bar a person from employment, or discriminate against a person in compensation or in a term, condition, or privilege of employment because of race, color, religion, creed, political ideas, sex, age, marital status, national origin, actual or perceived sexual orientation, gender identity, physical or mental disability, except when the reasonable demands of the position

require an age, physical or mental disability, marital status or sex distinction. The Contractor shall be subject to and comply with Title VI of the Civil Rights Act of 1964; Section 140, Title 2, United States Code, and all regulations promulgated thereunder.

Contractor represents it is, and for the term of this Agreement will be, in compliance with the requirements of the Equal Pay Act of 1963 and Section 39-3-104, MCA (the Montana Equal Pay Act). Contractor must report to the City any violations of the Montana Equal Pay Act that Contractor has been found guilty of within 60 days of such finding for violations occurring during the term of this Agreement.

Contractor shall require these nondiscrimination terms of its subcontractors providing services under this Agreement.

15. Intoxicants; DOT Drug and Alcohol Regulations/Safety and Training: Contractor shall not permit or suffer the introduction or use of any intoxicants, including alcohol or illegal drugs, by any employee or agent engaged in services to the City under this Agreement while on City property or in the performance of any activities under this Agreement. Contractor acknowledges it is aware of and shall comply with its responsibilities and obligations under the U.S. Department of Transportation (DOT) regulations governing anti-drug and alcohol misuse prevention plans and related testing. City shall have the right to request proof of such compliance and Contractor shall be obligated to furnish such proof.

The Contractor shall be responsible for instructing and training the Contractor's employees and agents in proper and specified work methods and procedures. The Contractor shall provide continuous inspection and supervision of the work performed. The Contractor is responsible for instructing its employees and agents in safe work practices.

16. Modification and Assignability: This Agreement may not be enlarged, modified or altered except by written agreement signed by both parties hereto. The Contractor may not subcontract or assign Contractor's rights, including the right to compensation or duties arising hereunder, without the prior written consent of the City. Any subcontractor or assignee will be bound by all of the terms and conditions of this Agreement.

17. Reports/Accountability/Public Information: Contractor agrees to develop and/or provide documentation as requested by the City demonstrating Contractor's compliance with the requirements of this Agreement. Contractor shall allow the City, its auditors, and other persons authorized by the City to inspect and copy its books and records for the purpose of verifying that the reimbursement of monies distributed to Contractor pursuant to this Agreement was used in

compliance with this Agreement and all applicable provisions of federal, state, and local law. The Contractor shall not issue any statements, releases or information for public dissemination without prior approval of the City.

18. Non-Waiver: A waiver by either party of any default or breach by the other party of any terms or conditions of this Agreement does not limit the other party's right to enforce such term or conditions or to pursue any available legal or equitable rights in the event of any subsequent default or breach.

19. Attorney's Fees and Costs: In the event it becomes necessary for either Party to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing Party or the Party giving notice shall be entitled to reasonable attorney's fees and costs, including fees, salary, and costs of in-house counsel including the City Attorney's Office staff.

20. Taxes: Contractor is obligated to pay all taxes of any kind or nature and make all appropriate employee withholdings.

21. Dispute Resolution:

a. Any claim, controversy, or dispute between the parties, their agents, employees, or representatives shall be resolved first by negotiation between senior-level personnel from each party duly authorized to execute settlement agreements. Upon mutual agreement of the parties, the parties may invite an independent, disinterested mediator to assist in the negotiated settlement discussions.

b. If the parties are unable to resolve the dispute within thirty (30) days from the date the dispute was first raised, then such dispute may only be resolved in a court of competent jurisdiction in compliance with the Applicable Law provisions of this Agreement.

22. Survival: Contractor's indemnification shall survive the termination or expiration of this Agreement for the maximum period allowed under applicable law.

23. Headings: The headings used in this Agreement are for convenience only and are not be construed as a part of the Agreement or as a limitation on the scope of the particular paragraphs to which they refer.

24. Severability: If any portion of this Agreement is held to be void or unenforceable, the

balance thereof shall continue in effect.

25. **Applicable Law**: The parties agree that this Agreement is governed in all respects by the laws of the State of Montana.

26. **Binding Effect**: This Agreement is binding upon and inures to the benefit of the heirs, legal representatives, successors, and assigns of the parties.

27. **No Third-Party Beneficiary**: This Agreement is for the exclusive benefit of the parties, does not constitute a third-party beneficiary agreement, and may not be relied upon or enforced by a third party.

28. **Counterparts**: This Agreement may be executed in counterparts, which together constitute one instrument.

29. **Integration**: This Agreement and all Exhibits attached hereto constitute the entire agreement of the parties. Covenants or representations not contained herein or made a part thereof by reference, are not binding upon the parties. There are no understandings between the parties other than as set forth in this Agreement. All communications, either verbal or written, made prior to the date of this Agreement are hereby abrogated and withdrawn unless specifically made a part of this Agreement by reference.

30. **Consent to Electronic Signatures**: The Parties have consented to execute this Agreement electronically in conformance with the Montana Uniform Electronic Transactions Act, Title 30, Chapter 18, Part 1, MCA.

31. **Extensions**: this Agreement may, upon mutual agreement, be extended for a period of one year by written agreement of the Parties. In no case, however, may this Agreement run longer than three years.

**** END OF AGREEMENT EXCEPT FOR SIGNATURES ****

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written or as recorded in an electronic signature.

CITY OF BOZEMAN, MONTANA

CONTRACTOR (Type Name Above)

By _____
Jeff Mihelich, City Manager

By _____

Print Name: _____

Print Title: _____

APPROVED AS TO FORM:

By _____
Greg Sullivan, Bozeman City Attorney



REQUEST FOR PROPOSALS (RFP)

PARKS & TRAILS DISTRICT LANDSCAPE MAINTENANCE SERVICES ZONE: 1

City of Bozeman
Bozeman, MT

City of Bozeman
PO Box 1230
Bozeman, MT 59771-1230

February 2021

Exhibit A

scheduled services to ensure that City landscapes are effectively and efficiently maintained for the benefit of the city and its residents. The selected contractor will begin work in April of 2021 and continue services through the completion of the summer season at the end of October 2021. The routine services will be conducted for approximately a 30 week period in total or approximately 7 months per year.

III. SCOPE OF SERVICES

If selected a contractor will provide the City with professional expertise to successfully implement the proposed scope of services. The City has provided a summary of the basic maintenance components and site locations to assist in understanding the tasks and maintenance services desired. Specifications are general in nature and not intended to encompass all the projects complexity. Contractor shall become familiar with the specified locations and the needs of each facility to best determine their ability to complete the described maintenance specifications.

Additional tasks and work elements may be inserted into the scope of services during contract negotiations with the selected firm. It is also possible that tasks or elements could be removed during negotiations or not included in an initial contract because of regulatory uncertainty, budget limitations, contracting strategy or any combination thereof.

Proposals must clearly identify any elements of the proposed scope of services that would not be provided by the prime contractor. Any sub-contractors which comprise the respondent team must be identified along with a description of past working history between the firms.

The scope of services includes:

1. Contractor shall be responsible for completion of site specific landscape maintenance and grounds keeping services identified and described in Appendix D: Park location Maps Zone 1.
2. Contractor proposals shall include cost associated with delivery of tasks described in Appendix C: Maintenance Schedule Zone 1 and Additional Services listed to be considered for proposal award.
3. Contractor shall provide a **fixed cost per item** for all services at the frequency designated/described in Appendix C: Maintenance Schedule Zone 1.
Services requested for Maintenance Schedule Zone 1 include:
 - a. Mowing
 - b. Weedeating / Trimming
 - c. Fertilizer Application
 - d. Spraying Application / Weed Control
 - e. Dog Station Maintenance
 - f. Garbage / Trash Removal

Exhibit A

4. Contractor shall provide a **fixed hourly rate** for services described in Appendix C: Maintenance Schedule.

Additional Services requested include:

- g. Mowing
 - h. Weedeating / Trimming
 - i. Dog station maintenance
 - j. Landscaping
 - k. Clearing, brushing, pruning of vegetation
 - l. Maintenance of native grass/naturalized areas
 - m. Trail maintenance
 - n. Removal of seasonal debris, leaves, litter
 - o. Overseeding turf areas
 - p. Garbage trash/removal
 - q. Aerating & Thatching
5. The final scope of services may change and will be contained in a professional services agreement to be executed by the City and the selected Contractor. Contractor proposals shall include additional explanation if items costs are excluded from the scope of services provided. Irrigation services/maintenance are not included in this RFP and will be contracted separately.

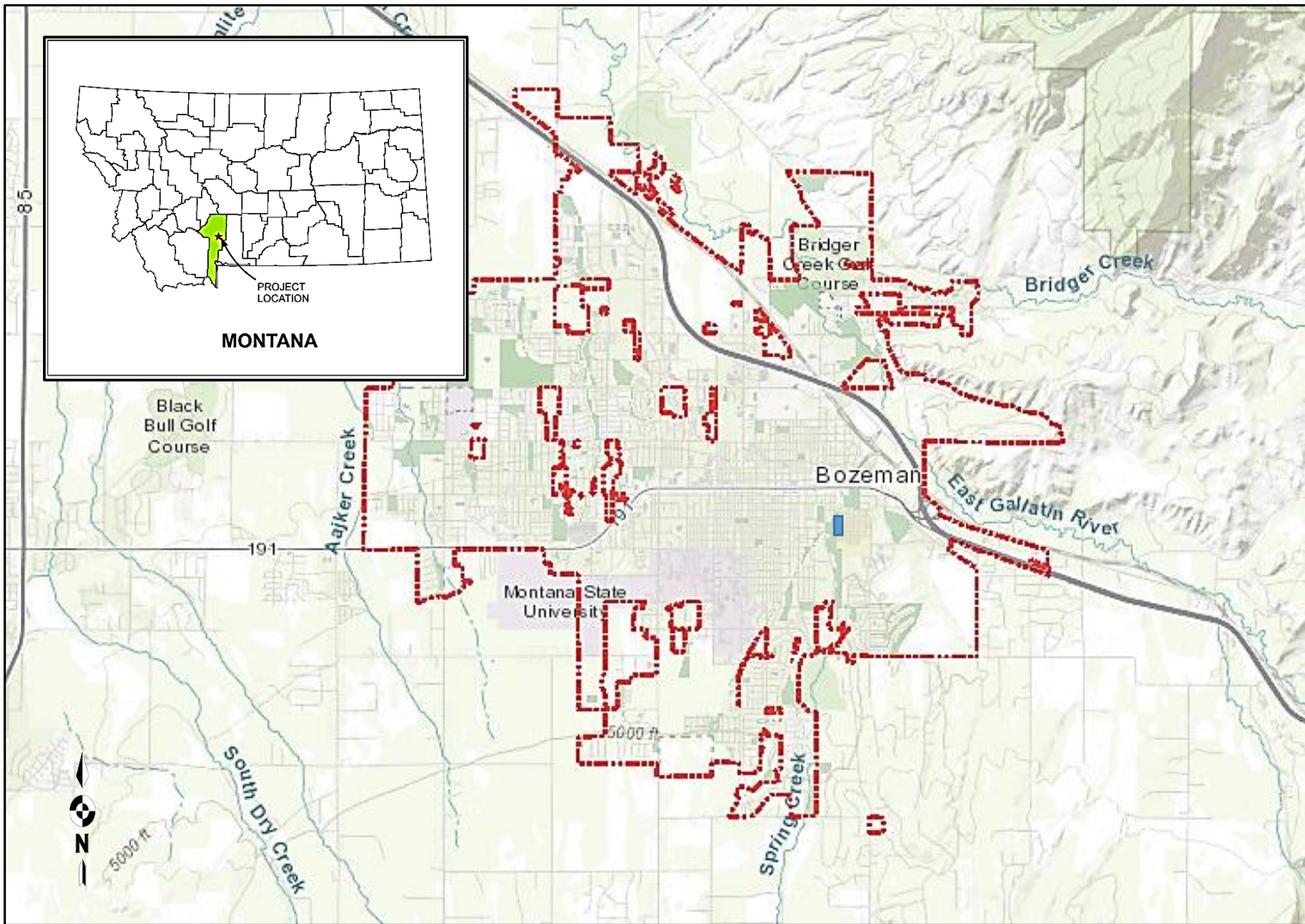
Exhibit A

Appendix C: Maintenance Schedule Zone 1 (LANDSCAPE)

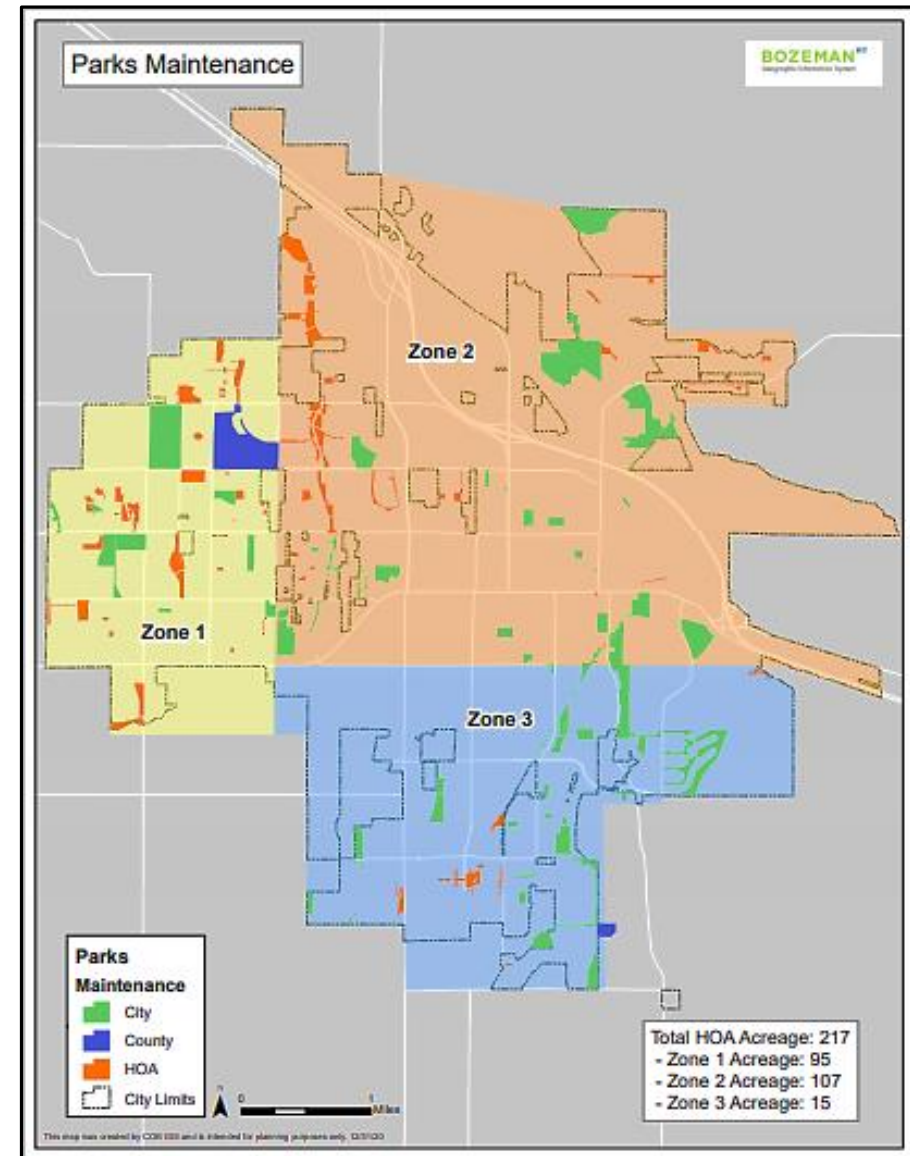
PARK NAME	SITE DISCRPTION	LOCATION:	MAP/LOCATION (GREEN AREA ONLY)	MOWING FREQUENCY: (TURF AREAS)		TRIMMING FREQUENCY:		FERTILIZER APPLICATION FREQUENCY:		SPRAYING PER APPLICATION WEEDS REMOVAL FREQUENCY:		DOG STATION MAINTENANCE		GARBAGE TRASH REMOVAL	
Parks															
FERGUSON MEADOWS PARK	TURF: YES/FAIR IRRIGATION: YES/SMALL/FAIR	Sanders Ave & Cascade St	1-A	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Turf Area 1x/year/as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
VALLEY COMMONS PARK	TURF: YES/UNK IRRIGATION: YES/MEDIUM/FAIR	Fallon St. & Ginella Way (vacant land)	1-B	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Turf Area 1x/year/as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
LOYAL GARDENS SUB PARK	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	S. Cottonwood Rd. to Golden Gate Ave. & South of Loyal Dr.	1-C	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Turf Area 1x/year/as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
VALLEY WEST PARK	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	Durston Rd. to Babcock St. & Kimball Ave. to N. Cottonwood Rd.	1-D	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Turf Area 2x/year/as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
NORTON EAST RANCH SUB PARK	TURF: YES/FAIR IRRIGATION: YES/SMALL/FAIR	Babcock St. to Fallon & S. Eldorado to Waterlily Dr.	1-E	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Turf Area 2x/year/as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
BAXTER MEADOWS (Master), PH. 1-3	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	Kimberwicke St. to Baxter & Vaquero Pkwy. to Harper Puckett Rd.	1-F	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Turf Area 2x/year/as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
FLANDERS CREEK SUBDIVISION PARK 1-3	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	Annie St. to Durston Rd. & Flanders Creek Ave. to Twin Lakes Ave.	1-G	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Lawn Area 2x/year/as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
BAXTER MEADOWS, PH. 1 Park 1-2	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	Equestrian Ln. to Baxter Ln. & Vaquero Pkwy. to Ferguson Ave.	1-H	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Lawn Area 1x/year/as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/ biweekly/as needed	\$	1x/biweekly/as needed	\$
TRADITIONS SUB PHASE 1 PARK 1-4 & 8	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	Sherwood Way to Glenwood Dr. & Flanders Creek Ave to Abigail Ln.	1-I	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Lawn Area 1x/year/as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
DIAMOND ESTATES PUBLIC PARK	TURF: YES/FAIR IRRIGATION: YES/SMALL/FAIR	Oak St. & Agate Ave. Road buffer at Oak & detention pond Area.	1-J	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Lawn Area 1x/year/ as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
OAK SPRINGS PARK	TURF: YES/FAIR IRRIGATION: YES	N. Ferguson Ave. to Yellowstone Ave. & Renova Ln. to Annie St.	1-K	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Lawn Area 1x/year/ as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
DIAMOND PARK	TURF: YES/FAIR IRRIGATION: YES/SMALL/FAIR	Ferguson Ave. to Flanders Mill Rd. & Oak St. to Tanzanite Dr.	1-L	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Lawn Area 1x/year/as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
FOUR POINTS MINOR SUB 475 PARK	TURF: YES/GOOD IRRIGATION: YES/MEDIUM/FAIR	Cattail St. to Kimberwicke St. & Milkhouse Ave. to Ferguson Ave	1-M	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Lawn Area 1x/year/as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
WESTBROOK SUB PUBLIC PARK 1-2	TURF: YES/FAIR IRRIGATION: YES/MEDIU/FAIR	Annie St. to Durston Rd. & Rosa Way to Loxley Dr.	1-N	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Lawn Area 1x/year/ as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
THE LAKES AT VALLEY WEST PARK	TURF: UNK IRRIGATION: YES/MEDIUM/FAIR	Westmorland Dr. to Vahl Way to N. Laurel Pkwy. Adjcent to Bronken Sports Park.	1-O	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Turf Area 1x/year/ as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
SUNDANCE PUBLIC PARK	TURF: UNK IRRIGATION: UNK	Caballo Ave. to Davis Ln. & Galloway St. to Baxter Ln.	1-P	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Turf Area 1x/year/as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
BOULDER CREEK PARK 1-2	TURF: YES/FAIR IRRIGATION: YES/MEDIU/FAIR	Glenellen Dr. to Annie St. & Laurel Pkwy. To Abigail Ln.	1-Q	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Turf Area 1x/year/as needed (price per application)	\$	Broad leaf weed control 1x/year/as needed (price per application)	\$	1x/week/as needed	\$	1x/week/as needed	\$
ANNIE ST & COTTAGE PARK LN	TURF: YES/FAIR IRRIGATION: YES/SMALL/FAIR	Small L shaped property corner of Annie St. & Cottage Park Ln.	1-R	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Turf Area 1x/year/as needed (price per application)	\$	Spraying as needed broad leaf weed control (price per application)	\$	1x/month/as needed	\$	1x/month/as needed	\$
COTTAGE PARK LN	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	Small property Cottage Park Ln. and Hanson St.	1-S	1x/week (price per mow)	\$	1x/week (price per trimming)	\$	On Turf Area 1x/year/as needed (price per application)	\$	Spraying as needed broad leaf weed control (price per application)	\$	1x/month/as needed	\$	1x/month/as needed	\$

Additional Services Zone 1: Fixed Per Hour Rates

Service/Discription	Per Hour Rates	ADDITIONAL COMMENTS
Mowing	\$	
Weedeating / Trimming	\$	
Dog station maintenance	\$	
Landscaping	\$	
Clearing, brushing, pruning of vegetation	\$	
Maintenance of native grass/naturalized areas	\$	
Trail maintenance	\$	
Removal of seasonal debris, leaves, litter	\$	
Overseeding turf areas	\$	
Garbage removal	\$	
Aerating & Thatching	\$	



CITY OF BOZEMAN BOUNDARY/TOPOGRAPHIC MAP



PARKS MAINTENANCE ZONE 1-3 MAP

Exhibit B

Title Page:

R.F.P.: Parks & Trail District Landscape Maintenance Services. – Zone 1



Firm Name: Advantage Spraying Services, Inc - DbA: Advantage Landcare

Address: 114 Wildcat Way Bozeman, MT 59718

Contact: Patrick Doran & Steve Lee

Phone: (406) 924-1882

Email: advantagelandcare@gmail.com

Exhibit B

Appendix C: Maintenance Schedule Zone 1 (LANDSCAPE)

PARK NAME	SITE DESCRIPTION	LOCATION:	MAP LOCATION (GREEN AREA ONLY)	MOWING FREQUENCY: (TURF AREAS)	TRIMMING FREQUENCY:	FERTILIZER APPLICATION FREQUENCY:	SPRAYING PER APPLICATION WEEDS REMOVAL FREQUENCY:	DOG STATION MAINTENANCE	GARBAGE TRASH REMOVAL
FERGUSON MEADOWS PARK	TURF: YES/FAIR IRRIGATION: YES/SMALL/FAIR	Sanders Ave & Cascade SL	1-A	1x/week (price per mow) \$ 75.00	1x/week (price per trimming) \$ Included in mowing	On Turf Area 1x/year/as needed (price per application) \$ 150.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 180.00	1x/week/as needed \$	1x/week/as needed \$
VALLEY COMMONS PARK	TURF: YES/UNK IRRIGATION: YES/MEDIUM/FAIR	Fallon St. & Gineila Way (vacant land)	1-B	1x/week (price per mow) \$ 50.00	1x/week (price per trimming) \$ Included in mowing	On Turf Area 1x/year/as needed (price per application) \$ 125.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 100.00	1x/week/as needed \$	1x/week/as needed \$
LOYAL GARDENS SUB PARK	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	S. Cottonwood Rd. to Golden Gate Ave. & South of Loyal Dr.	1-C	1x/week (price per mow) \$ 360.00	1x/week (price per trimming) \$ Included in mowing	On Turf Area 1x/year/as needed (price per application) \$ 2875.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 2300.00	1x/week/as needed \$	1x/week/as needed \$
VALLEY WEST PARK	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	Durston Rd. to Babcock St. & Kenall Ave. to N. Cottonwood Rd.	1-D	1x/week (price per mow) \$ 425.00	1x/week (price per trimming) \$ Included in mowing	On Turf Area 2x/year/as needed (price per application) \$ 3917.50	Broad leaf weed control 1x/year/as needed (price per application) \$ 3134.00	1x/week/as needed \$	1x/week/as needed \$
NORTON EAST RANCH SUB PARK	TURF: YES/FAIR IRRIGATION: YES/SMALL/FAIR	Babcock St to Fallon & S. Eldorado to Walerilly Dr.	1-E	1x/week (price per mow) \$ 575.00	1x/week (price per trimming) \$ Included in mowing	On Turf Area 2x/year/as needed (price per application) \$ 1625.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 1300.00	1x/week/as needed \$	1x/week/as needed \$
BAXTER MEADOWS (Master), Ph. 1-3	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	Kimberwick St. to Bader & Vaquero Pkwy. to Heper Pucker Rd.	1-F	1x/week (price per mow) \$ 880.00	1x/week (price per trimming) \$ Included in mowing	On Turf Area 2x/year/as needed (price per application) \$ 3400.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 2720.00	1x/week/as needed \$	1x/week/as needed \$
FLANDERS CREEK SUBDIVISION PARK 1-3	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	Ann St to Durston Rd. & Flanders Creek Ave. to Twin Lakes Ave.	1-G	1x/week (price per mow) \$ 475.00	1x/week (price per trimming) \$ Included in mowing	On Lawn Area 2x/year/as needed (price per application) \$ 1175.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 940.00	1x/week/as needed \$	1x/week/as needed \$
BAXTER MEADOWS, Ph. 1 Park 1-2	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	Equestrian Ln. to Baxter Ln. & Vaquero Pkwy. to Ferguson Ave.	1-H	1x/week (price per mow) \$ 250.00	1x/week (price per trimming) \$ Included in mowing	On Lawn Area 1x/year/as needed (price per application) \$ 600.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 480.00	1x/biweekly/as needed \$	1x/biweekly/as needed \$
TRADITIONS SUB PHASE 1 PARK 1-4 & B	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	Shenwood Way to Glenwood Dr. & Flanders Creek Ave to Abigail Ln.	1-I	1x/week (price per mow) \$ 315.00	1x/week (price per trimming) \$ Included in mowing	On Lawn Area 1x/year/as needed (price per application) \$ 2025.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 1620.00	1x/week/as needed \$	1x/week/as needed \$
DIAMOND ESTATES PUBLIC PARK	TURF: YES/FAIR IRRIGATION: YES/SMALL/FAIR	Oak St. & Agate Ave. Road buffer at Oak & detention pond Area.	1-J	1x/week (price per mow) \$ 50.00	1x/week (price per trimming) \$ Included in mowing	On Lawn Area 1x/year/as needed (price per application) \$ 125.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 100.00	1x/week/as needed \$	1x/week/as needed \$
OAK SPRINGS PARK	TURF: YES/FAIR IRRIGATION: YES	N. Ferguson Ave. to Yellowstone Ave. & Renova Ln. to Ann St.	1-K	1x/week (price per mow) \$ 1050.00	1x/week (price per trimming) \$ Included in mowing	On Lawn Area 1x/year/as needed (price per application) \$ 2650.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 2,120.00	1x/week/as needed \$	1x/week/as needed \$
DIAMOND PARK	TURF: YES/FAIR IRRIGATION: YES/SMALL/FAIR	Ferguson Ave. to Flanders Mill Rd. & Oak St to Tansilto Dr.	1-L	1x/week (price per mow) \$ 1050.00	1x/week (price per trimming) \$ Included in mowing	On Lawn Area 1x/year/as needed (price per application) \$ 2600.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 2,080.00	1x/week/as needed \$	1x/week/as needed \$
FOUR POINTS MINOR SUB 475 PARK	TURF: YES/GOOD IRRIGATION: YES/MEDIUM/FAIR	Cattail St. to Kimberwick St. & Milkhouse Ave. to Ferguson Ave.	1-M	1x/week (price per mow) \$ 540.00	1x/week (price per trimming) \$ Included in mowing	On Lawn Area 1x/year/as needed (price per application) \$ 1350.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 1,080.00	1x/week/as needed \$	1x/week/as needed \$
WESTBROOK SUB PUBLIC PARK 1-2	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	Annie St. to Durston Rd. & Rice Way to Laxey Dr.	1-N	1x/week (price per mow) \$ 245.00	1x/week (price per trimming) \$ Included in mowing	On Lawn Area 1x/year/as needed (price per application) \$ 925.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 740.00	1x/week/as needed \$	1x/week/as needed \$
THE LAKES AT VALLEY WEST PARK	TURF: UNK IRRIGATION: YES/MEDIUM/FAIR	Westmontend Dr. to Vohl Way to N. Laurel Pkwy. Adjacent to Bronken Sports Park.	1-O	1x/week (price per mow) \$ 1200.00	1x/week (price per trimming) \$ Included in mowing	On Turf Area 1x/year/as needed (price per application) \$ 3025.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 2420.00	1x/week/as needed \$	1x/week/as needed \$
SUNDANCE PUBLIC PARK	TURF: UNK IRRIGATION: UNK	Cabello Ave. to Davis Ln. & Galloway St to Baxter Ln.	1-P	1x/week (price per mow) \$ 275.00	1x/week (price per trimming) \$ Included in mowing	On Turf Area 1x/year/as needed (price per application) \$ 700.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 560.00	1x/week/as needed \$	1x/week/as needed \$
BOULDER CREEK PARK 1-2	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	Gonellan Dr. to Annie St. & Laurel Pkwy. To Abigail Ln.	1-Q	1x/week (price per mow) \$ 300.00	1x/week (price per trimming) \$ Included in mowing	On Turf Area 1x/year/as needed (price per application) \$ 750.00	Broad leaf weed control 1x/year/as needed (price per application) \$ 600.00	1x/week/as needed \$	1x/week/as needed \$
ANNIE ST & COTTAGE PARK LN	TURF: YES/FAIR IRRIGATION: YES/SMALL/FAIR	Small shaped property corner of Annie St. & Cottage Park Ln.	1-R	1x/week (price per mow) \$ 75.00	1x/week (price per trimming) \$ Included in mowing	On Turf Area 1x/year/as needed (price per application) \$ 150.00	Spraying as needed broad leaf weed control (price per application) \$ 120.00	1x/month/as needed \$	1x/month/as needed \$
COTTAGE PARK LN	TURF: YES/FAIR IRRIGATION: YES/MEDIUM/FAIR	Small property Cottage Park Ln. and Hanson St.	1-S	1x/week (price per mow) \$ 50.00	1x/week (price per trimming) \$ Included in mowing	On Turf Area 1x/year/as needed (price per application) \$ 100.00	Spraying as needed broad leaf weed control (price per application) \$ 80.00	1x/month/as needed \$	1x/month/as needed \$

Additional Services Zone 1: Fixed Per Hour Rates

Service/Description	Per Hour Rates	ADDITIONAL COMMENTS
Mowing	\$ 50.00 per hour	
Weedating / Trimming	\$ 50.00 per hour	trimming price always included with mowing price
Dog station maintenance	\$ 30 / station / month	weekly dumping & maintenance charged monthly
Landscaping	\$ N/A	
Clearing, brushing, pruning of vegetation	\$ 75.00	Pruning & disposal services
Maintenance of native grass/naturalized areas	\$ N/A	
Trail maintenance	\$ N/A	
Removal of seasonal debris, leaves, litter	\$ 75 / Acre	Pre & Post Emergent Spraying
Diverseeding turf areas	\$ 50 / hour	
Garbage removal	\$ N/A	
Aerating & Thatching	\$ N/A	

Appendix A

NONDISCRIMINATION AND EQUAL PAY AFFIRMATION

Advantage LandCare (name of entity submitting) hereby affirms it will not discriminate on the basis of race, color, religion, creed, sex, age, marital status, national origin, or because of actual or perceived sexual orientation, gender identity or disability and acknowledges and understands the eventual contract will contain a provision prohibiting discrimination as described above and this prohibition on discrimination shall apply to the hiring and treatments or proposer's employees and to all subcontracts.

In addition, Advantage LandCare (name of entity submitting) hereby affirms it will abide by the Equal Pay Act of 1963 and Section 39-3-104, MCA (the Montana Equal Pay Act), and has visited the State of Montana Equal Pay for Equal Work "best practices" website, <https://equalpay.mt.gov/BestPractices/Employers>, or equivalent "best practices" publication and has read the material.

Patrick Doran - Vice President

Name and title of person authorized to sign on behalf of submitter

Memorandum

REPORT TO: City Commission

FROM: Brian Heaston, Engineer III
Shawn Kohtz, City Engineer
Mitch Reister, Public Works Director

SUBJECT: Authorize the City Manager to Sign a Professional Services Agreement with Respec for Municipal Test Well Design, Aquifer Testing, and Preparation of Groundwater Application for Beneficial Water Use Permit

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Agreement - Vendor/Contract

RECOMMENDATION: Authorize the City Manager to sign a Professional Services Agreement with Respec for municipal test well design, aquifer testing, and preparation of Groundwater Application for Beneficial Water Use Permit.

STRATEGIC PLAN: 2.2 Infrastructure Investments: Strategically invest in infrastructure as a mechanism to encourage economic development.

BACKGROUND: The City's Integrated Water Resources Plan, adopted by the City Commission in 2013, recommends development of a municipal groundwater supply source to help meet the City's long-range water supply needs. Beyond increasing available water supply volume, groundwater provides resiliency for the water City's water utility as it is less susceptible to drought impacts and is generally immune to wildfire. These qualities are important considering the City's current surface water supply sources are susceptible to negative impacts from both of these natural events.

The City entered into the original Professional Services Agreement (PSA) with the firm of Respec on August 24, 2015 for the groundwater supply project following a qualifications-based procurement action. The original PSA has been amended on three previous occasions to sequence the project into logical and manageable phases with each subsequent phase building upon the last. Completed phases are described briefly in the following bullets.

- Phase 1 - Development of a valley-wide groundwater steady-state model using publicly available data to characterize aquifer formations with large aquifer yield potential. Model used to run steady state pumping and recharge simulations to evaluate groundwater/surface water interactions to identify well locations for further study and model refinement.
- Phase 2 - Transition model from steady-state to transient (adds in the

dimension of time) to simulate the magnitude and location of surface water depletions over time. Model domain was generally focused to the Bozeman Triangle area and south to the Gallatin Mountain Front. Additional model detail was added within the focus area. (Note: Phase 2 funded by a RDG Grant from DNRC)

- Phase 3 - Feasibility evaluation of a municipal well site at Bozeman Sports Park. Perform water quality evaluation using existing available aquifer quality data. Prepare preliminary source water protection plan and source water delineation and assessment report. Provide additional spatial granularity within the transient model environment. Simulate surface water depletions from pumping well at Sports Park to inform water right mitigation plan options and aquifer recharge locations.
- Phase 3A - Aquifer recharge site evaluation at existing City-owned property near the mouth of Leverich Canyon. Collect groundwater elevation data from instrumented monitoring wells. Evaluate infiltration potential of site soils. Simulate surface water accretions derived from water infiltration at the recharge site to evaluate suitability for inclusion in a water right mitigation plan.

The attached PSA provides for the next phase of the municipal groundwater project: municipal test well design, aquifer testing, and preparation of a Groundwater Application for Beneficial Water Use Permit. The agreement does not take the form of an amendment to the original PSA entered with Respec for this project. Rather, a new professional services agreement has been negotiated given the nature of services rendered includes design, bidding, and construction administration tasks; thus shifting from the investigation portions of the project completed with Phases 1 through 3A.

UNRESOLVED ISSUES: Approval of the attached PSA is linked to Resolution 5262, which has been placed alongside the PSA on this April 6, 2021 consent agenda. Said resolution authorizes City staff to move forward with the exploration, development, and build-out of a municipal groundwater facility at Bozeman Sports Park.

ALTERNATIVES: As suggested by the City Commission.

FISCAL EFFECTS: Total expenditures to-date for the groundwater project amount to \$405,144.65. Funding contributions have occurred from the Water Fund through CIP Project W32B (FY2016), the Water Impact Fee Fund through CIP Project WIF31 (FY2018), and an RDG Grant contribution of \$50,000.

The attached PSA contains a total negotiated fee of \$197,970 for the agreed scope of services. The PSA will be largely funded by the unobligated and unspent balance of \$167,650 available to CIP Project WIF31, with CIP Project WIF32 (FY2021) providing for the difference of \$30,320. Sufficient funding is available to cover the PSA cost.

Attachments:

[PSA w RESPEC for Groundwater Project](#)

Report compiled on: March 25, 2021

PROFESSIONAL SERVICES AGREEMENT

THIS IS AN AGREEMENT made as of _____, between **THE CITY OF BOZEMAN, a Municipal Corporation, Bozeman, Montana 59715 (OWNER)** and **RESPEC Company LLC, 3810 Valley Commons Drive #4, Bozeman, Montana 59718 (ENGINEER)**.

Whereas the accomplishment of the work and services described in this Agreement is essential to the OWNER'S public works improvement program.

Whereas the OWNER intends to and has selected the ENGINEER to provide necessary and professional engineering services for the project.

Whereas the ENGINEER represents that it is willing and qualified to perform the professional engineering services for this project described in this Agreement.

Therefore, in consideration of the foregoing recitals and the mutual covenants and conditions contained herein, the parties agree as follows:

ARTICLE 1 - ENGINEERING SERVICES

1.1. ENGINEER will provide the services set forth in Exhibit A (Engineer's Status During Construction), Exhibit B (A Listing of the Duties, Responsibilities and Limitations of Authority of the Resident Project Representative), Exhibit C (Scope of Services), and Exhibit D (Fee Proposal), which are incorporated herein and made a part of this Agreement.

ARTICLE 2 - ENGINEER'S RESPONSIBILITIES

2.1. ENGINEER shall perform for OWNER professional engineering services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include, but not be limited to, serving as OWNER'S professional engineering representative for the Project, providing professional engineering consultation and advice and furnishing customary civil and structural engineering services incidental thereto.

2.2. The ENGINEER shall furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the ENGINEER'S portions of the Project and to prepare and deliver to the OWNER all data, reports, plans, specifications, and recommendations as designated herein.

2.3. The ENGINEER shall ascertain such information as may have a bearing on the work from local units of government, public, and private organizations and shall be authorized to procure information from other authorities as to the extent of these contacts and the results thereof.

2.4. The ENGINEER'S work shall be in accordance with the standards of sound engineering practices.

2.5. The ENGINEER shall name a Principal-In-Charge for the duration of the project. The Principal-In-Charge shall be Alan Leak, PE.

2.6. The ENGINEER shall name a Project Manager who shall be the liaison between the ENGINEER and the OWNER. The Project Manager shall be Michael Rotar, PE, CFM. The OWNER may name a Task Director who would be the liaison between the ENGINEER and the OWNER during the design segment of the Project.

2.7. The ENGINEER shall submit an estimated progress schedule at the beginning of the work, and monthly progress reports thereafter until the project is completed.

ARTICLE 3 - OWNER'S RESPONSIBILITIES

3.1 The OWNER shall name a Task Director who shall be the liaison between the ENGINEER and the OWNER

during DESIGN segment of the Project. The Task Director designated shall be Brian Heaston, PE.

3.2 The OWNER shall have the right of review and examination of ENGINEER'S work at all times.

3.3 The OWNER shall make available all records (record drawings, construction records, etc.) indicating the existing configuration of the city utilities.

3.4 The OWNER will be responsible for advertising bid openings.

3.5 The OWNER shall attend the pre-bid conferences, bid openings, pre-construction conferences, construction progress and other job-related meetings, substantial completion inspections and final payment inspections.

ARTICLE 4 - BASIC ENGINEERING SERVICES

The ENGINEER shall render professional Engineering Services as follows:

4.1 PRE-DESIGN INVESTIGATION PHASE

After written authorization to proceed, ENGINEER shall:

4.1.1 Consult with OWNER to clarify and define OWNER's requirements for the Project and review available data.

4.1.2 Advise OWNER as to the necessity of OWNER's providing or obtaining from others, data or services and assist OWNER in obtaining such data or services.

4.1.3 Identify and analyze requirements of governmental authorities having jurisdiction to approve the design of the Project and participate in consultations with such authorities.

4.1.4 Provide analyses of OWNER's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

4.1.5. — Provide a general economic analysis of OWNER's requirements applicable to various alternatives.

4.1.6 — Assist in formation of Special Improvement Districts (SID) by preparing district boundary descriptions and maps, preparing a property owner's and assessments role lists including project assessment costs based on the preliminary project cost estimates, and providing technical information at SID public hearings, if applicable.

4.1.7. — Prepare a Report containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate clearly the considerations involved (including applicable requirements of governmental authorities having jurisdiction as aforesaid) and the alternative solutions available to OWNER and setting forth ENGINEER's findings and recommendations. This Report will be accompanied by ENGINEER's opinion of probable costs for the Project, including the following which will be separately itemized: Construction Cost, allowance for engineering costs and contingencies, and (on the basis of information furnished by OWNER) allowances for such other items as charges of all other professionals and consultants, for the cost of land and rights of way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided by others for Owner. The total of all such costs, allowance, etc. are hereinafter called "Total Project Costs".

4.1.8. — Furnish _____ copies and an electronic copy of the Study and Report documents and review them in person with OWNER.

The ENGINEER shall progress the following items in support of test well design, construction and eventual municipal groundwater well development:

- 1) Groundwater modeling;
- 2) Mitigation Plan; and,
- 3) Beneficial Water Use Permit Application and Change Application(s) for Mitigation.

4.2 PRELIMINARY DESIGN PHASE

After written authorization to proceed, ENGINEER shall:

4.2.1. In consultation with OWNER determine general scope, extent and character of the Project, to include final location for test wells at Sports Park property.

4.2.2. ENGINEER shall then prepare preliminary plans and specifications and a written description for the Project.

4.2.3. Design – Technical Memorandum: Specific items to be addressed in the design technical memorandum will include, but not be limited to:

4.2.3.1. Design criteria and requirements for test well(s).

4.2.3.2. Summary of construction requirements and sequencing for each task included in the project.

4.2.3.3. Special design considerations for Project tasks with conditions not covered in standard construction methods or specifications.

4.2.4. Design and Construction Survey: The ENGINEER shall conduct a design field survey of the project areas, as necessary, for locating existing utilities (such as gas, power, telephone, TV cables, water and sewer lines, irrigation facilities, fences, and approach driveways), existing right-of-way and easements, and making measured drawings of or investigating conditions of existing facilities. The ENGINEER shall provide suitable horizontal and vertical reference control points for the construction phase.

4.2.5. Permits and Rights-of-Way: The ENGINEER shall obtain approved permits, licenses, and/or easement agreements from private landowners and any other agencies or entities requiring similar approvals prior to bidding. These approvals will be coordinated with the OWNER and will be made on easement and permit documents approved by the OWNER. Information and easement descriptions provided in the Basic Engineering Services will be based on data available from design surveys and courthouse records.

TAP 4.2.6. ~~Geotechnical Explorations and Analysis~~: ~~The ENGINEER shall conduct such geotechnical explorations and analysis as necessary for project design and bidding. A geotechnical report will be prepared with recommendations relating to conditions pertinent to the design and construction of the Project. Subsurface information will be obtained by reviewing any existing geotechnical data available and using additional backhoe test pits and soil borings, as necessary.~~

~~The ENGINEER shall furnish copies of a geotechnical report as requested to OWNER for use by OWNER and Contractors and review the results of the report with Contractors in a pre-bid meeting. The report is to be prepared for design purposes; ENGINEER will not be responsible if it is used by others for other purposes.~~

4.2.7. Preliminary Plans and Specifications. Prepare preliminary construction plans and specifications with information which addresses the special features of each project task.

4.2.8. Based on the information contained in the preliminary design documents, ENGINEER will submit a revised opinion of probable Total Project Costs to the OWNER.

4.2.9. ENGINEER shall prepare and furnish complete paper and electronic copies of preliminary bidding documents and design technical memorandum as requested to OWNER, and at the same time furnish copies as directed by OWNER to agencies and/or parties having regulatory responsibilities or direct financial participation in any part of the Project; provide any technical criteria, written descriptions and design data necessary for securing permits or approval from authorities having jurisdiction to review and approve the design, and assist owner in securing such approvals; and review documents in person with OWNER and review authorities, and, if necessary, conduct a plan-in-hand site review. All changes agreed to between ENGINEER and OWNER will be noted in a memorandum from the ENGINEER to the OWNER and incorporated into the final plans and specifications.

The Preliminary Design Phase will be completed and submitted within 120 calendar days following written authorization from OWNER to ENGINEER to proceed with that phase of services.

4.3 FINAL DESIGN PHASE

ENGINEER shall:

4.3.1. On the basis of the accepted Preliminary Design documents and the revised opinion of probable Total Project Costs, prepare for incorporation in the Contract Documents final drawings and Technical Specifications of sufficient detail to show the general scope, extent and detailed character of the work to be furnished and performed by the Contractor(s) suitable for use in the project bidding and construction.

4.3.2. Advise OWNER of any adjustments to the latest opinion of probable Total Project Costs caused by changes in general scope, extent or character or design requirements of the Project or Construction Costs. Furnish to OWNER a revised opinion of probable Total Project Costs based on the Drawings and Specifications.


4.3.3. Prepare for review and approval by OWNER, its legal counsel and other advisors, contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and instructions to bidders, special provisions, technical specifications, and standard drawings, and other related contract documents in conformance with the latest edition of the Montana Public Works Standard Specifications (MPWSS) and City of Bozeman Modifications to MPWSS adopted by the City of Bozeman, or applicable EJCDC documents and CSI Master Format specifications determined to be acceptable by OWNER.

4.3.4. Furnish OWNER six copies and an electronic copy of the Contract Documents (including design drawings, specifications and contracts).

The Final Design Phase will be complete and submitted within 45 calendar days following completion of 4.2 Preliminary Design Phase.

4.4 BIDDING OR NEGOTIATING PHASE

Upon written authorization to proceed with the Bidding or Negotiating Phase, ENGINEER shall:

 4.4.1. Assist OWNER in ~~advertising for and~~ obtaining bids or negotiating proposals for construction contract(s) and record prospective bidders to whom Bidding Documents have been issued, receive and process deposits for Bidding Documents and conduct pre-bid conferences.

4.4.2. Provide interpretation or clarification to prospective bidders regarding the Bidding Documents, and issue addenda as appropriate.

4.4.3. Consult with and advise OWNER as to the acceptability of the prime contractor, subcontractors, suppliers and other persons and organizations proposed by the prime contractor(s) (herein call "Contractor(s)") for those portions of the work as to which such acceptability is required by the Bidding Documents.

4.4.4. Consult with OWNER concerning and determine the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the Bidding Documents.

4.4.5. Attend the Bid opening, prepare bid tabulation, evaluate bids, assess bidders' responsiveness and responsibility and make award recommendation to OWNER.

4.4.6. Facilitate contract award, and the execution and distribution of the contract documents for construction, materials, equipment and services. Furnish Owner two original signature sets of executed contract documents (including design drawings, specifications and contracts). Furnish contractor with one set of original signature, executed contract documents and up to three sets of construction documents.

4.5 CONSTRUCTION PHASE

The responsibilities of the ENGINEER during the Construction Phase are summarized as follows:

4.5.1. General Administration of Construction Contract. ENGINEER shall consult with and advise OWNER and act as OWNER'S representative as provided in EXHIBIT A - ENGINEER'S STATUS DURING CONSTRUCTION, attached to and made part of this Agreement and may be further provided under the General Conditions of the contract documents. The extent and limitations of the authority, duties, and responsibilities of the ENGINEER on the construction job site as assigned here-in shall not be modified except as the ENGINEER may otherwise agree in writing. All of OWNER's instruction to Contractor(s) will be issued through ENGINEER who will have authority to act on behalf of OWNER to the extent provided in the General Conditions except as otherwise provided in writing.

In addition to the services provided under Article 10 (Exhibit A) the ENGINEER shall provide the following services during construction:

- 4.5.1.1 Schedule and conduct a pre-construction conference.
- 4.5.1.2 Provide personnel, equipment and supplies for construction layout and control, including establishment of line, grade, and blue top control staking.
- 4.5.1.3 Review Contractors' construction schedules and operations, and the Contractors' traffic control plans and its implementation prior to the start of construction.
- 4.5.1.4 Ascertain that the Contractor has secured required permits needed to accomplish his work.
- 4.5.1.5 Prepare and provide weekly activity and progress reports to the City's Task Director.
- 4.5.1.6 ENGINEER shall provide OWNER copies of all correspondence between the ENGINEER and Contractor.
- 4.5.1.7 Issue stop and resume work orders, in whole or in part, when work is not or cannot be performed in accordance with the Contract Documents.
- 4.5.1.8 Review and approve, for conformance with the project technical specifications all shop drawings, and other Contractor submittals required by the Contract Documents.
- 4.5.1.9 During construction review Contractors' construction schedules and evaluate conformance and progress under the Contract time provisions.
- 4.5.1.10 Prepare for OWNER'S approval any plan and specification changes which due to any initial design or engineering deficiencies are required to complete the project original design concept.
- 4.5.1.11 Inspect the project and when appropriate, and after conferring with OWNER, issue a Certificate of Substantial Completion to the Contractor.
- 4.5.1.12 Prior to recommending final payment, schedule and conduct with the OWNER a final project inspection and submit a report to the OWNER documenting any outstanding items or deficiencies requiring correction prior to final payment. Upon satisfactory project completion ENGINEER shall certify in writing to the OWNER, and any required regulatory agencies, that the construction was completed in accordance with the approved plans and specifications and is performing in accordance with the design concept.
- TWAP 4.5.1.13 ~~Twenty-three months after project substantial completion schedule and conduct with the Owner a Two-Year Warranty Inspection of the project and advise the owner in writing whether project deficiencies exist and if the project is performing in accordance with the design concept.~~

4.5.2. Resident Project Representative. ENGINEER shall provide a qualified Resident Project Representative at the job site to provide observation of the work as provided in EXHIBIT B - A LISTING OF THE DUTIES, RESPONSIBILITIES AND LIMITATIONS OF AUTHORITY OF THE RESIDENT PROJECT REPRESENTATIVE, attached to and made part of this Agreement.

The ENGINEER shall submit to the OWNER, for review and acceptance, the resume of each Resident Project Representative who may be assigned to the job site during the course of the Project not less than 10 calendar days prior to the pre-construction meeting. Any subsequent change in the resident representative shall also be subject to the OWNER'S approval.

4.5.3 Limitations of Responsibilities. ENGINEER will not be responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and ENGINEER will not be responsible for CONTRACTOR's failure to perform or furnish the Work in accordance with the Contract Documents; however, nothing contained in this agreement shall be construed to release ENGINEER from liability for failure to properly perform duties and responsibilities assumed by ENGINEER in the Contract Documents.

4.6. **PROJECT DOCUMENTATION – NOT USED**

4.7. **TESTING**

Aquifer testing, verification of aquifer properties and well production, and water quality testing will be completed by ENGINEER.

The ENGINEER shall provide and maintain detailed documentation of the following testing programs and shall provide such documentation as requested by OWNER:

- 1) Aquifer testing and monitoring program;
- 2) Well efficiency and production; and,
- 3) Water quality testing and analysis.

ARTICLE 5 - ADDITIONAL SERVICES

5.1. If OWNER wishes ENGINEER to perform any of the following Additional Services, OWNER shall so instruct ENGINEER in writing, and ENGINEER shall perform or obtain from others such services and will be paid therefor as provided in the Agreement:

- 5.1.1. Legal land surveys performed to obtain data for preparing easements and rights-of-way descriptions.
- 5.1.2. Preparation of applications and supporting documents for governmental agencies in addition to those required under Basic Services; preparation or review of environmental studies and related services; and assistance in obtaining environmental approvals.
- 5.1.3. Services resulting from significant changes in the general scope, extent or character of the Project or major changes in documentation previously accepted by OWNER where changes are due to causes beyond ENGINEER's control.
- 5.1.4. Providing renderings ~~or models~~.
- 5.1.5. Preparing documents for alternate bids requested by OWNER for work not executed or for out-of-sequence work.
- 5.1.6. Providing other services not otherwise provided for in the Agreement, including services normally furnished by the OWNER as elsewhere herein described.
- 5.1.7. Furnishing the services of independent professional associates or consultants for other than Basic Services.

5.2. When required by the Contract Documents in circumstances beyond ENGINEER's control, ENGINEER shall perform or obtain from others any of the following Additional Services as circumstances require during construction and without waiting for specific instructions from OWNER, and ENGINEER will be paid therefor as provided in this Agreement:

5.2.1. Services in connection with work directive changes and change orders to reflect the changes requested by OWNER if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.

5.2.2. Services in making revisions to Drawings and Specifications occasioned by the OWNER'S acceptance of substitutions proposed by Contractor(s); services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor; and evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.

5.2.3. Services resulting from significant delays, changes or price increases occurring as a direct result of materials, equipment or energy shortages.

5.2.4. Additional or extended services during construction made necessary by (1) work damage by fire or other causes during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, (4) default by any Contractor.

ARTICLE 6 - COMPENSATION FOR ENGINEERING SERVICE

6.1 LUMP SUM AGREEMENT FOR BASIC SERVICES AND EXPENSES OF ENGINEER

6.1.1 Payment. The OWNER shall for design phase services performed as Basic Engineering Services under sections 4.1 through 4.3 of this agreement pay a total sum in the amount of \$151,790.00 for such services.

6.1.2 Payment Schedule. Total cumulative payments for the design phase engineering services (sections 4.1 through 4.3) shall not exceed the following ceilings:

\$ 121,432.00 (80% of design fee) until the Final Plans and Specifications have been submitted to the OWNER and review authorities.

6.1.3 General. Engineer shall submit monthly statements for services rendered. The statements shall be based upon Engineer's estimate of the proportion of the total services actually completed at the time of billing, subject to any limitations on Payments based on completion of tasks or specific retainage requirements pursuant to the payment provisions of the Agreement.

6.1.4 Reimbursable Expenses. Only those expenses specifically identified for payment under section 6.2 of this Agreement are reimbursable. All other design related expenses are included in the Lump Sum Payment for the Basic Services (4.1 through 4.3) and are not separately reimbursable. Additional Services specifically identified under the scope of design services for payment under 6.1 are not separately reimbursable.

6.2 DIRECT LABOR COST PAYMENT FOR BASIC SERVICES AND EXPENSES OF ENGINEER.

Construction and project documentation services performed as Basic Engineering Services under sections 4.4 through 4.7 including General Administration of Construction Contract, Resident Project Representation, Project Documentation, and Construction Testing, shall be compensated in accordance with the following:

6.2.1 The OWNER shall pay for Bidding/Construction Phases and Project Testing Services and Analysis an amount not to exceed \$46,180.00 except as provided under 6.2.1.1, 6.2.1.2 and 6.2.4.

6.2.1.1 Costs Compensation. Compensation for services occurring subject to 6.2.1.2 shall be based on the ENGINEER's Direct Labor Cost times a factor of 2.96 for services rendered which shall cover Direct Labor, Direct Labor Overhead, General & Administrative Overhead and Profit.

6.2.1.2 Notification. At any time during the construction that it becomes apparent that the Construction Phase and Project Documentation Services rendered under this Agreement will exceed the negotiated compensation for these services, and prior to performing services in excess of the contract ceiling, the ENGINEER shall give OWNER written notice thereof. Promptly thereafter OWNER and ENGINEER shall review the scope and progress of the project work. ENGINEER shall obtain written authorization from OWNER, prior to any additional costs being incurred under paragraph 6.2.1.3. If it is determined that due to a change in project scope under paragraph 5.2.1, the ENGINEER is entitled to additional compensation, OWNER and ENGINEER may negotiate terms as provided under 6.2.1.1. The amount and terms of any additional compensation under 6.2.1.1 or 6.2.1.3 shall be negotiated and agreed in writing pursuant to 9.16.

6.2.1.3 Costs Exceeding Estimated Compensation. Except as allowed under 5.2.1, when the total cost of the original scope Construction Phase and Project Documentation Services exceeds the negotiated compensation for these services, the OWNER shall pay only for the direct costs incurred in excess of the estimated compensation. These costs consist of an amount equal to the ENGINEER'S Direct Labor Cost times a factor of 2.64 for services rendered which shall include Direct Labor, the federally audited payroll Direct Labor Overhead, and General & Administrative Overhead costs, but shall not include any allowance for profit.

TAP
~~6.2.2. Reimbursable Expenses, as defined in section 7.4 of this Agreement, for Basic Services and Approved Additional Services shall be paid to the ENGINEER by the OWNER in the actual amount of the costs incurred up to an amount not to exceed \$ _____ which includes \$ _____ for consultants employed by the Engineer and \$ _____ for all other reimbursable expenses. The estimated reimbursable expenses are identified in Exhibit "_____".~~

TAP
~~6.2.3. Failed Test Expenses. The ENGINEER shall maintain and provide to the OWNER, a record of the costs associated with failing quality control tests performed for the OWNER during the course of the construction of the project and recommend an amount the OWNER deduct from the contractor(s) payments.~~

6.2.4 The OWNER shall pay an amount for Additional Services rendered by the ENGINEER and approved in writing by the OWNER on the basis of the ENGINEER'S Direct Labor Costs times a factor of 3.0, or an amount otherwise negotiated at the time such services are requested and approved by the OWNER.

ARTICLE 7 - MEANING OF TERMS

7.1 AGREEMENT

As used herein the term "this Agreement" refers to the contents of this document and its Exhibits attached hereto and referred to as if they were part of one and the same document.

7.2 CONSTRUCTION COSTS

The construction cost of the entire Project (herein referred to as "Construction Cost") means the total cost to OWNER of those portions of the entire Project designed and specified by ENGINEER, but it will not include ENGINEER's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to, properties unless this Agreement so specifies, nor will it include OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER.

7.3 DIRECT LABOR COSTS

Direct Labor Costs used as a basis for payment mean the actual salaries and wages paid to all ENGINEER's personnel engaged directly on the Project, including, but not limited to, engineers, architects, surveyors, designers, drafters, specification writers, estimators, other technical and business personnel; but does not include indirect payroll related costs or fringe benefits. For the purposes of this Agreement the principals and employees of the ENGINEER maximum billable Direct Labor Costs are:

Principals	\$ 75.00 /hour
Project Manager	\$ 62.68 /hour
Assistant Project Manager	\$ 50.00 /hour
Engineering Team Leader	\$ 47.27 /hour
Project Engineer III	\$ 45.90 /hour
Project Engineer II	\$ 42.30 /hour
Project Engineer I	\$ 40.29 /hour
Engineer III	\$ 37.98 /hour
Engineer II	\$ 35.80 /hour
Engineer I	\$ 32.76 /hour
Senior Scientist II	\$ 46.15 /hour
Senior Scientist I	\$ 42.00 /hour
Hydrogeologist	\$ 44.22 /hour
CADD Drafter	\$ 28.83 /hour
Technicians	\$ 27.00 /hour
Construction Inspector	\$ 27.25 /hour
Staff Surveyor	\$ 27.46 /hour
Administrative Assistant	\$ 24.16 /hour

7.4 REIMBURSABLE EXPENSES

Reimbursable Expenses mean the actual expenses incurred by ENGINEER or ENGINEER's independent professional associates or consultants directly in connection with the Project, such as expenses for: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); subsistence and transportation of Resident Project Representatives and their assistants; toll telephone calls and telegrams; reproduction of reports, Drawings, Specifications, Bidding Documents and similar Project-related items; and if authorized in advance by OWNER, overtime work requiring higher than regular rates. In addition, when compensation for Basic Services is on the basis of Direct Labor Costs method of payment, Reimbursable Expenses will also include the amount billed to ENGINEER by special consultants employed by ENGINEER and authorized by OWNER (other than as an authorized Additional Services) and will also include expenses incurred for computer time and other specialized equipment, including an appropriate charge for previously established programs and expenses of photographic production techniques.

ARTICLE 8 - PAYMENT PROVISIONS

8.1 **TIMES OF PAYMENTS.** ENGINEER may submit monthly statements for Basic Services and approved Additional Services rendered and for Reimbursable Expenses incurred; however, payments shall not exceed the ceilings provided in 6.1 and 6.2. Final payment shall be made only after acceptance of the project by the OWNER. If OWNER disputes the amount of the billing, OWNER will notify the ENGINEER in writing within ten (10) calendar days of the receipt of bill of the dispute.

8.2 **REQUESTS FOR PAYMENT.** Each request for payment shall include a documentation summary of the period incremental man hours incurred, direct labor rates and billed rates, detail of reimbursable costs, total period billing, and total cumulative billing. When requested by OWNER services for distinct project segments shall be accounted and billed separately.

8.3 **PAYMENT UNDER TERMINATION.** In the event of termination by the OWNER upon the completion of any phase of the Basic Services, progress payments due ENGINEER for services rendered through such phase shall constitute total payment for such services. In the event of such termination by OWNER during any phase of the Basic Services, ENGINEER also will be reimbursed for the charges of pre-approved independent professional associates and consultants employed by ENGINEER to render Basic Services and paid for services rendered during that phase on the basis of the payment provisions of the Agreement. In the event of any such termination, ENGINEER will be paid for unpaid pre-approved Additional Services and unpaid Reimbursable Expenses which are authorized under this agreement.

ARTICLE 9 - GENERAL CONSIDERATIONS

9.1 TERMINATION OF AGREEMENT

9.1.1 The sole right is hereby reserved to the OWNER to terminate this Engineering Agreement for any and all causes or for its convenience at any time upon fifteen (15) days written notice to the ENGINEER.

9.1.2 If termination for default is effected by the OWNER, an equitable adjustment in the price provided for in this Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the ENGINEER at the time of termination may be adjusted to cover any additional costs to the OWNER because of the ENGINEER's default. If termination for convenience is effected by the OWNER, the equitable adjustment shall include a reasonable profit, as determined by owner, for services or other work performed. The equitable adjustment for any termination shall provide for payment to the ENGINEER for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm prior to the termination.

9.1.3 Upon receipt of a termination action under paragraph 9.1.2, the ENGINEER shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the OWNER within ten (10) days copies of all data, design drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the ENGINEER in performing this Agreement, whether completed or in process.

9.1.4 In the event this Contract is terminated prior to completion, the original copies of the ENGINEER'S data, recommendations, plans, specifications, analysis and other related documents prepared by the ENGINEER prior to said termination shall be delivered to and become the property of the OWNER.

9.1.5 Upon termination, the OWNER may take over the work and may award another party an Agreement to complete the work under this Agreement.

9.1.6 OWNER'S right to terminate is in addition to any other remedies OWNER may have under the law.

9.2 INSPECTION AND AUDIT

All books, papers, records, payrolls, vouchers and invoices relating to costs and expenditures incurred as to the performance of the services by the ENGINEER hereunder shall be made available to the OWNER, or their authorized representatives for audit and review, at the ENGINEER'S respective offices at all reasonable times during the contract period and for three years from the date of final payment.

9.3 EMPLOYMENT

The ENGINEER warrants that he has not employed or retained any company or persons, other than a bona fide employee, working solely for the ENGINEER, to solicit to secure this contract, and that he has not paid or agreed to pay any

company or person, other than bona fide employees working solely for the ENGINEER, any fee, commission, percentage, brokerage fee, gifts or any other considerations contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the OWNER shall have the right to annul the Contract without liability or in its discretion to deduct from the price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

All employees of the ENGINEER or other persons while engaged in the performance of work or services required by the ENGINEER shall be considered employees of the ENGINEER only and not of the OWNER.

9.4 NONDISCRIMINATION & EQUAL PAY

The ENGINEER agrees that all hiring by ENGINEER of persons performing this agreement shall be on the basis of merit and qualifications. The ENGINEER will have a policy to provide equal employment opportunity in accordance with all applicable state and federal anti-discrimination laws, regulations, and contracts. The ENGINEER will not refuse employment to a person, bar a person from employment, or discriminate against a person in compensation or in a term, condition, or privilege of employment because of race, color, religion, creed, political ideas, sex, age, marital status, national origin, actual or perceived sexual orientation, gender identity, physical or mental disability, except when the reasonable demands of the position require an age, physical or mental disability, marital status or sex distinction. The ENGINEER shall be subject to and comply with Title VI of the Civil Rights Act of 1964; Section 140, Title 2, United States Code, and all regulations promulgated thereunder.

ENGINEER represents it is, and for the term of this agreement will be, in compliance with the requirements of the Equal Pay Act of 1963 and Section 39-3-104, MCA (the Montana Equal Pay Act). ENGINEER must report to the OWNER any violations of the Montana Equal Pay Act that ENGINEER has been found guilty of within 60 days of such finding for violations occurring during the term of this agreement.

The ENGINEER shall require these nondiscrimination terms of its sub-consultants providing services under this agreement.

9.5 SUBLETTING OR ASSIGNING OF WORK

The ENGINEER shall not sublet or assign any of the work covered herein without prior written approval of the OWNER.

9.6 STANDARD OF CARE

In providing services under this agreement, the ENGINEER will perform in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. If any service should be found to be not in conformance with this standard, the ENGINEER shall, at the OWNER's request, re-perform the service at its own expense. Engineer shall also, at its own expense, make such changes, modifications or additions to the project which are made necessary as a result of the initial non-performance or the re-performance of services. The OWNER's rights herein are in addition to any other remedies the OWNER may have under the law.

9.7 LEGAL RELATIONS:

9.7.1 The ENGINEER shall, consistent with the standard care, comply with those Federal, State, and Local laws and ordinances applicable to the work to be done.

9.7.2 The ENGINEER agrees to defend, indemnify and hold harmless the OWNER, its officers, directors, agents and employees from and against any suit, cause of action, claim, cost, expenses, obligation and liability of

any character, including attorney's fees, which is brought or asserted for any bodily injury, death, or physical damage to property received or sustained by any person, persons, property, business or any other entity, arising out of or resulting from, or in connection with the ENGINEER'S negligent performance of the work specified in this agreement.

9.7.3. The ENGINEER agrees to defend, indemnify and hold harmless the OWNER, its officers, directors, agents and employees, should OWNER, its officers, directors, agents or employees be named as a defendant in any action where the OWNER'S alleged liability arises from the negligent performance of the ENGINEER'S work herein described. The obligations of the ENGINEER to defend, indemnify and hold harmless the OWNER will apply to any suit, cause of action, claim, cost or obligation including, without limitation, those alleged under the common law or pursuant to a federal or state statute or regulation including those arising in tort, trespass, nuisance, and strict liability.

9.7.4 In the event the OWNER is found proportionately responsible for any damages ultimately awarded to a plaintiff or plaintiffs in any lawsuit, the ENGINEER will be responsible for only those damages, costs, or liabilities as are attributable to the ENGINEER'S percent of fault as compared with 100% of the fault giving rise to the damages. Should the OWNER be found responsible for negligence by its own officers, directors, agents or employees, then in that event the OWNER agrees to reimburse the ENGINEER for the reasonable attorney's fees and costs incurred in any defense of the OWNER in an amount proportional to the fault attributed to the OWNER. The indemnity required herein shall not be limited by reason of the specification of any particular insurance coverage in this Agreement.

9.7.5 Should either OWNER or ENGINEER be held responsible, for any damages, costs or liabilities resulting from intentional misconduct by any officer, director, agent or employee in connection with the work specified in this Agreement, then in that event, that party shall defend, indemnify and hold harmless the other as to any damages, costs or liabilities that result from or arise out of that intentional misconduct, including reasonable attorney's fees and costs which shall include costs and salary of the city attorney or other in-house counsel. Further, notwithstanding the obligations set forth in paragraphs 9.7.2 and 9.7.3 above, the ENGINEER agrees to defend OWNER where the OWNER'S alleged liability arises from intentional misconduct by the ENGINEER. Should the OWNER be found responsible for intentional misconduct by its own officer, director, agent or employee, then OWNER agrees to reimburse ENGINEER for the reasonable attorney's fees and costs incurred in any defense of the OWNER.

9.7.6 The ENGINEER shall perform this agreement as an independent contractor, and as such, is responsible to the OWNER only as to the results to be obtained in the work herein specified, and to the extent that the work shall be done in accordance with the terms, plans and specifications. The ENGINEER shall have and maintain complete control over all of its employees, subcontractors, agents and operations, being responsible for any required payroll deductions and providing required benefits, such as, but not limited to worker's compensation with statutory limits, and unemployment insurance.

9.8 INSURANCE

The ENGINEER shall secure and furnish to the OWNER certificate of insurance, therein, naming the OWNER as an additional insured, to include thirty (30) days notice of cancellation or non-renewal.

Without limiting any of ENGINEER'S obligations hereunder, ENGINEER shall secure and maintain, until the work is completed and accepted by the OWNER, insurance coverage naming the OWNER as additional insured with minimum insurance coverage as follows:

<u>Type of Coverage</u>	<u>Limits</u>
<u>Employers' Liability:</u>	<u>\$ 100,000</u> , per accident
 <u>General Liability:</u>	
<u>Bodily Injury & Property Damage</u> Single and combined	<u>\$ 1,000,000</u> , per accident
<u>General Aggregate:</u>	<u>\$ 2,000,000</u> .
<u>Excess Liability Coverage (umbrella)</u>	<u>\$1,000,000</u> , each occurrence
 <u>Automobile:</u>	
<u>Bodily Injury</u> covering all automobiles, trucks, tractors, trailers, or other automotive equipment whether owned or rented by Engineer or owned by employees of Engineer.	<u>\$ 1,000,000</u> each person <u>\$ 1,000,000</u> each occurrence
<u>Property Damage</u> covering all automobiles, trucks, tractors, trailers or other automotive equipment whether owned or rented by Engineer or owned by employees of Engineer	<u>\$ 100,000</u> each occurrence
OR	
<u>Bodily Injury & Property Damage</u> Single and combined	<u>\$1,000,000</u> each occurrence

In addition to the above insurance coverage, the ENGINEER shall secure and maintain, until the work is completed and accepted by the OWNER, and without naming OWNER as an additional insured, professional errors and omissions coverage as follows:

<u>Professional Errors & Omissions:</u>	<u>\$ 1,000,000</u> per claim and aggregate each occurrence
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9.9 ENDORSEMENT

The ENGINEER shall place his endorsement on all drawings and other data furnished by him.

9.10 OWNERSHIP OF DOCUMENTS

The parties admit and agree the documents produced under this agreement are not intended or represented to be suitable for reuse by OWNER or any other individual on any other project. Any reuse without written verification or adaptation by ENGINEER will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, or to ENGINEER's independent professional associates or consultants. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of owner. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

9.11 PUBLIC INFORMATION

The ENGINEER shall not issue any statements, releases or information for public dissemination without prior approval of the OWNER.

9.12 PROPRIETARY RIGHTS

If patentable discoveries or inventions should result from work required herein, all rights accruing from such discoveries or inventions shall be joint property of the ENGINEER and the OWNER. Provided that the OWNER, state agencies or political subdivisions and the United States Government shall have the irrevocable, nonexclusive, nontransferable and royalty-free license to use each invention in the manufacture, use and disposition, according to law, of any article or material, and in the use of any method that may be developed as part of the work described and contemplated herein.

9.13 RECORDS

The ENGINEER shall maintain accounting records and other evidence pertaining to the cost incurred and to make the records available at all reasonable times during the Contract term and for one (1) year from the date of final payment. Such accounting records and other evidence pertaining to the cost incurred will be made available for inspections by OWNER.

9.14 SUCCESSORS IN INTEREST

The covenants, agreements and all statements in this Contract apply to and shall be binding on the heirs, personal representatives, successors and assigns of the respective parties.

9.15 ATTORNEY'S FEES AND COSTS

That in the event it becomes necessary for either Party of this Contract to retain an attorney to enforce any of the terms or conditions of this Contract or to give any notice required herein, then the prevailing Party or the Party giving notice shall be entitled to reasonable attorney's fees and costs, including fees, salary, and costs of in-house counsel to include City Attorney.

9.16 MODIFICATIONS AND AMENDMENTS

That any amendment or modification of this Contract or any provisions herein shall be made in writing or executed in the same manner as this original document and shall after execution become a part of this Contract.

In witness Whereof, the Parties hereto do make and execute this Agreement.

CITY OF BOZEMAN, MONTANA

ENGINEER

BY: _____
(City Manager)

BY:  _____
(Vice-President) *Russell A. Pearson*

DATE: _____

DATE: *2/2/2021* _____

ATTEST:

BY: _____
(City Clerk)

EXHIBIT A

TO AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

ENGINEER'S STATUS DURING CONSTRUCTION

This Exhibit is attached to, made a part of, and incorporated by reference with the Agreement made on _____, between **CITY OF BOZEMAN** (OWNER) and **RESPEC Company LLC** (ENGINEER) providing for professional engineering services.

ARTICLE 10 - ENGINEER'S STATUS DURING CONSTRUCTION

10.1. OWNER'S REPRESENTATIVE

ENGINEER will be OWNER's representative during the construction period. The duties and responsibilities and the limitations of authority of ENGINEER as OWNER's representative during construction are set forth in the Contract Documents and shall not be extended without written consent of OWNER and ENGINEER.

10.2. VISITS TO THE SITE

ENGINEER will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. ENGINEER's efforts will be directed toward providing for OWNER's greater degree of confidence that the completed Work will conform to the Contract Documents. On the basis of such visits and on-site observations as an experienced and qualified design professional, ENGINEER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defects and deficiencies in the Work.

10.3. PROJECT REPRESENTATION

If OWNER and ENGINEER agree, ENGINEER will furnish a Resident Project Representative to assist ENGINEER in observing the performance of the Work. The duties, responsibilities and limitations of authority of any such Resident Project Representative and assistants will be as provided in **EXHIBIT B, A LISTING OF THE DUTIES, RESPONSIBILITIES AND LIMITATIONS OF AUTHORITY OF THE RESIDENT PROJECT REPRESENTATIVE.**

10.4. CLARIFICATIONS AND INTERPRETATIONS

ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as ENGINEER may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If CONTRACTOR believes that a written clarification or interpretation justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in the General Provisions of the construction Contract Document.

10.5. AUTHORIZED VARIATIONS IN WORK

ENGINEER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order and will be binding on OWNER, and also on CONTRACTOR who shall perform the Work involved promptly. If CONTRACTOR believes that a Field Order justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in the General Conditions of the Construction Contract.

10.6. REJECTING DEFECTIVE WORK

ENGINEER will have authority to disapprove or reject Work which ENGINEER believes to be defective and will also have authority to require special inspection or testing of the Work as provided in the General Provisions of the construction Contract Document whether or not the work is fabricated, installed, or completed.

10.7. SHOP DRAWINGS, CHANGE ORDERS AND PAYMENT

10.7.1. The ENGINEER's responsibility for Shop Drawings and samples shall comply with the shop drawing provisions of the General Provisions of the construction Contract Document.

10.7.2. The ENGINEER's responsibilities for Change Orders shall comply with the change order provisions of the General Provisions of the construction Contract Document.

10.7.3. The ENGINEER's responsibilities for contractor's Application for Payment shall comply with the payment provisions of the General Provisions of the construction Contract Document.

10.8. DETERMINATIONS FOR UNIT PRICES

ENGINEER will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR. ENGINEER will review with CONTRACTOR the ENGINEER's preliminary determinations on such matters before rendering a written recommendation thereon (by recommendation of an Application for Payment or otherwise) to OWNER.

10.9. DECISION ON DISPUTES

10.9.1. ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work and claims under The General Conditions of the Construction Contract in respect of changes in the Contract Price or Contract Time will be referred initially to ENGINEER in writing with a request for a formal decision in accordance with this paragraph, which ENGINEER will render in writing within a reasonable time. Written notice of each such claim, dispute and other matter shall be promptly reported and copied to the OWNER.

10.9.2. When functioning as interpreter under paragraphs 10.8 and 10.9.1, ENGINEER will not show partiality to OWNER or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by ENGINEER pursuant to paragraphs 10.8 and 10.9.1 with respect to any such claim, dispute or other matter will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such claim, dispute or other matter.

10.10. LIMITATIONS ON ENGINEER'S RESPONSIBILITIES

10.10.1. Neither ENGINEER's authority to act under this Article or elsewhere in the Contract Documents nor any decision made by ENGINEER in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of ENGINEER to CONTRACTOR, any Sub-contractor, any Supplier, or any other person or organization performing any of the Work, or to any surety for any of them.

10.10.2. Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", "as approved" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of ENGINEER as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to ENGINEER any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 4.5.3.

EXHIBIT B

TO AGREEMENT BETWEEN OWNER AND
ENGINEER FOR PROFESSIONAL SERVICES

**A LISTING OF THE DUTIES, RESPONSIBILITIES AND
LIMITATIONS OF AUTHORITY OF THE RESIDENT PROJECT REPRESENTATIVE.**

This Exhibit is attached to, made a part of, and incorporated by reference with the Agreement made on _____ between CITY OF BOZEMAN (OWNER) and RESPEC Company LLC (ENGINEER) providing for professional engineering services.

**ARTICLE 11 - DUTIES, RESPONSIBILITIES AND LIMITATIONS OF AUTHORITY OF THE
RESIDENT PROJECT REPRESENTATIVE**

ENGINEER shall furnish a Resident Project Representative (RPR), assistants and other field staff to assist ENGINEER in observing performance of the work of Contractor.

Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the RPR and assistants, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the work of CONTRACTOR; but, the furnishing of such services will not make ENGINEER responsible for or give ENGINEER control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or responsibility for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents and in particular the specific limitations set forth in section 4.5 of the Agreement are applicable.

The duties and responsibilities of the RPR are limited to those of ENGINEER in this agreement and in the construction Contract Documents, and are further limited and described as follows:

11.1. GENERAL

RPR is ENGINEER's agent at the site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR's actions. RPR's dealings in matters pertaining to the on-site work shall in general be with ENGINEER and CONTRACTOR keeping OWNER advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of CONTRACTOR. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.

11.2. DUTIES AND RESPONSIBILITIES OF RPR

11.2.1. Schedules: Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by CONTRACTOR and consult with ENGINEER concerning acceptability.

11.2.2. Conferences and Meetings: Attend meetings with CONTRACTOR, such as preconstruction conferences, progress meetings, job conferences and the project-related meetings, and prepare and circulate copies of minutes thereof.

11.2.3. Liaison:

11.2.3.1. Serve as ENGINEER's liaison with CONTRACTOR, working principally through CONTRACTOR's superintendent and assist in understanding the intent of the Contract Documents; and assist ENGINEER in serving as OWNER's liaison with CONTRACTOR.

11.2.3.2. Assist in obtaining from OWNER additional details or information, when required for proper execution of the Work.

11.2.4. Shop Drawings and Samples:

11.2.4.1. Record date of receipt of Shop Drawings and samples.

11.2.4.2. Receive samples which are furnished at the site by CONTRACTOR and notify ENGINEER of availability of samples for examination.

11.2.4.3. Advise ENGINEER and CONTRACTOR of the commencement of any Work requiring Shop Drawing or sample if the submittal has not been approved by ENGINEER.

11.2.5. Review of Work, Rejection of Defective Work, Inspections and Tests:

11.2.5.1. Conduct on-site observations of the Work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.

11.2.5.2. Report to ENGINEER whenever RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of Work that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

11.2.5.3. Verify that tests, equipment and systems startup and operating and maintenance training are conducted in the presence of appropriate personnel, and the CONTRACTOR maintains adequate records thereof; and observe, record and report to ENGINEER appropriate details relative to the test procedures and startup.

11.2.5.4. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to ENGINEER.

11.2.6. Interpretation of Contract Documents: Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to CONTRACTOR clarifications and interpretations as issued by ENGINEER.

11.2.7. Modifications: Consider and evaluate CONTRACTOR's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to ENGINEER. Transmit to CONTRACTOR decisions as issued by ENGINEER.

11.2.8. Records:

11.2.8.1. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract Documents including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.

11.2.8.2. Keep a detailed and accurate diary or logbook, recording CONTRACTOR hours on the job site, weather conditions, prime and subcontractor daily work force, daily log of equipment onsite or on standby, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER.

11.2.8.3. Record names, addresses and telephone numbers of all CONTRACTORS, subcontractors and major suppliers of materials and equipment.

11.2.9. Reports:

11.2.9.1. Furnish ENGINEER periodic reports as required of progress of the Work and of CONTRACTOR's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.

11.2.9.2. Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of the Work.

11.2.9.3. Draft proposed Change Orders and Work Directive Changes, obtaining backup material from CONTRACTOR and recommend to ENGINEER Change Orders, Work Directive Changes, and Field Orders.

11.2.9.4. Report immediately to ENGINEER and OWNER upon the occurrence of any accident.

11.2.10. Payment Requests: Review applications for payment with CONTRACTOR for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the site but not incorporated in the Work.

11.2.11. Certificates, Maintenance and Operation Manuals: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to ENGINEER for review and forwarding to OWNER prior to final payment for the Work.

11.2.12. Completion:

11.2.12.1. Submit to CONTRACTOR and ENGINEER a list of observed items requiring completion or correction before ENGINEER may issue a Certificate of Substantial Completion.

11.2.12.2. Assess completion or correction of items noted under 11.2.12.1, advise ENGINEER on their status, and make recommendation to Engineer regarding issuance of a Certificate of Substantial completion.

11.2.12.3. Conduct final inspection in the company of ENGINEER, OWNER, and CONTRACTOR and prepare a final list of items to be completed or corrected.

11.2.12.4. Observe that all items on final list have been completed or corrected and make recommendations to ENGINEER concerning final acceptance.

11.3. LIMITATIONS OF AUTHORITY

Resident Project Representative:

11.3.1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by ENGINEER.

11.3.2. Shall not exceed limitations of ENGINEER's authority as set forth in the Agreement or the Contract Documents.

11.3.3. Shall not undertake any of the responsibilities of CONTRACTOR, subcontractors or CONTRACTOR's superintendent.

11.3.4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.

11.3.5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.

11.3.6. Shall not accept Shop Drawing or sample submittals from anyone other than CONTRACTOR.

11.3.7. Shall not authorize OWNER to occupy the Project in whole or in part.

11.3.8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by ENGINEER.

EXHIBIT C – SCOPE OF SERVICES

GROUNDWATER INVESTIGATION PHASE 4

CITY of BOZEMAN, MONTANA

February 2021

1. BACKGROUND

In fall 2017, the RESPEC-NewFields Team completed Phases 1 and 2 of a Groundwater Investigation for the City of Bozeman (“COB”). **Phase 1** identified nine preliminary locations for potential well field development. Multiple pumping simulations were completed to assess location and magnitude of associated stream depletions. Subsequent mitigation scenarios were simulated utilizing a steady-state groundwater model to evaluate the effects on spatial distribution of stream depletions when mitigation water is infiltrated at certain locations at a constant flow rate.

Phase 2 (PSA Amendment No. 1) proceeded with development of a transient groundwater model designed to improve model functionality as a planning tool throughout its domain in the Gallatin Valley. Additional detail was incorporated into the model to enhance its predictive capabilities with respect to timing and location of stream accretion/depletion that could result from groundwater development and/or mitigation. The calibrated transient model was further modified to illustrate how the model could be used to evaluate a specific area, or Focus Area, in greater detail. For this example, an area was identified to the southwest of the City of Bozeman to further evaluate potential impacts from pumping a proposed well. The Focus Area was identified based on drawdown contours from a previous steady-state simulation of pumping from two of the nine potential well locations identified in Phase 1. The two well locations, PW-11 and PW-16, were identified as preferred locations by COB. Well PW-11 is proposed for siting at COB’s Sports Park near the current northwest extent of city limits.

Phase 3 (PSA Amendment No. 2) of the project included a feasibility evaluation and alternatives analysis for well siting within the Sports Park property and due diligence of possible mitigation strategies and water right availability for a well field at this location. Informal conversation with DNRC’s local office occurred to discuss mitigation concepts and ideas. Additional dialogue and meetings with DNRC are proposed as more information from the well field testing program becomes available and a preferred mitigation approach is developed. The Focus Area groundwater model will also be refined to support specific pumping simulations and mitigation scenarios. Development of a preliminary draft Source Water Delineation Assessment Report (SWDAR) and Source Water Protection Plan (SWPP) were completed.

Phase 3A (PSA Amendment No. 3) includes an aquifer recharge feasibility evaluation on City owned property hereafter referred to as the “Leverich Parcel”. The Leverich Parcel is approximately 18.5 acres of primarily open pasture located about 0.75 mile west of the Sourdough water treatment plant; it provides a unique opportunity to develop an aquifer recharge facility if the feasibility evaluation determines the site is conducive for infiltrating sufficient quantities of water to offset the depletion signatures of streams that are hydraulically connected to the well location. Aquifer recharge is utilized in permitting new municipal groundwater appropriations in closed basins as it provides a method to offset and mitigate reaches of streams depleted by municipal groundwater pumping. The Mystic Lake Ditch runs within and alongside the southern boundary of the parcel, providing an existing conveyance facility to move water from Sourdough Creek to an aquifer recharge facility on the parcel.

2. INTRODUCTION

Phase 4 will include implementation of a test well program that: 1) provides a design framework for the test well(s), 2) provides guidelines and specifications for well pumping, 3) assists COB with drilling contractor procurement, 4) identifies monitoring well locations for use during well pumping, 5) completes aquifer testing, 6) specifies protocols for water quality sampling and analysis, and 7) completes applications for Beneficial Water Use Permit(s) and Change Application(s) for mitigation purposes. Test well results, including maximum sustainable yield estimates and water quality parameters, will be utilized to evaluate specific well location(s) including an evaluation of the ability to mitigate predicted stream depletions.

General Assumptions

1. Long-range capital planning needs for groundwater supply are based on the IWRP, which plans for 5,810 AF, equating to 5.2 MGD. COB is proposing a groundwater development project that maximizes the amount of water legally permitted. Depending on locations of new wells installed by COB, availability of mitigation water rights, timing of predicted depletions associated with new wells, and the period of use associated with mitigation water rights, COB will likely need to acquire sufficient water rights for mitigation to offset between 65% and 100% of the volume of water pumped from the new wells.

Multiple stages of groundwater modeling have been completed thus far in support of this project. These models comprise the foundation for future modeling efforts and refinements that will occur as part of Phase 4 of the project. The steady-state groundwater flow model of the Gallatin Valley described in the Groundwater Investigation Report - Phases 1 and 2 (RESPEC-NewFields, 2017) has been modified to create a transient model by simulating monthly seasonal conditions. The transient model was then used to support an evaluation of potential pumping impacts and mitigation approaches. The model is structured in a manner such that additional detail can be incorporated into specific areas within the valley. In summary, groundwater modeling work completed thus far includes:

- Conversion of the Gallatin Valley Steady-State model to a Transient Model, which facilitates the simulation of seasonal conditions.
 - Use of the unstructured grid (USG) version of MODFLOW to facilitate incorporation of greater detail in areas of interest while retaining relative simplicity in areas where a high level of detail is unnecessary and/or unknown.
 - The transient Gallatin Valley model was calibrated to groundwater levels and stream fluxes.
 - A Focus Area model was created to evaluate the specific area that contains the PW-11 and PW-16 well locations. Focus Area model simulations provide a more detailed analysis of the timing and location of streamflow depletion associated with proposed new supply wells, and streamflow accretion associated with potential mitigation options.
 - Model was modified to evaluate injection of water at south end of valley for mitigation purposes; groundwater flux values were modified at south model boundary.
2. RESPEC-NewFields will lead procurement of right-of-entry permissions as may be necessary for private property access during the project. Public properties will be prioritized for site access and monitoring activities to the extent practicable. COB responsibilities include:
 - a. Assist with landowner negotiations for rights-of-entry on private lands, as needed.

- b. Development of easements as may be necessary for test well access, pumping, and monitoring of pumping effects.
- 3. COB staff, or designated representatives, will continue to lead dialogue with members of ditch and canal companies, individual water right owners, and other interested groups (e.g., AGAI, MARS) and parties regarding the progress of this project. Specifically, negotiations with said groups/parties regarding potential water right purchases/transfers, conveyance rights, land acquisitions or other matters relevant to this project. RESPEC-NewFields will be available to participate in these discussions as needed.
- 4. Out-of-scope items will be identified as soon as possible by RESPEC/NewFields' project managers. These items will be negotiated with COB for inclusion in the contract, as needed. We encourage open dialogue about this and will actively seek opportunities to increase efficiencies throughout the course of the project to avoid budget overages.

Staffing

RESPEC will be the prime consultant for purposes of contracting with COB and will be the primary firm for communication between COB and the RESPEC/NewFields team. However, we encourage open communication during the project and support direct contact between representatives of both RESPEC and NewFields and COB staff, as appropriate. Primary contact persons at each company, and their roles within this project, include:

RESPEC:	Michael Rotar, PE (Bozeman)	<u>Project Manager</u> : primary contact for all administrative matters and team coordination, engineering co-lead
	Bobby Egeberg, PE (Bozeman)	<u>Assistant Project Manager</u> : secondary contact person, engineering co-lead
	Tom Michalek (Bozeman)	<u>Hydrogeologist</u> : well drilling and aquifer testing design and oversight
	Alan Leak, PE (Denver)	<u>Principal-in-Charge</u> : municipal water supply planning/design lead
NewFields:	Cam Stringer, P.G. (Missoula)	<u>Hydrogeologist</u> : public water supply development; aquifer characterization; groundwater modeling
	Gary Andres, P.G. (Spokane)	<u>Hydrogeologist</u> : groundwater modeling lead

The following specific work tasks are designated to complete Phase 4 of the project:

- Phase 4: Completion of Test Wells, Aquifer & Water Quality Testing, and Beneficial Water Use Permit and Change Application(s)**
- 4.1a:** Groundwater Model Refinements
 - 4.1b:** Mitigation Plan
 - 4.1c:** Beneficial Water Use Permit Application and Change Application(s) for Mitigation



- 4.2/4.3: Test Wells Design / Permitting
- 4.4/4.5: Test Wells Drilling – Contractor Procurement / Construction Services
- 4.7a: Test Wells – Aquifer Testing / Analysis
- 4.7b: Water Quality Testing / Analysis

PHASE 4 – DETAILED TASK DESCRIPTIONS

Task 4.1a Groundwater Model Refinements

Objective:

Add detail to the Focus Area groundwater flow model such that supply well pumping simulations and mitigation strategies can be effectively modeled in support of a Beneficial Use Permit Application and associated mitigation plan.

Engineer Services:

The existing Focus Area groundwater model provides a reasonable prediction of potential well pumping impacts and the effectiveness of mitigation scenarios. However, it is likely the DNRC will require additional detail in support of a Beneficial Use Application.

Updates to the groundwater model completed as part of Phase 3 included:

- Evaluation of water infiltration (via injection) at south end of valley for mitigation purposes.
- Model adjustments to locate proposed well location(s) and incorporate additional data more accurately.
- Complete well pumping and injection scenarios for Sports Park location, including modification to K values, as needed, to be consistent with values used for the new high school geothermal wells.

Following pumping of test well(s) and aquifer evaluation, we anticipate the following additional refinements to the groundwater model will be necessary:

- Irrigation ditches/canals: Revise current model where irrigation channels all have common specifications to include more ditch-specific information (where available) including elevation, size, and period of use.
- Streams: Potentially add additional relevant streams to model within proposed well zone of influence based on existing surface water rights.
- Layering/geology: Update as necessary based on test well installation.
- Model calibration: Calibrate to test well pumping data.
- Existing wells with water rights: Add to model for impact evaluation.

Once these adjustments are completed, the model will be recalibrated to include simulating test well pumping, and to evaluate potential pumping impacts and mitigation scenarios. The revised model will provide improved estimates of location and magnitude for stream depletions which will be used to inform the mitigation plan. This will likely involve iterative model simulations as additional data (e.g., aquifer testing, test well yields, etc.) becomes available, and include inputs from mitigation planning efforts such as available water rights for change to mitigation purpose and available locations for mitigation water use (e.g., aquifer recharge, infiltration).



Task 4.1b Mitigation Plan

Objective:

Per Montana Code Annotated (MCA) 85-2-360, an application for a ground water appropriation right in a closed basin must be accompanied by a hydrogeologic report conducted pursuant to MCA 85-2-361, an aquifer recharge or mitigation plan (if required) that meets minimum requirements per MCA 85-2-362, and an application for a change in appropriation right or rights, if necessary (see Task 4.1c). Work completed under this task will further refine the mitigation plan via identification and evaluation of additional water sources (rights) and potential means by which any adverse effects to existing water rights due to municipal well pumping can be mitigated via infiltration, injection, supplemental instream flows or other methods.

Background:

Mitigation planning to offset the modeled adverse effects (i.e., stream depletions) for a proposed new groundwater appropriation at the Sports Park has been ongoing since initial identification and preferential selection of the site for a municipal well in 2017 (RESPEC/NewFields, Groundwater Investigation Report, August 2017). Modeled pumping simulations for well PW-11 were completed to determine predicted stream depletion amounts; first using a steady-state model with a domain that covered a large portion of the Gallatin Valley, followed by a transient model which added temporal detail to the analysis and a Focus Area domain to add spatial detail in the vicinity of targeted well locations including PW-11. Following calibration of the transient model, it has been used to evaluate several mitigation scenarios that include aquifer recharge at different locations relative to the Sports Park pumping location. Most recently (October/November 2020), the model has been used to demonstrate the feasibility of mitigating stream depletions by infiltrating water at the City's Leverich property located at the south end of the valley, coupled with infiltration at a location close (< 1 mile) to the proposed supply well.

Engineer Services:

Per MCA 85-2-362, an Aquifer Recharge or Mitigation Plan must include:

1. Where and how the water in the plan will be put to beneficial use;
2. When and where, generally, water for aquifer recharge or mitigation will be required;
3. The amount of water that is required for aquifer recharge or mitigation (Note: DNRC cannot require nor authorize more water for mitigation than the net depletion amount caused by the new appropriation or change authorization);
4. How the proposed project or beneficial use for which the aquifer recharge or mitigation plan is required will be operated;
5. Evidence that an application for a change in appropriation right, if necessary, has been submitted;
6. Evidence of water availability;
7. Evidence of how the aquifer recharge or mitigation plan will offset the required amount of net depletion of surface water in a manner that will offset an adverse effect on a prior appropriator; and,
8. Evidence that the appropriate water quality permits have been granted pursuant to Title 75, Chapter 5, as required by MCA 75-5-410 and 85-2-364.

Each of the above requirements will be presented in the Mitigation Plan to a level that is sufficient for DNRC review per the guidelines listed above, and in accordance with guidelines specified in Montana DNRC documents titled: Permit Application Manual (updated 4/14/2020) and Change Application Manual (updated 8/14/2020).

Refinement of Mitigation Strategy

Proposed mitigation strategy evaluated by RESPEC/NewFields to date has focused on use of existing COB water rights (i.e., Mystic Lake rights – 41H 3045900 and 41H 3046000) for infiltration at the south end of the Gallatin Valley (Leverich property), and presumed available rights associated with the Northwest Crossing (NWX) development property located directly west of the Sports Park, to mitigate modeled net depletions in Hyalite Creek and East Gallatin River. Preliminary analysis has demonstrated that several mitigation scenarios simulated under this general strategy can adequately address modeled stream depletions.

Further refinement of the mitigation strategy and development of a draft Mitigation Plan will include the following additional steps to be completed under this work task:

- Pursuant to any adjustments or modifications to modeled stream depletions that result from groundwater modeling refinements in Task 4.1a, update the **amount** of water required for mitigation to offset modeled depletions, as necessary (this may include modeled depletions to other water sources in addition to Hyalite Creek and East Gallatin River, such as smaller streams and existing groundwater wells in vicinity of the test well).
- Based on results of the aquifer testing analysis and determination of reliable yield, adjust mitigation strategy to correspond with potential use profile for the Sports Park wells (i.e., COB's proposed pumping period and magnitude). For example, aquifer characteristics and determined well yields may dictate use of the wells only during certain times of the year. The anticipated use (pumping) profile will inform the **timing** of modeled depletions and potentially lead to pursuit of alternate water sources and rights for mitigation.
- Continue investigation of additional **locations** where mitigation water may be applied (infiltrated, injected) to offset modeled depletions. Current groundwater modeling simulations suggest areas south of the Sports Park and bracketed by Hyalite and Bozeman Creeks would provide the greatest flexibility for mitigation. Initial research has identified multiple parcels in this general area that are currently under conservation easements (Gallatin Valley Land Trust-GVLT) or some form of institutional or public ownership.

Per DNRC rules, the Mitigation Plan and water rights being proposed for mitigation must be processed in conjunction with the primary change application (Task 4.1c).

Task 4.1c Beneficial Water Use Permit Application and Change Application(s) for Mitigation

Objective:

Complete application for Beneficial Water Use Permit (BWUP) (DNRC Form 600 GW), including all applicable addenda and supporting documentation, for new groundwater appropriation. Complete application(s) for a Change of Appropriation Water Right ("Change application") to change one or more elements of an existing water right to support mitigation of any adverse effects to other permitted

groundwater sources (wells) or modeled depletions to surface water sources (i.e., streams, ditches). Conduct meetings (e.g., scoping, pre-application) and maintain correspondence with DNRC offices/staff to familiarize them with pending application(s), discuss technical requirements and needed data for application review, and provide additional information, as requested, to support application processing.

Engineer Services:

The following are anticipated steps in the BWUP and Change application processes, in accordance with the latest guidance provided by Montana DNRC in documents titled: Permit Application Manual (updated 4/14/2020) and Change Application Manual (updated 8/14/2020).

1. Conduct project scoping meeting with DNRC Regional Office (Bozeman) to inform them of scope of project (i.e., drill test well(s) at Sports Park and, pending aquifer testing and other data acquisition, submit BWUP and Change Applications). Potentially, schedule a site visit to discuss the proposed project on-the-ground.
2. Based on results of aquifer testing, request Pre-Application meeting with DNRC Regional Office (Bozeman) to review project details and permit application requirements. Complete Pre-Application Checklist in advance of this meeting.
3. Complete BWUP and Change Applications (DNRC Form 600 GW and Form 606, respectively) including any required Addenda. Anticipated Addenda for the BWUP application include:
 - a. Form 600 ATA Aquifer Testing Addendum
 - b. Form 600 BCA Basin Closure Addendum
 - c. Form 600 HRA Hydrogeologic Assessment Addendum

Note: At this time, it is not anticipated that Form 600B, Criteria Addendum, would be necessary. This Addendum is required for appropriations greater than 5.5 CFS and 4,000 AF.

Potential Addenda for inclusion with a Change Application include:

- Form 606 HUA Historical Use Addendum
- Form 606 PA Purpose Addendum
- Form 606 SWA Salvage Water Addendum
- Form 606/634 Non-Filed Water Project Addendum

Include Mitigation Plan with application to address any adverse effects to nearby wells or modeled depletions to surface water sources. The mitigation plan must include analysis and discussion of the amount, timing and location of mitigation water proposed in the change application (Task 4.1b).

4. Pending "Correct & Complete" Review of application by DNRC, either: 1) Respond to identified deficiencies in application(s), or 2) Review DNRC's Technical Report regarding application and request meeting with DNRC staff regarding any questions with DNRC's Draft Preliminary Determination (DPD).

Steps #2 - #4 outlined above are expected to take a minimum of one year to be completed. Assuming the application and review process culminates in a Preliminary Determination by DNRC to Grant or Grant with Modifications, RESPEC proposes that subsequent steps in the permit process be scoped and negotiated with COB as information becomes known. These additional steps could include:

- Meet with DNRC to discuss elements of application that may have been denied or modified, as appropriate and if requested by COB.

- Prove that criteria have been met for elements of application initially denied or modified by DNRC. Applicant may request up to 60 days to provide this information.
- Following issuance of Public Notice, if Objections to Preliminary Determination Document (PDD) are filed and determined to be valid, prepare for and attend Hearing at request of COB.

Assumptions:

A minimum of two (2) Change Applications are anticipated to be necessary for mitigation of municipal well pumping at the Sports Park. This is due to the use of multiple water sources (i.e., Mystic Lake/Bozeman Creek, and other source TBD) to adequately mitigate modeled depletions. It is noted that multiple water rights may be changed with a single Change Application provided the diversion, place of use, and purpose are exactly the same for each water right. To the extent possible, multiple water rights proposed for mitigation that meet these criteria would be grouped in a single Change Application to DNRC.

Tasks 4.2/4.3 Test Wells – Design / Permitting

Objective:

Develop design criteria for two test wells and provide field parameters and drilling requirements for well testing in the general vicinity of PW-11 (i.e., COB Sports Park property).

Engineer Services:

1. Work with COB staff to determine final location for test wells at Sports Park property.
2. Establish estimated range of potential well yield.
3. Identify target aquifer(s) and proposed drilling depth(s).
4. Determine appropriate size (diameter) for production test well(s).
5. Determine well seal, casing, and screen assembly components.
6. Determine drill sequencing and steps for test well development.
7. Prepare cost estimate.
8. Permitting:
 - a. Complete Notice of Intent Form (NOI-07) of the Construction Dewatering General Permit (MTG070000) to Montana DEQ. The purpose of this form is to notify MDEQ of the proposed discharge of water from pumping tests; however, effect of the permit really applies only to discharge of produced water to a receiving surface water body.

Engineer Deliverables:

1. Engineering drawings and specifications for test wells that are sufficient for a drilling contractor to bid the project and utilize for drilling/development of the test well.

NOTE: The design and construction of water wells in Montana is regulated by Montana Codes Annotated (MCA) Title 37, Chapter 43, and Administrative Rules of Montana (ARM), Title 36, Chapter 21. Design specifications and parameters will adhere to these rules.

Montana Public Works Standard Specifications (MPWSS), including the latest City of Bozeman Modifications (Approved March 31, 2011, and most recently amended August 1, 2017), shall govern, as applicable.



Tasks 4.4/4.5 Test Wells Drilling – Bidding / Construction Services

Objective:

Assist with project bidding, construction administration, and field observation/quality assurance during test well installation and testing.

NOTE: Obtain available test data and well logs from the new high school's geothermal system.

Engineer Services:

Contractor Procurement/Bidding

- Prepare bid package to be distributed to contractors. Bid package to include drawings and specifications sufficient for test well drilling.
NOTE: If estimated cost of test drilling exceeds \$80,000, the project will require a public bidding process pursuant to state law. COB will advertise the project and facilitate bid opening.
- Coordinate and lead a pre-bid conference/field review of the project. Record meeting notes; record all questions and requests for additional information, and issue copies of the meeting notes.
- As necessary, prepare and issue Addenda to the Contract Documents.
- Recommend award of a contract for test well drilling by providing the following services:
 2. Tabulate bids received after reviewing them for responsiveness, including verification that each bidder is a licensed Water Well Contractor in Montana.
 3. Determine by reasonable investigation, the known financial condition and performance history of the low bidder and second low bidder.
 4. Prepare a letter documenting the bid review and including a recommendation for award of the contract for construction.
 5. Prepare and transmit Notice of Award and Notice to Proceed.

Construction Administration

- Coordinate and lead Pre-Construction conference with contractor. Establish a working relationship between the parties; discuss schedule, work activities, submittals, payment processing, and record keeping.
- Review submittals from the contractor.
- Maintain file for correspondence, meeting notes, work change directives, and field orders.
- Review and approve contractor pay applications. Recommend modifications as appropriate.
- Notify COB of potential changes to scope or schedule.

Field Observation and Quality Assurance

- Oversee test well drilling, including documentation of lithology encountered during drilling and the depth/character of water-bearing zones.
- Observe contractor's work on a regular basis. Prepare reports to COB informing them of work status.
- Provide clarifications, interpretations, and Field Orders (as needed) for efficient completion of the work.



Task 4.7a Test Wells – Aquifer Testing and Analysis

Objective:

Assess aquifer productivity, aquifer properties, well efficiency, and boundary influences in vicinity of the test wells.

Engineer Services:

The aquifer testing and monitoring program will contain the following important components:

- Assess aquifer productivity: Perform a constant-rate aquifer test of the more productive of the two test wells, while monitoring drawdown in both the pumping well and the other test well. Determine specific capacity (Q/drawdown) of well(s). Minimum duration of pumping test is 72 hours for a proposed use or discharge greater than 150 gpm and proposed volume greater than 50 acre-feet. Complete DNRC Form 633 with aquifer test data.
- Assess aquifer properties: Use pumping and monitoring results to estimate aquifer properties including: Hydraulic Conductivity (K), Transmissivity (T), and Storativity (S).
- Determine Well Efficiency: Evaluate aquifer loss and well loss as components of total drawdown. Well efficiency (%) = aquifer loss / total drawdown. Monitor drawdown in adjacent test well and existing nearby wells and/or within a localized network of installed groundwater monitoring wells to evaluate well interference.
- Conduct surface water flow monitoring, as necessary, to satisfy DNRC aquifer testing requirements. Coordinate with DNRC to develop the monitoring and testing plan.

Pressure transducers with dataloggers and analog pressure gages will be used in conjunction with flow meters to collect accurate data during the tests and during recovery periods. On-site supervision protocols will be prepared to ensure that tests are adequately monitored to collect accurate, defensible data that can be used by COB to make go-forward decisions.

RESPEC will utilize the AQTESOLV Aquifer Testing Software to aid in analysis of test well pumping and monitoring results. AQTESOLV is a widely used, industry standard software for the design and interpretation of aquifer tests. Test results will be analyzed to determine aquifer characteristics within the area of influence of the test wells including transmissivity, storativity, specific capacity, boundary conditions, and safe yield. We will also review impacts to other groundwater or surface-water users that may result from long-term groundwater production. Predictive analyses will be conducted to estimate the zone of influence at 1, 5, 10, and 20 years into the future under maximum safe yield and design discharge (if different). Analytical methods, assumptions used in these calculations, and the results will be presented in a final report. Aquifer test results will be incorporated in the project groundwater model (described in Task 4.1a). DNRC Form 600-ATA (Aquifer Testing Addendum) will be completed and submitted with the Beneficial Water Use Permit application (refer to Task 4.1c).

Task 4.7b Water Quality Testing and Analysis

Objective:

Evaluate produced water quality from the test well(s) to determine suitability as a public water supply and potential water treatment methods that may be required.

Engineer Services:

Collect water samples during the pump testing program for lab analyses. Evaluate biological and chemical character of groundwater within the source and recharge areas of selected wells through review of available water quality data. Anticipated sources for water quality data include: COB reports; Montana DNRC; Montana Dept. of Environmental Quality (MDEQ); Montana Bureau of Mining & Geology; Gallatin Local Water Quality District (GLWQD); and other locally available data sources.

Water samples collected from the wells will be analyzed by an EPA-certified commercial laboratory for standard drinking water quality parameters associated with a public water supply, in adherence with the Safe Drinking Water Act (SDWA). This typically includes maximum contaminant levels (MCLs) for eight parameters including: Total Dissolved Solids (TDS), Nitrate, Fluorine, Sulfate, Chloride, Arsenic, Iron, and Manganese. Additional standards for microorganisms (e.g., *Cryptosporidium*, *Giardia lamblia*, *Legionella*, coliform bacteria, and enteric viruses) will also be evaluated. Data will be reviewed to assess any need for water treatment to mitigate existing water quality impairment (Note: Include Jill Miller, COB Water Treatment Plant Superintendent, in data review and discussion). The groundwater source will be evaluated for its suitability as a public water supply per DEQ rules/regulations.

Engineer Deliverables:

- Samples must be collected and analyzed at the conclusion of the test pumping procedure prior to disinfection. Sample results for the constituents of ARM 17.38.216 must be submitted to MDEQ for review and approval to demonstrate compliance with ARM Title 17, Chapter 38, Subchapter 2.
- Provide a Ground Water Under the Direct Influence of Surface Water (GWUDISW) determination and analysis that is acceptable to MDEQ.
- Provide summary report of tested water quality parameters to COB.



EXHIBIT D - FEE PROPOSAL

Date 2/1/2021 (PSA Amendment No. 4)
Project Title City of Bozeman - Groundwater Investigation
Firm Name RESPEC / NewFields

RESPEC Labor Costs

Name	Project Role	2021 Rate/Hr		Task 4.1a: Groundwater Model Refinements		Task 4.1b: Mitigation Plan		Task 4.1c: Beneficial Water Use Permit Application and Change Applications		Tasks 4.2 - 4.3: Test Wells - Prelim. & Final Design/Permitting		Tasks 4.4 - 4.5: Test Wells Drilling & Const. Services		Task 4.7a: Test Wells Aquifer Testing / Analysis		Task 4.7b: Water Quality Testing / Analysis		TOTALS		
		Hr	Cost	Hr	Cost	Hr	Cost	Hr	Cost	Hr	Cost	Hr	Cost	Hr	Cost	Hr	Cost			
A. Leak	Principal-in-Charge	0	\$0	8	\$1,600	12	\$2,220	4	\$740	2	\$370	2	\$370	0	\$0	20	\$5,180			
M. Rebar	Project Manager	8	\$1,400	80	\$14,000	60	\$10,500	20	\$3,500	16	\$2,800	16	\$2,800	4	\$700	200	\$35,000			
T. Michalek	Hydrogeologist	12	\$1,740	70	\$10,150	96	\$13,920	16	\$2,320	16	\$2,320	16	\$2,320	60	\$8,100	10	\$1,450	280	\$40,800	
M. Johnson	Engineering Team Leader	0	\$0	0	\$0	0	\$0	0	\$0	12	\$1,740	12	\$1,740	0	\$0	24	\$3,480			
B. Eyteberg	Project Engineer I	4	\$460	100	\$13,500	70	\$9,450	40	\$5,400	30	\$4,050	12	\$1,620	4	\$540	260	\$35,100			
T. Blue	Engineer I	0	\$0	0	\$0	24	\$3,000	8	\$900	0	\$0	0	\$0	0	\$0	32	\$3,200			
M. Haller	Engineer I	4	\$360	40	\$3,600	40	\$3,600	30	\$2,700	60	\$5,400	40	\$5,400	16	\$1,440	230	\$30,700			
J. Wilbanks	Administrative Asst.	0	\$0	4	\$280	18	\$1,260	2	\$140	2	\$140	2	\$140	2	\$140	30	\$2,100			
RESPEC Labor Subtotal		28	\$4,065	302	\$43,010	320	\$43,350	132	\$17,245	138	\$18,830	128	\$18,530	36	\$4,275	1,084	\$145,365			
Percent of RESPEC Labor Total		2.78%		29.59%		29.82%		11.92%		11.37%		11.37%		2.94%		110.00%				

NewFields Labor Costs

Name	Project Role	2021 Rate/Hr		Task 4.1a: Groundwater Model Refinements		Task 4.1b: Mitigation Plan		Task 4.1c: Beneficial Water Use Permit Application and Change Applications		Tasks 4.2 - 4.3: Test Wells - Prelim. & Final Design/Permitting		Tasks 4.4 - 4.5: Test Wells Drilling & Const. Services		Task 4.7a: Test Wells Aquifer Testing / Analysis		Task 4.7b: Water Quality Testing / Analysis		TOTALS	
		Hr	Cost	Hr	Cost	Hr	Cost	Hr	Cost	Hr	Cost	Hr	Cost	Hr	Cost	Hr	Cost		
C. Stueger	Asst. PM / Hydrogeologist	32	\$4,800	48	\$7,200	40	\$6,000	12	\$1,800	0	\$0	8	\$1,200	4	\$600	144	\$21,600		
G. Andrus	Hydrogeologist	120	\$18,000	16	\$2,400	12	\$1,800	4	\$600	0	\$0	0	\$0	0	\$0	156	\$23,400		
NewFields Labor Subtotal		152	\$22,800	64	\$9,600	52	\$7,800	16	\$2,400	0	\$0	12	\$1,800	4	\$600	300	\$45,000		
Percent of NewFields Labor Total		50.07%		27.33%		77.33%		5.33%		0.05%		4.00%		1.33%		100.00%			

Other Direct Costs

Item	2021 Rate		Task 4.1a: Groundwater Model Refinements		Task 4.1b: Mitigation Plan		Task 4.1c: Beneficial Water Use Permit Application and Change Applications		Tasks 4.2 - 4.3: Test Wells - Prelim. & Final Design/Permitting		Tasks 4.4 - 4.5: Test Wells Drilling & Const. Services		Task 4.7a: Test Wells Aquifer Testing / Analysis		Task 4.7b: Water Quality Testing / Analysis		TOTALS		
	Units	Cost	Units	Cost	Units	Cost	Units	Cost	Units	Cost	Units	Cost	Units	Cost	Units	Cost			
Reproduction	50	\$5.00	100	\$10.00	100	\$10.00	100	\$10.00	50	\$5.00	50	\$5.00	50	\$5.00	500	\$5.00	\$50.00		
B&W Copies	10	\$1.50	20	\$3.00	20	\$3.00	20	\$3.00	10	\$1.50	10	\$1.50	10	\$1.50	100	\$1.50	\$15.00		
Color (8.5 x 11)	50	\$5.00	100	\$10.00	100	\$10.00	100	\$10.00	50	\$5.00	50	\$5.00	50	\$5.00	500	\$5.00	\$50.00		
Color (11 x 17)	5	\$5.00	10	\$5.00	10	\$5.00	10	\$5.00	5	\$5.00	5	\$5.00	5	\$5.00	50	\$5.00	\$50.00		
Color Print	5	\$5.00	10	\$5.00	10	\$5.00	10	\$5.00	5	\$5.00	5	\$5.00	5	\$5.00	50	\$5.00	\$50.00		
Postage	50	\$5.00	100	\$10.00	100	\$10.00	100	\$10.00	50	\$5.00	50	\$5.00	50	\$5.00	500	\$5.00	\$50.00		
Mileage	50	\$0.575	100	\$0.575	100	\$0.575	100	\$0.575	50	\$0.575	50	\$0.575	50	\$0.575	500	\$0.575	\$28.75		
Per diem - hotel	50	\$0.00	100	\$0.00	100	\$0.00	100	\$0.00	50	\$0.00	50	\$0.00	50	\$0.00	500	\$0.00	\$0.00		
Per diem - meals	50	\$0.00	100	\$0.00	100	\$0.00	100	\$0.00	50	\$0.00	50	\$0.00	50	\$0.00	500	\$0.00	\$0.00		
Airfare	50	\$0.00	100	\$0.00	100	\$0.00	100	\$0.00	50	\$0.00	50	\$0.00	50	\$0.00	500	\$0.00	\$0.00		
Rental car - per day	50	\$0.00	100	\$0.00	100	\$0.00	100	\$0.00	50	\$0.00	50	\$0.00	50	\$0.00	500	\$0.00	\$0.00		
Survey	50	\$0.00	100	\$0.00	100	\$0.00	100	\$0.00	50	\$0.00	50	\$0.00	50	\$0.00	500	\$0.00	\$0.00		
Lab work	50	\$0.00	100	\$0.00	100	\$0.00	100	\$0.00	50	\$0.00	50	\$0.00	50	\$0.00	500	\$0.00	\$0.00		
Historic aeries	50	\$0.00	100	\$0.00	100	\$0.00	100	\$0.00	50	\$0.00	50	\$0.00	50	\$0.00	500	\$0.00	\$0.00		
Misc supplies	50	\$0.00	100	\$0.00	100	\$0.00	100	\$0.00	50	\$0.00	50	\$0.00	50	\$0.00	500	\$0.00	\$0.00		
SUBTOTAL ODC's		445	\$4.45	890	\$8.90	890	\$8.90	890	\$8.90	445	\$4.45	445	\$4.45	445	\$4.45	4,450	\$44.50		
WORK TASK TOTALS		180	\$26,840	366	\$52,610	372	\$51,150	148	\$19,740	138	\$18,820	140	\$18,330	40	\$4,870	1,354	\$190,360		
Percent of Labor Total		14.60%		27.64%		26.87%		10.37%		8.84%		9.63%		2.56%		100.00%			

GRAND TOTAL = \$197,970.00



Memorandum

REPORT TO: City Commission

FROM: Anna Rosenberry, Assistant City Manager

SUBJECT: Authorize City Manager to Sign a Third Amendment to the Agreement for Services with Montana State University for Wastewater Testing Services

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Agreement - Vendor/Contract

RECOMMENDATION: Authorize City Manager to sign the third amendment to the Agreement for Services with Montana State University for wastewater testing services.

STRATEGIC PLAN: 3.2 Health & Safety Action: Work with our partners to improve education, public awareness, and to coordinate programs concerning emergency services, criminal justice, and important social services.

BACKGROUND: Montana State University has asked the City to sign an amendment to our Professional Service Agreement for COVID related wastewater testing services. The two previously signed amendments did not specify that the contract pricing would remain the same for each of the extension periods. While this was our understanding, the attached amendment clarifies this agreement pricing.

UNRESOLVED ISSUES: None.

ALTERNATIVES: None.

FISCAL EFFECTS: The cost of the agreement is \$41,281.23 for services provided during the term of December 31, 2020 through March 31, 2021. This amendment does not change the price for services; it clarifies that the price for services under each contract amendment is \$41,281.23.

Attachments:

[3rd amendment to WRF Testing.pdf](#)

Report compiled on: March 15, 2021

THIRD AMENDMENT TO THE AGREEMENT FOR SERVICES

This third Amendment to the Agreement for Services (“Amendment 3”) effective as March 11, 2021, is entered into by and between City of Bozeman, Montana, (“City”) and Montana State University (“Contractor”), each referred to individually as ‘Party’ and collectively as the “Parties.”

On June 5, 2020, City and Contractor entered into an Agreement for Services (“Agreement”) for Contractor to conduct certain wastewater testing services (“services”) for City through August 30, 2020. On October 7, 2020, the Parties entered into an Amendment to the Agreement for Services (“Amendment 1”) at the City’s request to extend the Services through December 31, 2020. On January 13, 2021, the Parties entered into a Second Amendment to the Agreement for Services (“Amendment 2”) at the City’s request to extend the Services through March 31, 2021. Amendment 1 and Amendment 2 inadvertently failed to include additional payment terms agreed upon by the Parties for the additional Services through March 31, 2021.

Accordingly, the Parties agree to further Amend the Agreement as follows:

Paragraph 4 of the Agreement shall be amended to read:

“CITY agrees to pay CONTRACTOR the following sums:

- 1) \$41,281.23 for Services provided during the term of June 5, 2020 through August 30, 2020;
- 2) \$41,281.23 for Services provided during the term of August 30, 2020 through December 31, 2020; and
- 3) \$41,281.23 for Services provided during the term of December 31, 2020 through March 31, 2021.

CONTRACTOR agrees that the Services shall be provided for this amount. The amount charged or paid under this Agreement shall not exceed the agreed amount, except for change of work orders that shall be considered additional work and shall be agreed to in writing prior to commencement of the additional work.”

All other terms and conditions of the Agreement remain the same. To express the Parties’ intent to be bound by this Amendment 3, they have executed this agreement on the dates set forth below.

MONTANA STATE UNIVERSITY

CITY OF BOZEMAN, MT

Signature: _____

Signature: _____

By:

By:

Title: Associate VP for Research, Economic Development & Graduate Education

Title:

Date: 3/15/21

Date: _____

Memorandum

REPORT TO: City Commission

FROM: Brian Heaston, Engineer III
Shawn Kohtz, City Engineer
Mitch Reister, Public Works Director

SUBJECT: Resolution 5262, Authorizing the Exploration, Development, and Build-out of a Municipal Groundwater Facility on City Property Located at the Bozeman Sports Park

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Resolution

RECOMMENDATION: City Commission passage and approval of Resolution 5262.

STRATEGIC PLAN: 2.2 Infrastructure Investments: Strategically invest in infrastructure as a mechanism to encourage economic development.

BACKGROUND: Pursuant to the 2013 Integrated Water Resources Plan (IWRP), the Public Works Department has been pursuing the development of a municipal groundwater source to expand the City's available water supply. The IWRP identifies a substantial gap between projected long-range water demands and currently available water supplies. A municipal groundwater source will close a portion of the projected gap and provide additional water supply capacity for population growth. In 2015, the City procured the firm, Respec to provide professional engineering services for the groundwater development project. The major phases of the project include: 1) groundwater investigation; 2) test well drilling and aquifer testing; 3) water right permitting; 4) infrastructure and site design; and 5) construction administration.

The investigation phase of the project is complete. Conclusions indicate a large groundwater aquifer exists under the Bozeman Sports Park that appears to be of sufficient quantity and quality for municipal purposes. The investigation was primarily a desktop exercise that used existing publicly available well logs, groundwater data, streamflow data, and geologic mapping to develop a detailed groundwater model.

The project has now advanced to the test well drilling and aquifer testing phase. The drilling and testing phase will acquire site specific groundwater data necessary, in conjunction with the model, to support the water right permitting phase. The permitting phase requires preparation and submittal of a beneficial water use permit application with the Montana DNRC. This permit provides a legal right to appropriate groundwater for municipal

purposes if obtained. The Upper Missouri River Basin closure status significantly complicates the permitting process. In closed basins, a mitigation plan is required to offset surface water depletions caused by the permitted groundwater withdrawals. Mitigation water must be provided to match the timing, amount, and location of surface water depletions under a plan proving that existing water rights are not adversely affected.

Resolution 5262, attached hereto, authorizes City Staff to proceed with municipal groundwater facility development at the southeast corner of the Bozeman Sports Park property. This corner of the Sports Park is currently master planned as a dog park, irrigation pond, and parks maintenance building. Exhibit A of the resolution provides a conceptual plan of the municipal groundwater facility that is co-located with the dog park and maintenance building. The groundwater well and appurtenant infrastructure are subject to Montana DEQ and federal Safe Drinking Water Act regulations, which govern well siting, design, water treatment requirements, and operations and maintenance. From the perspective of water supply regulations, a municipal groundwater well and dog park may coexist at the same location.

At this time, the exact nature of the layout and configuration of the groundwater facility is undetermined. Many unknowns currently exist, including: quantity of supply wells and need for replacement or redundant wells; water treatment requirements under DEQ and Safe Drinking Water Act regulations; and challenges related to obtaining a municipal groundwater water right. Should Resolution 5262 be approved, and subject to obtaining a municipal groundwater water right, the municipal groundwater project would then commence into the infrastructure and site design phase.

Amendment of the Sports Park Master Plan, as well as Site Plan review and approval, will occur during this phase under City review processes in place at that time.

Coordination surrounding the municipal groundwater facility has occurred between Public Works and Parks Department staff. The Parks Department is supportive of the project and has collaborated with Public Works on prior presentations given to the Sports Park Foundation, and the Recreation and Parks Advisory Board (RPAB). Both the Foundation and RPAB have indicated conceptual support for the Sports Park municipal well facility.

Please note that Resolution 5262 is linked to the Professional Services Agreement (PSA) with Respec providing for test well design, aquifer testing, and preparation of a beneficial water use permit application. The PSA has been placed alongside the resolution on this April 6, 2021 consent agenda.

UNRESOLVED ISSUES: Approval of the PSA attached hereto is linked to Resolution 5262, which has been placed alongside the subject PSA on this April 6, 2021 consent agenda. Said resolution authorizes City staff to move forward with the exploration, development, and build-out of a municipal groundwater facility at Bozeman Sports Park.

ALTERNATIVES: As suggested by the City Commission.

FISCAL EFFECTS: Not applicable.

Attachments:

[Resolution 5262 - Sports Park Municipal Groundwater Facility](#)

[Resolution 5262 - Exhibit A](#)

Report compiled on: March 25, 2021



RESOLUTION 5262

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA, AUTHORIZING THE EXPLORATION, DEVELOPMENT, AND BUILD-OUT OF A MUNICIPAL GROUNDWATER FACILITY ON CITY PROPERTY LOCATED AT THE BOZEMAN SPORTS PARK

WHEREAS, pursuant to § 7-13-4402, MCA, the City Commission has the power to adopt, enter into, and carry out means for securing a supply of water for the use of the City and its inhabitants; and

WHEREAS, on September 30, 2013, the City Commission adopted the Integrated Water Resources Plan containing recommendations determined to ensure the City maintain an adequate water supply for its projected demands over the next 50 years, and directed staff to initiate implementation of the plan including the development of a municipal groundwater supply leading to the Municipal Groundwater Project ongoing since August 2015; and

WHEREAS, in November 2012, the citizens of Bozeman approved Resolution 4386 authorizing the City pursuant to §76-6-109, MCA, to sell and issue general obligation bonds in the manner and within the limitations prescribed by applicable laws of Montana for the purpose of acquiring and improving open-space land and other property consistent with the provisions of the Open Space Land and Voluntary Conservation Easement Act (“the Act”) (Title 76, Chapter 6, Part 1, MCA). Section 76-6-104, MCA defines open-space land as any land that is provided or preserved for: park and recreational purposes; conservation of land or other natural resources; historic or scenic purposes; or assisting in the shaping of the character, direction and timing of community development; and

WHEREAS, in April 2014, the City Commission approved Resolution 4521 to fund the Bozeman Sports Park with monies within the Trails, Open Space and Parks Bond Fund created following the passage of Resolution 4386, and the Commission determined the Bozeman Sports Park project to fulfill the intent, findings, policy and purposes of the Act and designated the real property acquired with the funds as open space land for the purposes of compliance with the Act; and

WHEREAS, the City Commission determines using a portion of open space land at the Bozeman Sports Park for a well site and related infrastructure is consistent with the approved uses of open space land specifically with assisting in the shaping of the character, direction and timing of community development and therefor consistent with the original purpose, dedication and funding of the property.

NOW THEREFORE BE IT RESOLVED by the City Commission of the City of Bozeman, Montana, as follows:

Section 1

The City Commission hereby authorizes City staff to move forward with the exploration, development, and build-out of a municipal groundwater facility at the Bozeman Sports Park as generally described in the concept plan, Exhibit A, attached hereto and made a part hereof. The City Commission provides said authorization with the understanding that Exhibit A is a depiction of the general portion of the Sports Park needed to accommodate a municipal groundwater facility, and the major elements thereof, the actual configuration of which will be determined as the project proceeds towards completion.

PASSED AND APPROVED by the City Commission of the City of Bozeman, Montana, at a regular session thereof held on the ____ day of _____, 2021.

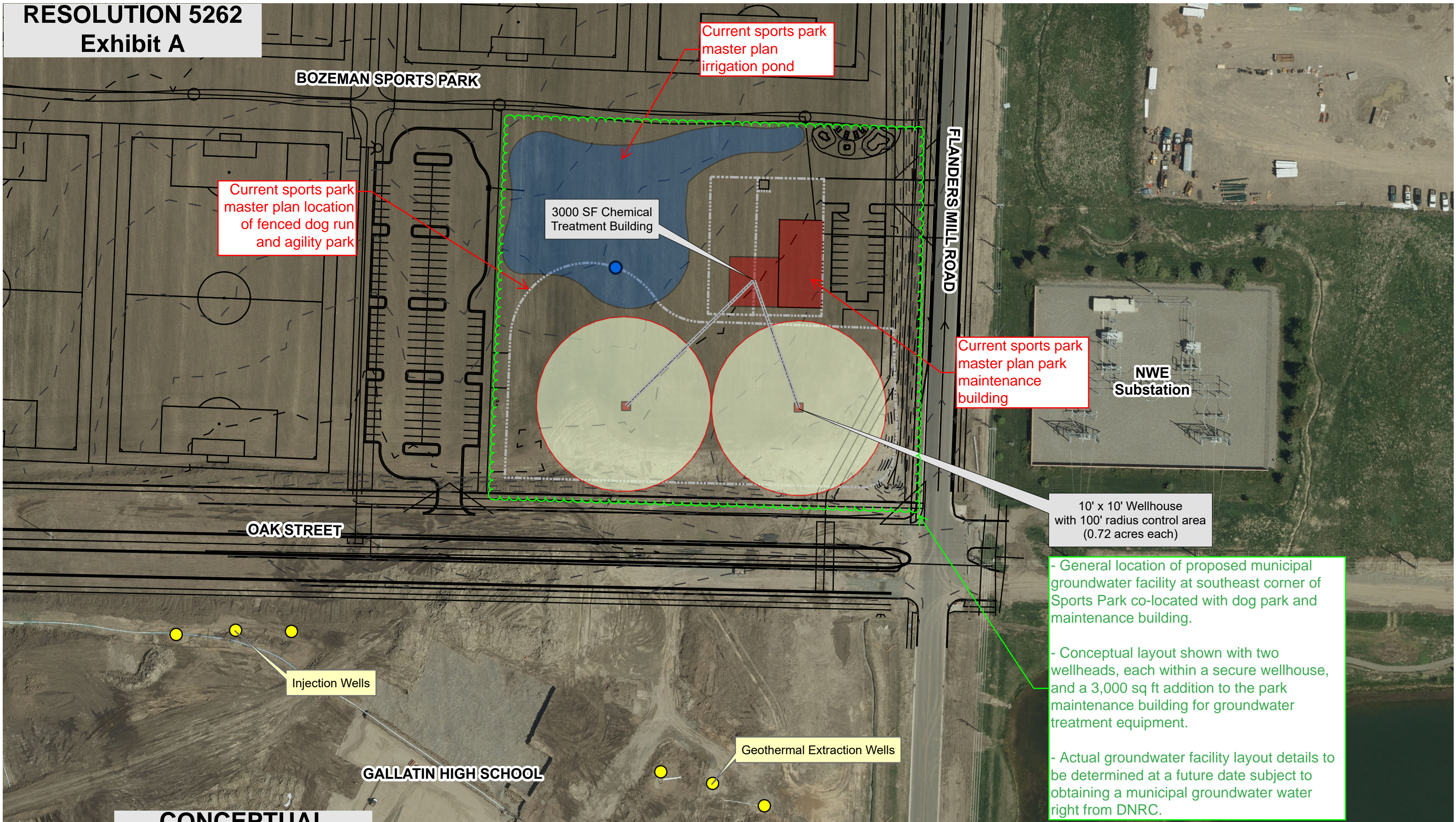
CYTHIA L. ANDRUS, Mayor

ATTEST:

MIKE MASS
City Clerk

APPROVED AS TO FORM:

GREG SULLIVAN
City Attorney



Current sports park master plan location of fenced dog run and agility park

Current sports park master plan irrigation pond

3000 SF Chemical Treatment Building

Current sports park master plan park maintenance building

10' x 10' Wellhouse with 100' radius control area (0.72 acres each)

- General location of proposed municipal groundwater facility at southeast corner of Sports Park co-located with dog park and maintenance building.

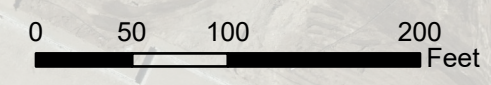
- Conceptual layout shown with two wellheads, each within a secure wellhouse, and a 3,000 sq ft addition to the park maintenance building for groundwater treatment equipment.

- Actual groundwater facility layout details to be determined at a future date subject to obtaining a municipal groundwater water right from DNRC.

CONCEPTUAL

City of Bozeman PWS Well Site Layout

Imagery: City of Bozeman, 2018



DATE: 07/24/2020

1:1,200

- Buildings
- Control Zone
- Irrigation Pond
- GWIC Wells 2018
- Existing Water Well
- Pipe
- Fencing
- Existing Major Contours (5')
- Existing Minor Contours (1')

Memorandum

REPORT TO: City Commission

FROM: Chris Saunders, Community Development Manager
Marty Matsen, Community Development Director

SUBJECT: Ordinance 2061, Provisional Adoption to Revise Definitions and References to Clarify a Consistent Meaning and Application of Front Setbacks in all Zoning Districts. No Changes to Dimensional Standards are Included with this Amendment. Revise Affected Sections to Implement the Revisions. Application 20147

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Ordinance

RECOMMENDATION: I adopt the findings presented in the staff report for application 20147, Ordinance 2061 and provisionally adopt Ordinance 2061.

STRATEGIC PLAN: 4.1 Informed Conversation on Growth: Continue developing an in-depth understanding of how Bozeman is growing and changing and proactively address change in a balanced and coordinated manner.

BACKGROUND: The City Commission conducted a public hearing on December 15, 2020 to consider the draft ordinance. There were two public comments on the application. After conducting the hearing, considering the public comment, Staff report, and recommendation from the Zoning Commission, the City Commission unanimously approved the ordinance.

Background analysis originally reviewed by the City Commission in December is provided in the attached staff report. The ordinance has been revised to address the concerns for wording consistency identified in public comment.

UNRESOLVED ISSUES: None.

ALTERNATIVES: As identified by the City Commission.

FISCAL EFFECTS: None

Attachments:

[20147 Ord 2061 Front Setbacks ZCA - CC report.docx](#)

[Ordinance 2061 - Definition of front setback 2nd Provisional Adoption.docx](#)

Report compiled on: March 18, 2021

20147 Staff Report for the Front Setback Definition Text Amendment, Ordinance 2061

Public Hearings: Zoning Commission meeting - November 23, 2020.

City Commission meeting - December 15, 2020.

Project Description: Revise definitions and references to clarify a consistent meaning and application of front setbacks in all zoning district. No changes to dimensional standards are included with this amendment. Revise affected sections to implement the revisions.

Project Location: Revision to the text is applicable City-wide

Recommendation: Meets standards for approval.

Zoning Commission Motion: Having reviewed and considered the staff report, application materials, public comment, and all information presented, I hereby adopt the findings presented in the staff report for application 20147 and move to recommend approval of Ordinance 2061; adding a request for staff to consider the comments dated November 23rd, 2020 from Ryan Krueger and Tyler Steinway to determine whether the additional clarification is appropriate prior to bringing the amendment forward to City Commission for consideration.

Recommended City Commission Motion: Having reviewed and considered the staff report, application materials, public comment, and all information presented, I hereby adopt the findings presented in the staff report for application 20147, Ordinance 2061 and move to provisionally adopt Ordinance 2061.

Report: December 1, 2020

Staff Contact: Chris Saunders, Community Development Manager

Agenda Item Type: Action - **Legislative**

EXECUTIVE SUMMARY

This report is based on the application materials submitted and public comment received to date.

Unresolved Issues

None.

Project Summary

A lack of clarity has been identified relating to certain definitions and how they apply to establishing where a front setback is applicable. It is important for the City’s regulations to be clear and effective, especially as affecting infill projects which are often occurring in constrained circumstances. The amendments improve consistency and clarity of definitions and terms. There is no change to the physical dimension of a front setback in any district with this amendment. This amendment is a clarification and does not change how standards were previously applied or are applied at this time.

Strategic Plan

4.1 Informed Conversation on Growth

Continue developing an in-depth understanding of how Bozeman is growing and changing and proactively address change in a balanced and coordinated manner.

b) Develop and Align Infill Policies - Develop, adopt and align city policies for infill and redevelopment, economic development and public infrastructure.

Zoning Commission

The Zoning Commission held their public hearing on November 23, 2020. They recommend approval of the application as prepared by staff and support evaluation of the inclusion of the public comment text prior to action by the City Commission. The video recording of the public hearing is available at

<https://media.avcaptureall.com/session.html?sessionid=371be454-ef54-4595-bf43-c27367d0499d&prefilter=654,3835>. Discussion of this item begins at 1:45:20 in the recording. One public comment was received at the public hearing. The comment is attached.

City Commission Alternatives

1. Provisional adoption of the ordinance with modifications to the recommended ordinance;
2. Denial of the ordinance based on findings of non-compliance with the applicable criteria contained within the staff report; or
3. Open and continue the public hearing on the application, with specific direction to staff to supply additional information or to address specific items.

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SECTION 1 - RECOMMENDATION AND FUTURE ACTIONS

Having considered the criteria established for a text amendment, the Staff recommends approval as submitted.

The Zoning Commission held a public hearing on this amendment on November 23, 2020, at 6 p.m. They forward a recommendation of approval to the Commission on the text amendment.

The City Commission will hold a public hearing on the text amendment on December 15, 2020, at 6 p.m.

SECTION 2 - TEXT AMENDMENT STAFF ANALYSIS AND FINDINGS

In considering applications for approval under this title, the advisory boards and City Commission must consider the following criteria (letters A-K). As an amendment is a legislative action, the Commission has broad latitude to determine a policy direction. The burden of proof that the application should be approved lies with the applicant.

A zone text amendment must be in accordance with the growth policy (criteria A) and be designed to secure safety from fire and other dangers (criteria B), promote public health, public safety, and general welfare (criteria C), and facilitate the provision of transportation,

water, sewerage, schools, parks and other public requirements (criteria D). Therefore, to approve a text amendment the Commission must find Criteria A-D are met.

In addition, the Commission must also consider criteria E-K, and may find the text amendment to be positive, neutral, or negative with regards to these criteria. To approve the zone text amendment, the Commission must find the positive outcomes of the amendment outweigh negative outcomes for criteria E-K. In determining whether the criteria are met, Staff considers the entire body of regulations for land development. Standards which prevent or mitigated negative impacts are incorporated throughout the entire municipal code but are principally in Chapter 38, Unified Development Code.

Section 76-2-304, MCA (Zoning) Criteria

A. Be in accordance with a growth policy.

Yes. The Bozeman Community Plan 2020, Chapter 5, p. 73, in the section titled Review Criteria For Zoning Amendments And Their Application, discusses how the various criteria in 76-2-304 MCA are applied locally. Application varies depending on whether an amendment is for the zoning map or for the text of Chapter 38, BMC.

“In a text amendment, policy statements weigh heavily as the standards being created or revised implement the growth policy’s aspirations and intent. The City must balance many issues in approving urban development.”

The proposed amendment does not change the zoning map. Therefore, it is unnecessary to analyze compliance with the future land use map.

The basic planning precepts, page 20, includes “The needs of new and existing development coexist and they should remain in balance; neither should overwhelm the other.” Clarity of meaning and application helps ensure consistent application of existing standards as new applications are submitted. This supports balance and harmonious coexistence for existing and new development.

“N-3.7 Support compact neighborhoods, small lot sizes, and small floor plans, especially through mechanisms such as density bonuses.” Compact neighborhoods have less room for reconfigurations of plans and the importance of consistent application of standards is heightened due to how near the buildings are to each other. This proposed amendment improves clarity of meaning and consistency of application.

No conflicts with the growth policy text or future land use map have been identified.

B. Secure safety from fire and other dangers.

Yes. Previously adopted standards in Chapter 38, BMC address this criteria. Those standards are not being changed. Front setbacks provide locations for telecommunications which supports emergency services dispatch and response. The proposed amendment provides additional clarity about when front setbacks are required.

C. Promote public health, public safety, and general welfare.

Yes. Front setbacks serve multiple purposes including supporting privacy of adjacent homes, enabling provision of private utilities such as power and telecommunications, provide for water infiltration thereby lessening storm water runoff, and provide green spaces in an urban environment. All of these purposes advance public well-being.

No changes to dimensions of required setbacks in individual districts are changed with this amendment. All established setbacks have been found to meet this criteria.

D. Facilitate the provision of transportation, water, sewerage, schools, parks and other public requirements.

Yes. The City conducts extensive planning for municipal transportation, water, sewer, parks, and other facilities and services provided by the City. The adopted plans allow the City to consider existing conditions and identify enhancements needed to provide additional service needed by new development. The City implements these plans through its capital improvements program that identifies individual projects, project construction scheduling, and financing of construction. Schools are provided by School District 7 and allowed uses are not affected by this amendment.

As stated in 38.300.020.C, the designation of a zoning district does not guarantee approval of new development until the City verifies the availability of needed infrastructure. All zoning districts in Bozeman enable a wide range of uses and intensities. At time of future subdivision or site plan review the need for individual services can be more precisely determined. No subdivision or site plan is approved without demonstration of adequate capacity.

38.300.020.C, “Placement of any given zoning district on an area depicted on the zoning map indicates a judgment on the part of the city that the range of uses allowed within that district are generally acceptable in that location. It is not a guarantee of approval for any given use prior to the completion of the appropriate review procedure and compliance with all of the applicable requirements and development standards of this chapter and other applicable policies, laws and ordinances. It is also not a guarantee of immediate infrastructure availability or a commitment on the part of the city to bear the cost of extending services.”

The City’s standards specify placement of easements along the front of lots to enable provision of utilities with new development; and with redevelopment where appropriate. No changes to dimensions of required setbacks in individual districts are changed with this amendment. All established setbacks have been found to meet this criteria.

E. Reasonable provision of adequate light and air.

Neutral. No changes to dimensions of required setbacks in individual districts are changed with this amendment. All established setbacks have been found to meet this criteria.

F. The effect on motorized and non-motorized transportation systems.

Neutral. The proposed amendment does not modify development standards for circulation, parking, traffic control, or other standards related to this criteria.

G. Promotion of compatible urban growth.

Yes. Establishment of setbacks is an important component of compatibility. Setbacks define the open areas required on private property. The interface between streets and buildings is a key element in defining site character, coordinating utility locations, and other elements of compatibility. The proposed amendment brings improved clarity and consistency to several related standards affecting setbacks between a street and buildings.

H. Character of the district.

Neutral. Section 76-2-302, MCA says "...legislative body may divide the municipality into districts of the *number, shape, and area* as are considered best suited to carry out the purposes [promoting health, safety, morals, or the general welfare of the community] of this part." Emphasis added.

This proposal amends the text, not the zoning map. All zoning districts have established setbacks. No element of this amendment modifies the setback standards of any zoning district. The character of the districts created by those standards remains as presently set. The amendment provides clarity and consistency in application of the previously adopted setback standards for front setbacks.

As noted above, the City Commission has latitude in considering the geographical extents of a zoning district. Application of any municipal zoning district to the subject property will alter the existing character of the subject property which is a rural individual home with agricultural buildings. It is not expected that zoning freeze the character of an area in perpetuity. Rather, it provides a structured method to consider changes to the character.

The City has defined compatible development as:

"The use of land and the construction and use of structures which is in harmony with adjoining development, existing neighborhoods, and the goals and objectives of the city's adopted growth policy. Elements of compatible development include, but are not limited to, variety of architectural design; rhythm of architectural elements; scale; intensity; materials; building siting; lot and building size; hours of operation; and integration with existing community systems including water and sewer services, natural elements in the area, motorized and non-motorized transportation, and open spaces and parks. Compatible development does not require uniformity or monotony of architectural or site design, density or use."

The City has adopted many standards to identify and avoid or mitigate demonstrable negative impacts of development. These will support the ability of future development to be compatible with adjacent development and uphold the residential character of the area.

I. Peculiar suitability for particular uses.

Neutral. No changes to allowed uses in zoning districts happen with this amendment. No changes to dimensions of required setbacks in individual districts are changed with this amendment. All established setbacks have been found to meet this criteria.

J. Conserving the value of buildings.

Neutral. This change will only apply to applications occurring after adoption, should adoption occur. The amendment does not change applicable standards for size of setbacks.

K. Encourage the most appropriate use of land throughout the jurisdictional area.

Neutral. The proposed amendment does not alter allowed uses in zoning districts or the zoning map. Consistency of regulations does make it easier to plan for and execute development throughout the City.

PROTEST NOTICE FOR ZONING AMENDMENTS

IN THE CASE OF WRITTEN PROTEST AGAINST SUCH CHANGES SIGNED BY THE OWNERS OF 25% OR MORE OF THE AREA OF THE LOTS WITHIN THE AMENDMENT AREA OR THOSE LOTS OR UNITS WITHIN 150 FEET FROM A LOT INCLUDED IN A PROPOSED CHANGE, THE AMENDMENT SHALL NOT BECOME EFFECTIVE EXCEPT BY THE FAVORABLE VOTE OF TWO-THIRDS OF THE PRESENT AND VOTING MEMBERS OF THE CITY COMMISSION.

The City will accept written protests from property owners against the proposal described in this report until the close of the public hearing before the City Commission. Pursuant to 76-2-305, MCA, a protest may only be submitted by the owner(s) of real property within the area affected by the proposal or by owner(s) of real property that lie within 150 feet of an area affected by the proposal. The protest must be in writing and must be signed by all owners of the real property. In addition, a sufficient protest must: (i) contain a description of the action protested sufficient to identify the action against which the protest is lodged; and (ii) contain a statement of the protestor's qualifications (including listing all owners of the property and the physical address), to protest the action against which the protest is lodged, including ownership of property affected by the action. Signers are encouraged to print their names after their signatures. A person may in writing withdraw a previously filed protest at any time prior to final action by the City Commission. **Protests must be delivered to the Bozeman City Clerk, 121 North Rouse Ave., PO Box 1230, Bozeman, MT 59771-1230.**

APPENDIX A - DETAILED PROJECT DESCRIPTION AND BACKGROUND

The City processes hundreds of land development applications each year. As the code is applied to those applications issues appear where applicants and designers understand the code differently than City Staff. The Staff monitors for those “frequent flier” issues to understand where the code is not adequately clear. Questions of how various definitions affect where a front setback is properly applied has recently come up on several projects.

The City used to have a different code structure for front setbacks that differentiated between “front” and “corner-side” setbacks. This was established because front setbacks used to be much larger in residential and many non-residential districts and “corner-side” setbacks were smaller. When the front setback was reduced to the same size as corner-side setbacks it became unnecessary to have two ways to talk about different dimensional standards for the area where lots are adjacent to a street. The term corner-side setback was removed and revisions made to match up the text to all circumstances where a street is adjacent to a lot. It has become apparent that additional work is needed to make the code as clear as is desired.

The proposed amendment is primarily changes to definitions. It does not change any dimensional setback for a building from a street.

APPENDIX B - NOTICING AND PUBLIC COMMENT

Notice for text amendments must meet the standards of 38.220.410 & 420. Notice was published in the Bozeman Daily Chronicle as required and contained all required elements. Notice was provided at least 15 days before the Zoning Commission public hearing, and not more than 45 days prior to the City Commission public hearing. Hearing dates are on the first page of this report.

One public comment was received for this application. The comment suggested revisions to proposed text to include in definitions references to other elements of code standards. Several revisions were made to the ordinance text to address the comments.

APPENDIX C - APPLICANT INFORMATION AND REVIEWING STAFF

Applicant: City of Bozeman, PO Box 1230, Bozeman MT 59771

Representative: Department of Community Development, City of Bozeman, PO Box 1230, Bozeman MT 59771

Report By: Chris Saunders, Community Development Manager

FISCAL EFFECTS

No unusual fiscal effects have been identified. No presently budgeted funds will be changed by this Amendment.

ATTACHMENTS

The full application and file of record can be viewed at the Community Development Department at 20 E. Olive Street, Bozeman, MT 59715.

Ordinance 2061

Public comment to date



ORDINANCE NO. 2061

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA REVISING THE BOZEMAN MUNICIPAL CODE’S STANDARDS FOR FENCES, WALLS AND HEDGES IN A FRONT SETBACK AND AMENDING SEVERAL DEFINITIONS RELATED TO FRONT SETBACKS INCLUDING AMENDING SECTION 38.350.060 (FENCES WALLS AND HEDGES), 38.700.070. – F (DEFINITIONS), SECTION 38.700.110. – L (DEFINITIONS), SECTION 38.700.160 – R (DEFINITIONS), AND SECTION 38.700.170. – S (DEFINITIONS).

WHEREAS, the City of Bozeman (the “City”) has adopted land development and use standards to protect public health, safety and welfare and otherwise execute the purposes of Section 76-2-304, MCA; and

WHEREAS, City is committed to reviewing and improving the Unified Development Code; and

WHEREAS, the City has developed a platform to submit revisions to the Unified Development Code to improve overall functionality and ease of use; and

WHEREAS, it has been identified that the definition of “Front Setback” is inadequately clear in conjunction with the definition of “Lot Frontage”; and

WHEREAS, definitions for and applications of setbacks have significant impacts on infill and other small lot development; and

WHEREAS, it is in the interests of the City and public welfare to clarify the definition of “Front Setback” and related definitions.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA:

Section 1

That section 38.350.060.A of the Bozeman Municipal Code be amended as follows:

Sec. 38.350.060. - Fences, walls and hedges.

- A. *Location and height.* Except as provided in ~~section~~ 38.400.100, fences, walls and hedges in any district may be located on lot lines, provided such fences, walls and hedges comply with the following height requirements:
1. Do not exceed six feet in height in any required rear or required side setback. Fences exceeding six feet in height must be subject to the minimum setback requirements of the district in which such fences are located. Decorative post caps may exceed the height limit by no more than one additional foot. Fences in excess of six feet in height require a building permit before installation may commence. Fences may not exceed eight feet in height.
 - a. A gate may be provided which defines an entrance point. The gate may have a defining structure so long as the defining structure is not more than one foot wide on either side of the gate. Gate structure heights may not exceed twice the allowed fence height.
 2. For lots with one front setback, do not exceed four feet in height in the front setback. Lots with more than one front setback, do not exceed four feet in the setback adjacent to the street on which the property has its assigned address. In non-addressed front setbacks, fences must not exceed four feet in height in the portion of the front setback that is adjacent to the building façade nearest the front setback. ~~Do not exceed four feet in height in any required front lot line setback or any portion of a required wider front lot line that is forward of the rear edge of the building façade nearest the front lot line setback.~~ Decorative post caps may exceed the height limit by no more than one additional foot.
 3. Fences used in an agricultural pursuit to retain stock animals or for public safety must be excepted.
 4. The height of fences located in the B-3 district must meet the requirements of this section for any provided, not required, setbacks.

Section 2

That section 38.700.070 of the Bozeman Municipal Code be amended as follows with all other portions of the section remaining unchanged:

Front setback. A setback extending across the full width of all sides of a lot that abuts a street.
~~across the full width of the lot between two side lot lines, the depth of which is the least distance between the street right-of-way and the front building line;~~

Section 3

That section 38.700.110 of the Bozeman Municipal Code be amended as follows with all other portions of the section remaining unchanged:

Lot measurements.

- A. Lot depth. The horizontal distance of a line measured at a right angle to the front lot line and running between the front lot line and rear lot line of a lot.
- B. Lot width. The distance as measured in a straight line, between side lot lines at the points of intersection with the required front building line.
- C. Lot frontage. ~~The horizontal distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way.~~ All sides of a lot that abuts a street are ~~considered~~ frontage. On curvilinear streets, the arc between the side lot lines is considered the lot frontage.
- D. Lot area. The total horizontal area within the boundary lines of a lot.

Lot line, front. ~~In the case of an interior lot, a line separating the lot from the street, in the case of a~~
or a corner lot, a line separating the narrowest street frontage of the lot from the street and in the
case of a double frontage or through lot, a line separating the lot from the street from which a drive access may be permitted by the city.

Lot line, rear. A lot line which is opposite and most distant from the front lot line, in the case of a
corner lot the lot line opposite and most distant from the narrowest front lot line, and, in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the

maximum distance from the narrowest front lot line. A lot with street frontage on all boundaries does not have a rear lot line.

Lot width. The distance as measured in a straight line, between property boundaries ~~side lot lines~~ at the points of intersection with the front setback ~~required front building~~ line along the narrowest street frontage.

Section 4

That section 38.700.160 of the Bozeman Municipal Code be amended as follows with all other portions of the section remaining unchanged:

Sec. 38.700.160. - R definitions.

Rear setback. A setback extending across the full width of the lot ~~between the two side lot lines, the depth of which is the distance required by this chapter between the rear property line and the rear building~~ located adjacent to the rear lot line.

Section 5

That section 38.700.170 of the Bozeman Municipal Code be amended as follows with all other portions of the section remaining unchanged:

Sec. 38.700.170. - S definitions.

Street frontage. Any property line separating a lot from a street other than an alley.; ~~the front lot line.~~

Section 6

Repealer.

All provisions of the ordinances of the City of Bozeman in conflict with the provisions of this ordinance are, and the same are hereby, repealed and all other provisions of the ordinances of

the City of Bozeman not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 7

Savings Provision.

This ordinance does not affect the rights and duties that matured, penalties that were incurred or proceedings that were begun before the effective date of this ordinance. All other provisions of the Bozeman Municipal Code not amended by this ordinance shall remain in full force and effect.

Section 8

Severability.

That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof, other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Bozeman Municipal Code as a whole.

Section 9

Codification.

This Ordinance shall be codified as indicated in Sections 1-5.

Section 10

Effective Date.

This ordinance shall be in full force and effect thirty (30) days after final adoption.

PROVISIONALLY ADOPTED by the City Commission of the City of Bozeman, Montana, on first reading at a regular session held on the 6th day of April 2021.

CYNDY ANDRUS
Mayor

ATTEST:

MIKE MAAS
City Clerk

FINALLY PASSED, ADOPTED, AND APPROVED by the City Commission of the City of Bozeman, Montana on second reading at a regular session thereof held on the 20th of April, 2021. The effective date of this ordinance is _____, 2021.

CYNDY ANDRUS
Mayor

ATTEST:

MIKE MAAS
City Clerk

APPROVED AS TO FORM:

GREG SULLIVAN
City Attorney

Memorandum

REPORT TO: City Commission

FROM: Chris Saunders, Community Development Manager
Martin Matsen, Community Development Director

SUBJECT: Ordinance 2068, Final Adoption to Amend 19 Acres from B-2 Community Business District to B-2M Community Business District - Mixed, Located Approximately 650 feet West of the Intersection of Huffine Lane and Cottonwood Road, Baxter Creek 2021 Zone Map Amendment, Application 20387

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Community Development - Legislative

RECOMMENDATION: Final adoption of Ordinance 2068 to Amend 19 Acres from B-2 Community Business District to B-2M Community Business District - Mixed.

STRATEGIC PLAN: 4.2 High Quality Urban Approach: Continue to support high-quality planning, ranging from building design to neighborhood layouts, while pursuing urban approaches to issues such as multimodal transportation, infill, density, connected trails and parks, and walkable neighborhoods.

BACKGROUND: The City Commission conducted their public hearing on the preliminary approval of this amendment on February 9, 2021. There was no public comment and the application received unanimous approval. Analysis of review criteria and Zoning Commission recommendation on the application is included in the packet for the February 9, 2021 public hearing. Provisional adoption of the ordinance occurred on March 23, 2021.

UNRESOLVED ISSUES: None.

ALTERNATIVES: As identified by the City Commission.

FISCAL EFFECTS: None.

Attachments:

[Ordinance 2068.docx](#)

[BAXTER CREEK 2021 ZMA- MAP.pdf](#)

Report compiled on: March 4, 2021



ORDINANCE 2068

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA AMENDING THE CITY OF BOZEMAN ZONING MAP TO AMEND THE ZONING DESIGNATION ON 19 ACRES FROM B-2 COMMUNITY BUSINESS TO B-2M COMMUNITY BUSINESS DISTRICT- MIXED, BAXTER CREEK 2021 ZONE MAP AMENDMENT, APPLICATION 20387.

WHEREAS, the City of Bozeman has adopted zoning regulations and a zoning map pursuant to Sections 76-2-301 and 76-2-302, M.C.A.; and

WHEREAS, Section 76-2-305, M.C.A. allows local governments to amend zoning maps if a public hearing is held and official notice is provided; and

WHEREAS, Section 76-2-307, M.C.A. states that the Zoning Commission must conduct a public hearing and submit a report to the City Commission for all zoning map amendment requests; and

WHEREAS, the City of Bozeman Zoning Commission has been created by Section 2.05.2700, BMC as provided for in Section 76-2-307, M.C.A.; and

WHEREAS, Chapter 38, Division 260, Part 2 of the Bozeman Unified Development Code sets forth the procedures and review criteria for zoning map amendments; and

WHEREAS, the proposed zone map amendment application to amend the City of Bozeman Zoning Map has been properly submitted, reviewed, and advertised; and

WHEREAS, after proper notice, the Bozeman Zoning Commission held a public hearing on January 25, 2021 to receive and review all written and oral testimony on the request for a zone map amendment; and

WHEREAS, the Bozeman Zoning Commission recommended to the Bozeman City Commission that application No. 20387, the Baxter Creek 2021 Zone Map Amendment, be approved as requested by the applicant; and

WHEREAS, after proper notice, the City Commission held its public hearing on February 9, 2021, to receive and review all written and oral testimony on the request for the zone map amendment; and

WHEREAS, the City Commission has reviewed and considered the zone map amendment criteria established in Section 76-2-304, M.C.A., and found that the proposed zone map amendment would be in compliance with the criteria.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA:

Section 1

That the zoning district designation of the following-described property is hereby designated as B-2M, Community Business District - Mixed:

Located in a portion of the southeast 1/4 of the southeast 1/4 of Section 9, Township 2 South, Range 5 East, P.M.M. City of Bozeman Gallatin County, Montana, and being more particularly described as follows:

Commencing at the E 1/16th corner of Sections 9 & 16, thence N 47°55'22" E a distance of 56.02 ' to the centerline of Huffine Line, and the Point of Beginning.

thence N 00°52'59" E a distance of 1325.46' to the centerline of Fallon Street;
thence along said centerline N 89°03'42" E a distance of 621.90';
thence leaving said centerline, S 00°42'43" W a distance of 1329.58' to the centerline of Huffine Lane;
thence along said centerline, S 89°27'00" W a distance of 625.75' to the Point of Beginning.

Having an area of 827,830 square feet, 19.00 acres, more or less.

Section 2

Repealer.

All provisions of the ordinances of the City of Bozeman in conflict with the provisions of this ordinance are, and the same are hereby, repealed and all other provisions of the ordinances of

the City of Bozeman not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 3

Savings Provision.

This ordinance does not affect the rights and duties that matured, penalties that were incurred or proceedings that were begun before the effective date of this ordinance. All other provisions of the Bozeman Municipal Code not amended by this Ordinance shall remain in full force and effect.

Section 4

Severability.

That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof, other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Bozeman Municipal Code as a whole.

Section 5

Codification.

This Ordinance shall not be codified but shall be kept by the City Clerk and entered into a disposition list in numerical order with all other ordinances of the City and shall be organized in a category entitled “Zone Map Amendments”

Section 6

Effective Date.

This ordinance shall be in full force and effect thirty (30) days after final adoption.

PROVISIONALLY ADOPTED by the City Commission of the City of Bozeman, Montana, on first reading at a regular session held on the 23rd day of March 2021.

CYNTHIA L. ANDRUS

Mayor

ATTEST:

MIKE MAAS

City Clerk

FINALLY PASSED, ADOPTED AND APPROVED by the City Commission of the City of Bozeman, Montana on second reading at a regular session thereof held on the 6th of April 2021. The effective date of this ordinance is _____, 2021.

CYNTHIA L. ANDRUS

Mayor

ATTEST:

MIKE MAAS

City Clerk

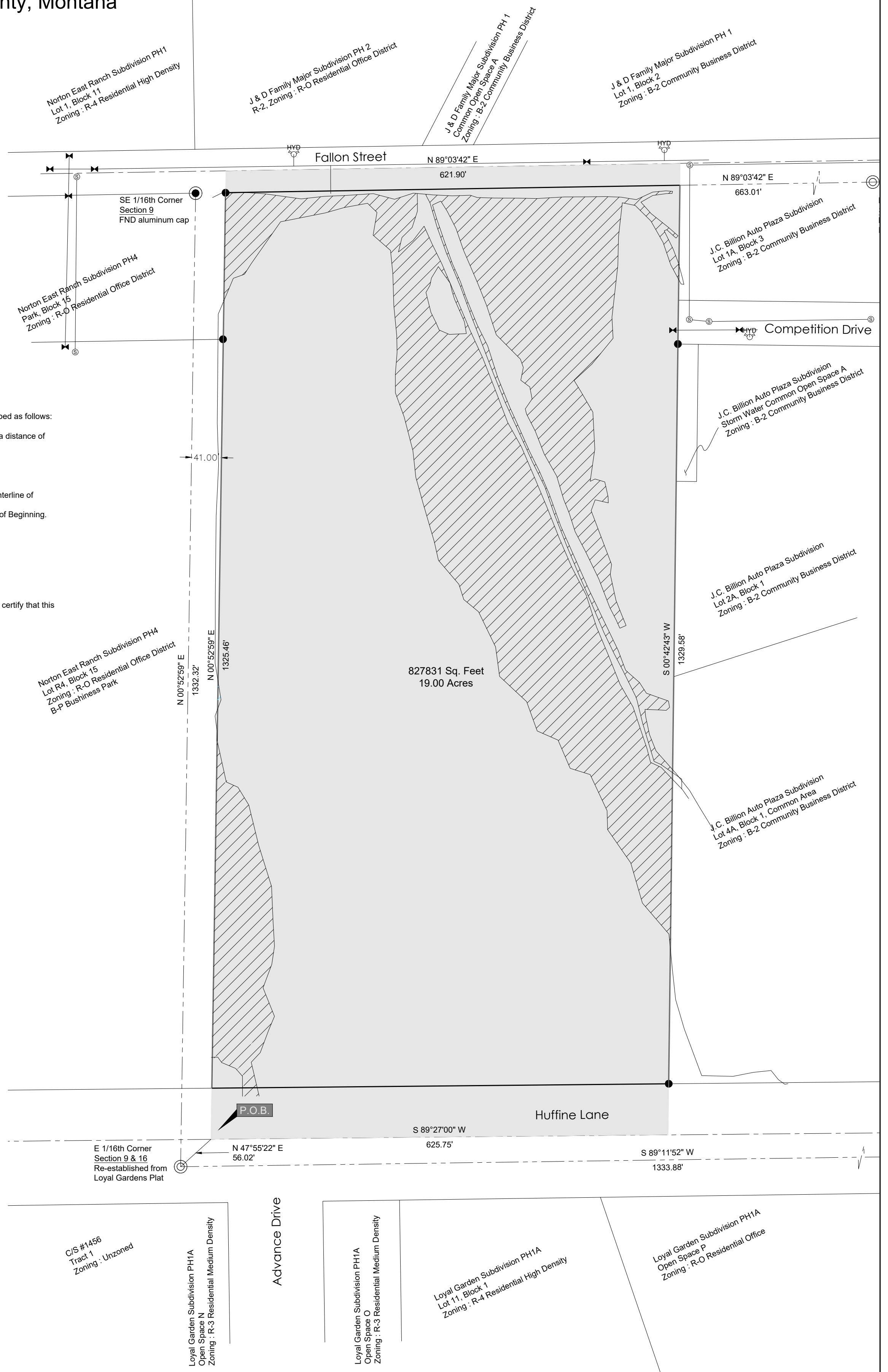
APPROVED AS TO FORM:

GREG SULLIVAN

City Attorney

Baxter Creek 2021 Zone Map Amendment

Located in a portion of the southeast $\frac{1}{4}$ of the southeast $\frac{1}{4}$ of Section 9, Township 2 South, Range 5 East, P.M.M.
City of Bozeman Gallatin County, Montana



LEGAL DESCRIPTION

Located in a portion of the southeast $\frac{1}{4}$ of the southeast $\frac{1}{4}$ of Section 9, Township 2 South, Range 5 East, P.M.M.
City of Bozeman Gallatin County, Montana, and being more particularly described as follows:

Commencing at the E 1/16th corner of Sections 9 & 16, thence N 47°55'22" E a distance of 56.02' to the centerline of Huffine Lane, and the Point of Beginning.

thence N 00°52'59" E a distance of 1325.46' to the centerline of Fallon Street;
thence along said centerline N 89°03'42" E a distance of 621.90';
thence leaving said centerline, S 00°42'43" W a distance of 1329.58' to the centerline of Huffine Lane;
thence along said centerline, S 89°27'00" W a distance of 625.75' to the Point of Beginning.

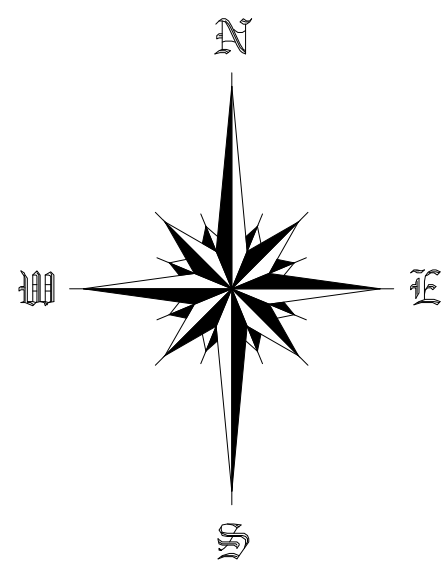
Having an area of 827,830 square feet, 19.00 acres, more or less.

CERTIFICATE OF SURVEYOR

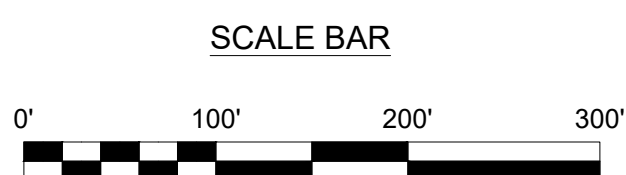
I, the undersigned, Shannon J. Marinko, Registered Land Surveyor, do hereby certify that this Zoning map and legal description were prepared by me.

DATED this _____ day of _____, A.D., 2021.

Shannon J. Marinko #LS-14456
Hyalite Engineers, PLLC.



BASIS OF BEARING
Geodetic North
based on the Bobcat LDP
LAT. 46°15'00.00" NORTH
LONG. 111°15'00.00" WEST



1/4	SEC	T	R
	9	2S	5E

HYALITE
2304 N. 7th AVE STE L. BOZEMAN, MT 59715
PHONE: (406) 587-2781 FAX: (406) 522-9225
www.hyaliteeng.com

DRAWN	DATE	ZONING AMENDMENT MAP
SJM	2/16/2021	
SCALE	SHEET	PROJECT NUMBER
1"=100'	1 OF 1	203430

Memorandum

REPORT TO: City Commission

FROM: Cynthia L. Andrus, Mayor

SUBJECT: Equal Pay Day

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Administration

RECOMMENDATION: Proclaim Equal Pay Day

STRATEGIC PLAN: 7.1 Values-Driven Culture: Promote a values-driven organizational culture that reinforces ethical behavior, exercises transparency and maintains the community’s trust.

BACKGROUND: On June 8, 2015 the City Commission adopted Resolution 4601 in which it committed to commemorate Equal Pay Day each year.

UNRESOLVED ISSUES: None

ALTERNATIVES: None

FISCAL EFFECTS: None

Report compiled on: March 30, 2021

Memorandum

REPORT TO: City Commission

SUBJECT: Equal Pay Presentation

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Plan/Report/Study

RECOMMENDATION: Special Presentation

STRATEGIC PLAN: 7.2 Employee Excellence: Recruit, retain and value a diverse, well-trained, qualified and motivated team capable of delivering superior performance. Be accountable and expect accountability from others. Make demonstrated use of good judgement a part of the evaluation process for promotions.

BACKGROUND: Presentation in accordance with Resolution 4601, adopted in 2015.

UNRESOLVED ISSUES: None.

ALTERNATIVES: None.

FISCAL EFFECTS: None.

Attachments:

[Equal Pay 2021 Presentation.pdf](#)

[Equal Pay Day and City Progress Report 2021 ar.docx](#)

Report compiled on: March 29, 2021

BOZEMAN^{MT}

Human Resources

Special Presentation: Equal Pay Update

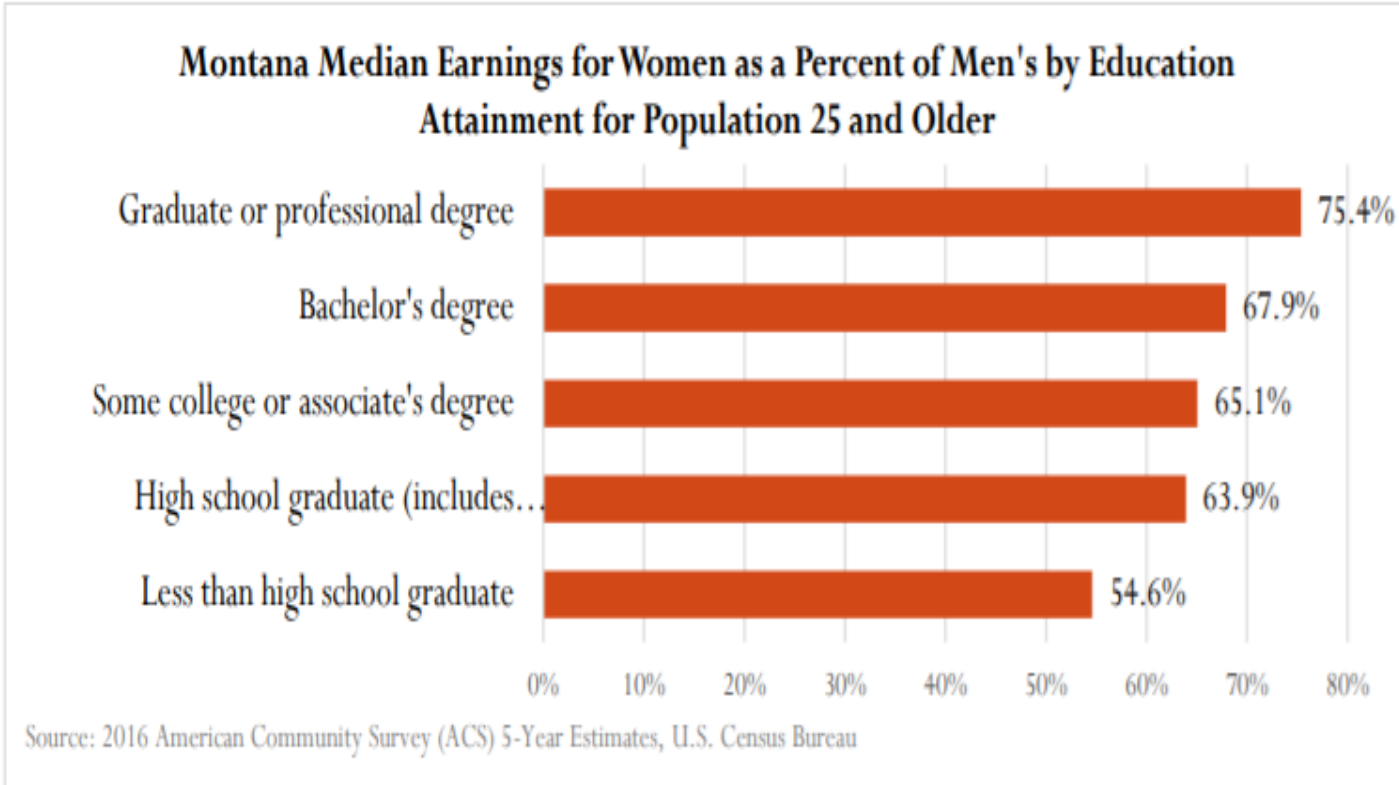
Results for this year

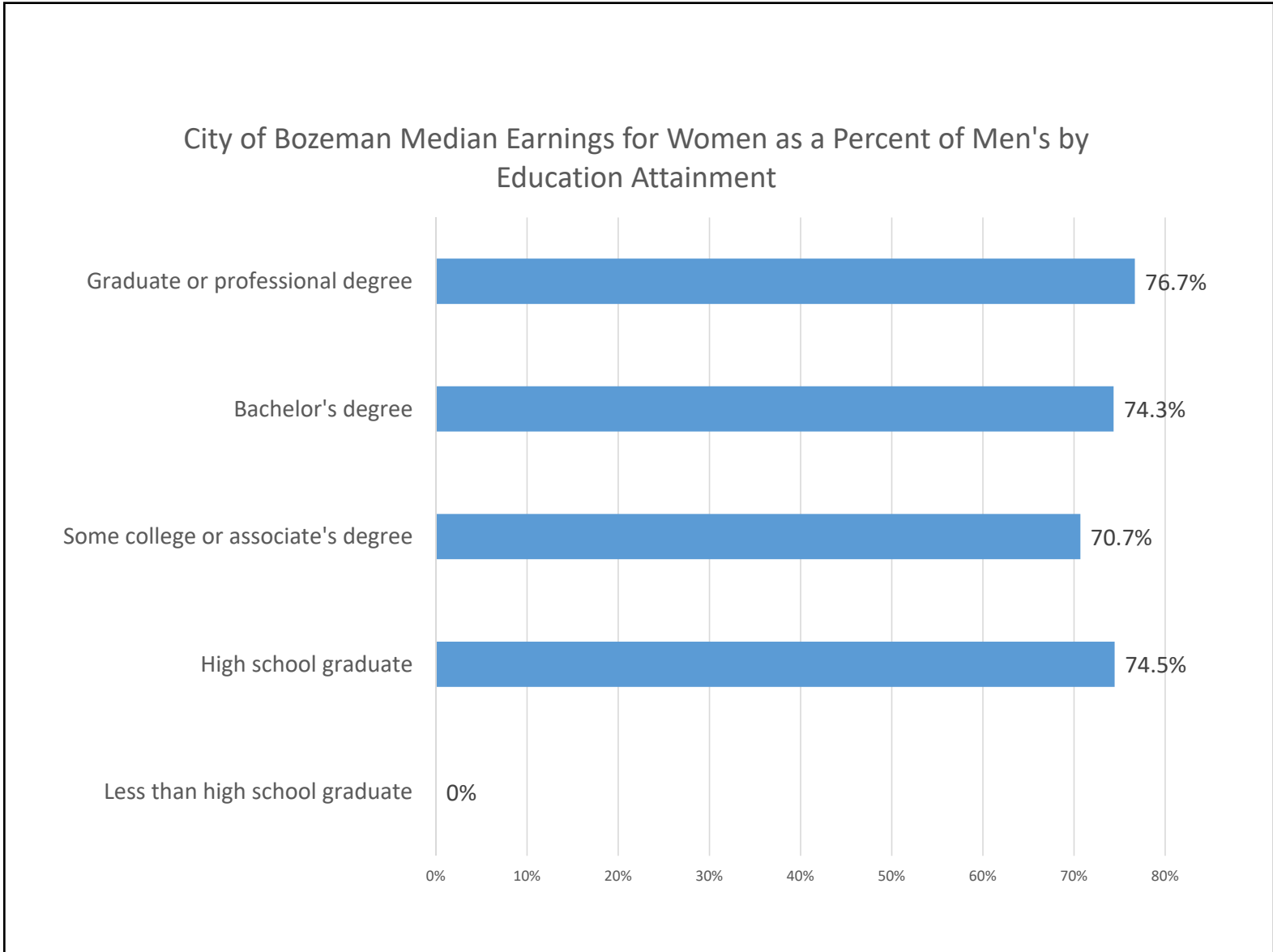
Montana

- As of 2018, women earned 73.2% of the median earnings of their male coworkers.

City of Bozeman

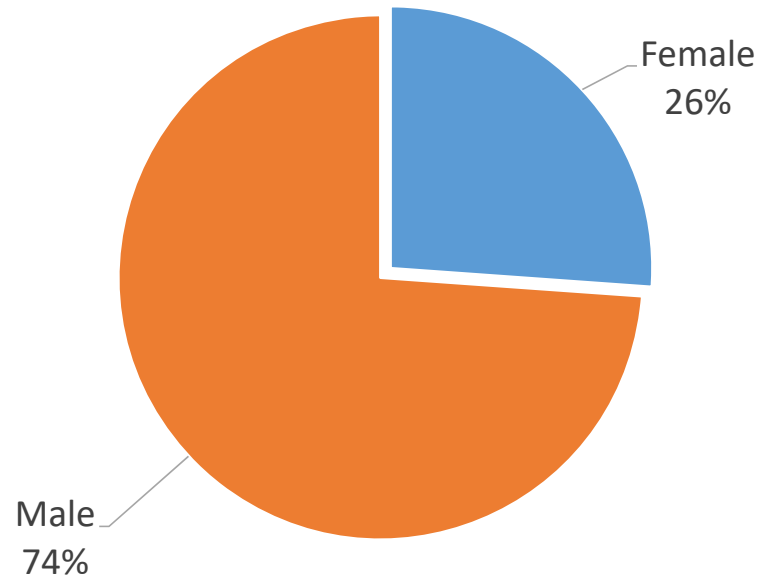
- For the year ending 2020, women earned **between 70.7% and 76.7%, depending on education**, of the median earnings of their male coworkers.



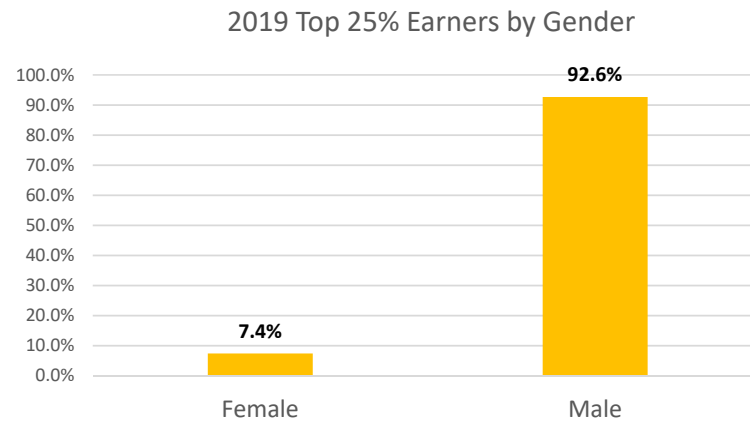
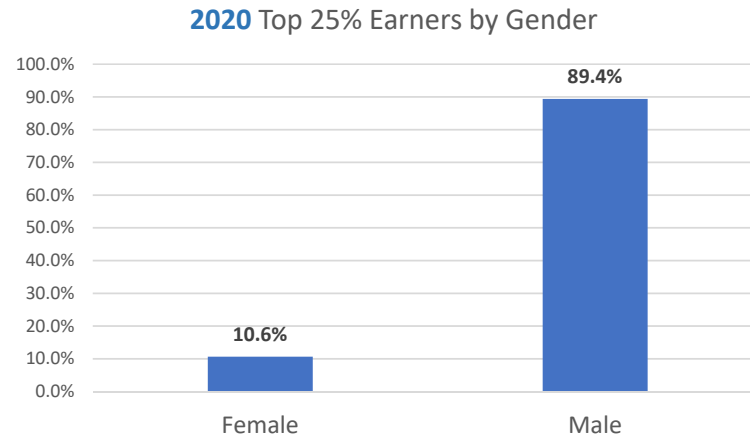


Gender diversity of our workforce

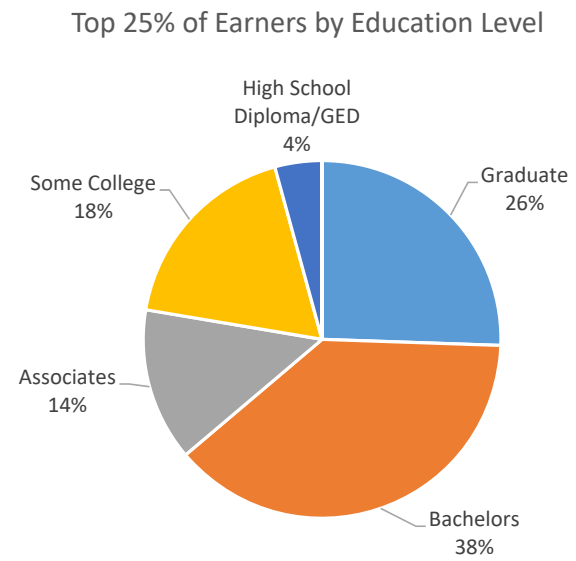
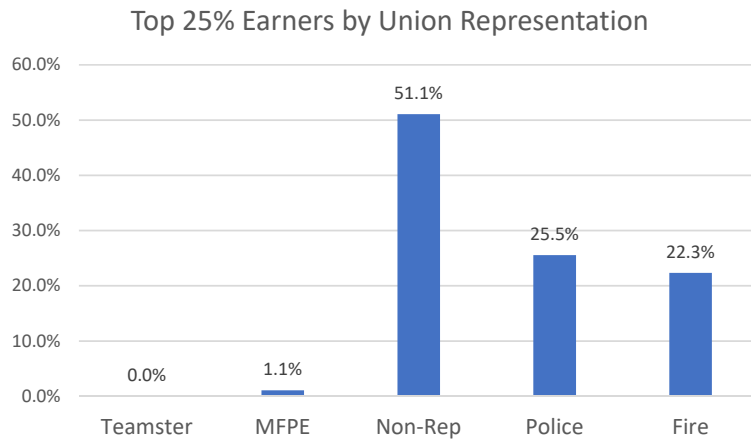
City Employees - by Gender, 12/31/2020



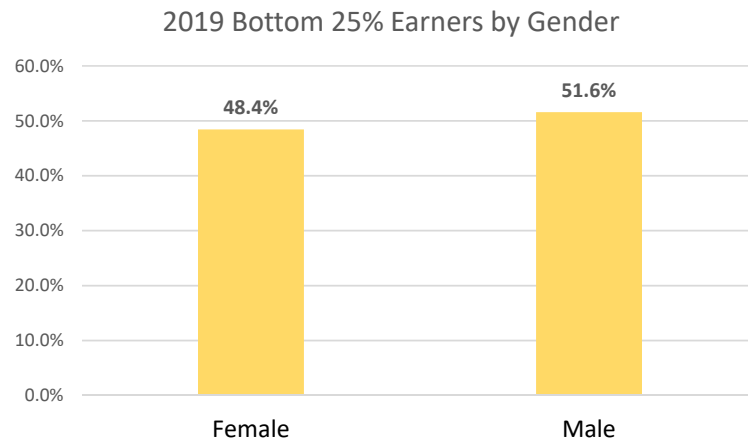
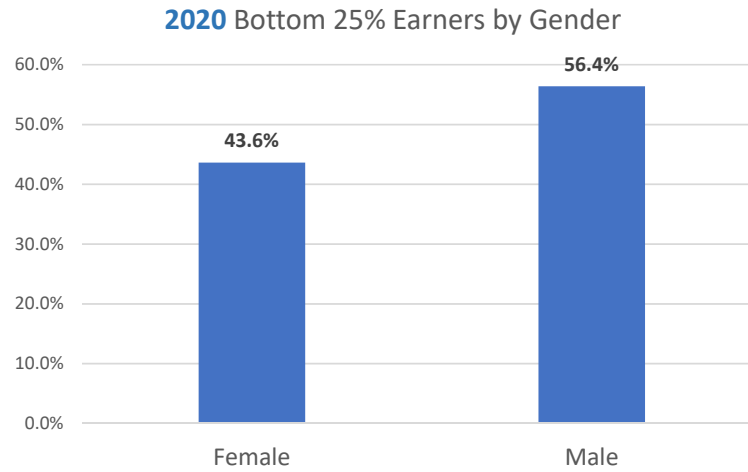
Top 25% Earners by Headcount



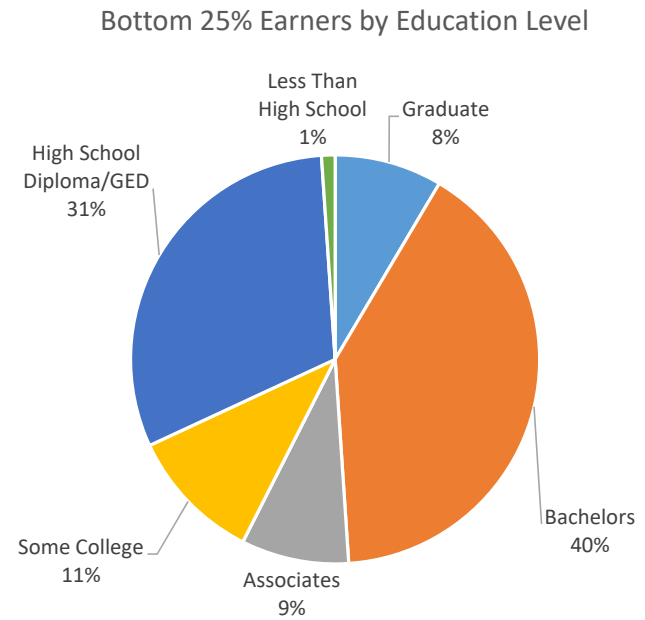
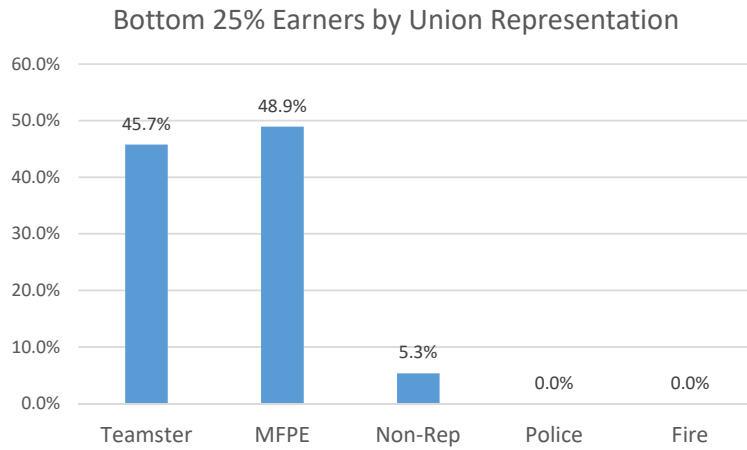
Top 25% Earners by Headcount



Bottom 25% Earners by Headcount



Bottom 25% Earners by Headcount



2020 Efforts related to Equal Pay

Response to COVID-19 Pandemic

- City provided paid leave during stay-at-home orders and through June 15th, 2020.
- City voluntarily extended Federal Emergency Paid Sick Leave (EPSL) to employees.
- Provided COVID-Safe Summer Recreation programs.
- Operation “Rec Ed” – school-time program for employee child-care.

Inclusive City Charter

- Diversity training for all city staff

Looking Forward

- **Inclusive City** projects
 - Training
 - Employee Engagement survey
 - Review performance appraisal system
 - Update advertisements for vacancies
 - Review Thrive Index
 - Further explore improvements to parental leave policy
- Continued efforts to **recruit females** in traditionally male jobs such as Police, Fire, and Teamsters (Public Works/Parks & Rec)
- **Strategic Plan**
 - Training to provide employees leadership opportunities
 - Make sure current employees know the availability of internal positions and can be qualified for them

MEMO

To: Jeff Mihelich, City Manager

From: Anna Rosenberry, Assistant City Manager
Jamie Norby, Interim Human Resources Director

Date: March 26, 2021

Re: City Progress Report – Equal Pay

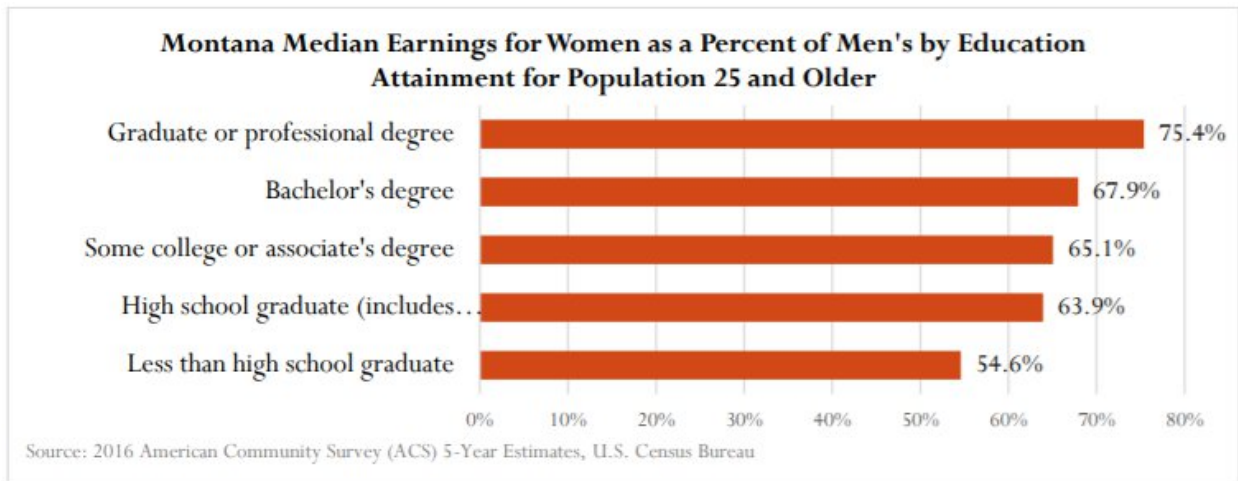
On June 8, 2015, the City Commission passed Resolution 4601, Equal Pay for Equal Work, which committed the City to collect data, identify best practices, evaluate employment practices against the “Thrive Index”, and commemorate Equal Pay Day annually. As an indication of how important this resolution is, the Montana Equal Pay for Equal Work Task Force recommends Bozeman’s resolution as a practice for other local governments to consider adopting in their 2020 Task Force Report.

This year we return with:

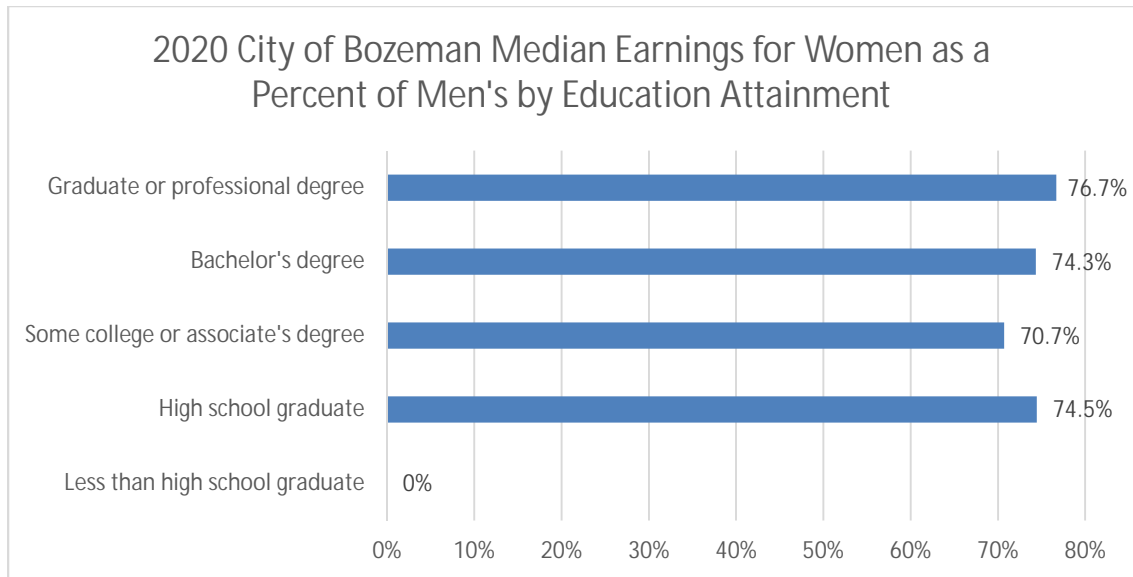
- A. City Employee Earnings, by Gender & Education
- B. City Full Time Employees, by Gender & Department
- C. City Full Time Employees, Top 25% Earnings details
- D. City Full Time Employees, Bottom 25% Earnings details
- E. Past Year Policies and Practices to Impact Gender Pay Equity
- F. Historic applicant and employee data tracked for specific positions
- G. City of Bozeman Thrive Index assessment.

Since Resolution 4601 was adopted, the City’s Human Resources Department has thoroughly analyzed and documented pay for existing employees. Pay discrepancies within job classes are easily explained by data in the City’s Human Resources Information System (HRIS), and often point to time in position and level of education and experience at the time of hire.

- A. City Employee Earnings, by Gender & Education: We again analyzed employee data to provide earnings information by gender and level of education. The results show the City does fares significantly better than state averages that compare gender and level of education.

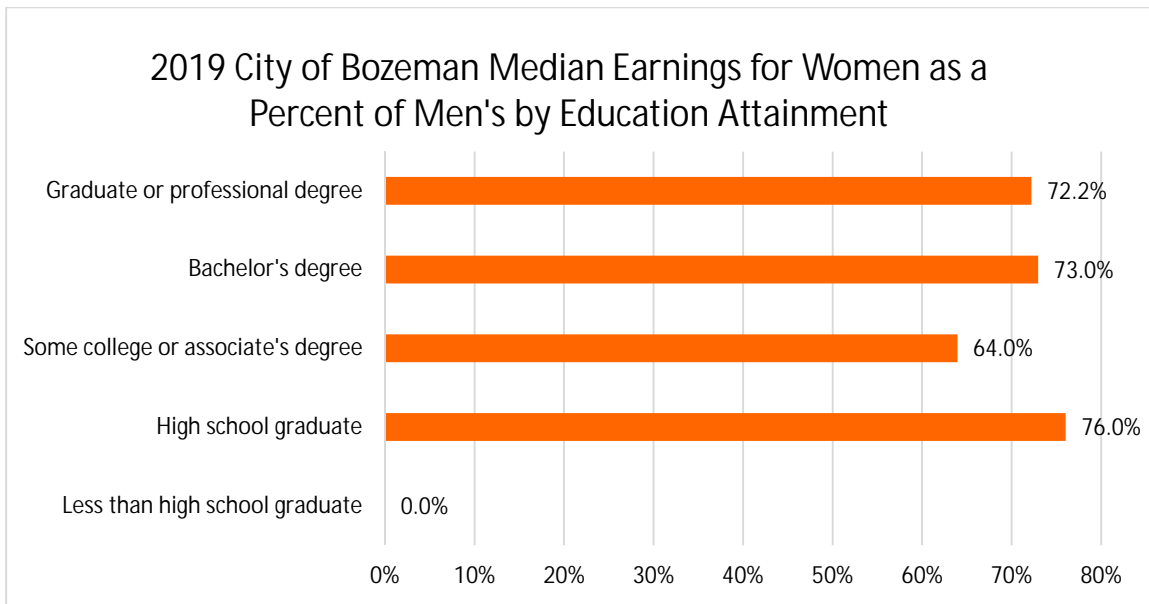


According to the 2016 American Community Survey 5-Year Estimates, women with a Bachelor’s degree earned 67.9% of what men with a Bachelor’s degree earn (chart, above). Our data this year shows that women at the City of Bozeman earn 74.3% of what men at the City of Bozeman with a Bachelor’s degree earn (chart, below). Data regarding the “gap” between women’s and men’s 2020 earnings at the City of Bozeman is shown below.



Source: City of Bozeman, Human Resources Dept, 12/31/2020

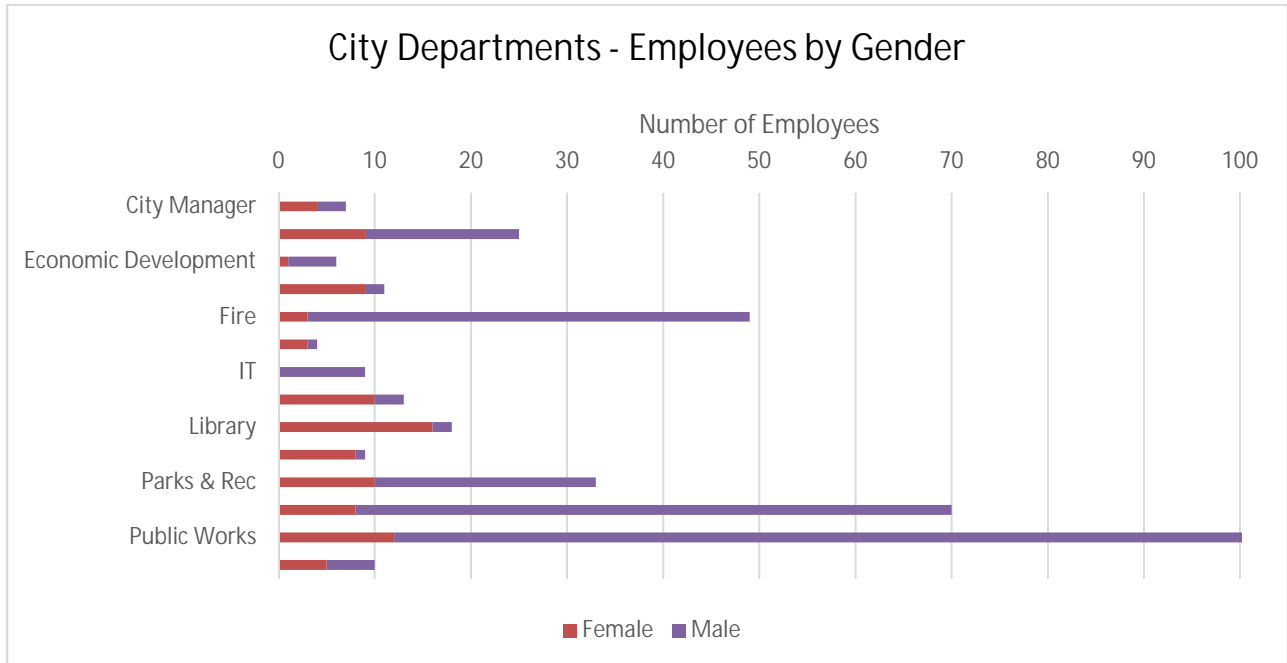
Since last year, the “gap” between the earnings of male and female employees has decreased for all levels of education past high school. The “gap” increased for those with a high school diploma. Data regarding the “gap” between women’s and men’s 2019 earnings at the City of Bozeman is shown below.



Source: City of Bozeman, Human Resources Dept, 12/31/2019

B. City Full Time Employees, by Gender & Department:

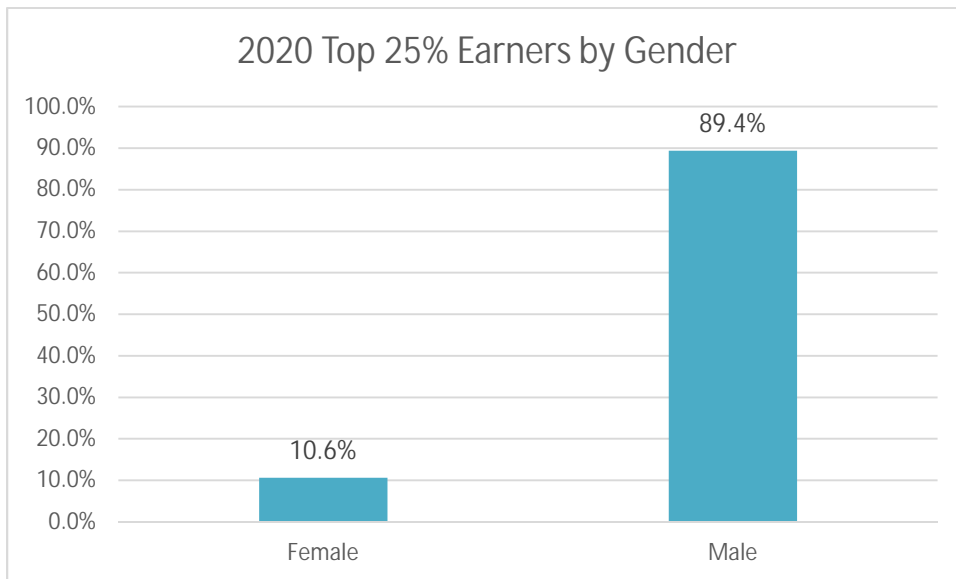
Previously, we have produce information regarding gender-by-department within our full-time workforce. Later in the report, we will show more details of the characteristics of these 375 full-time employees, as measured on December 31st, 2020.



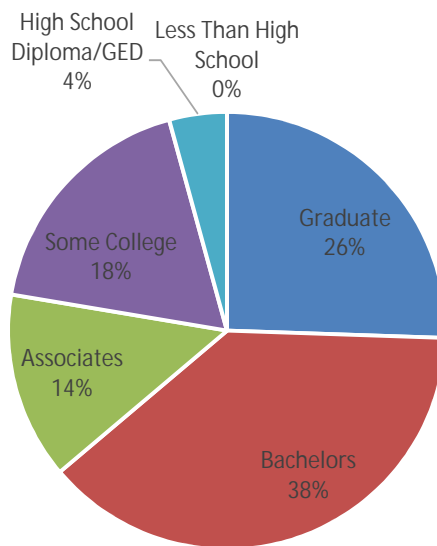
Departments - Employees by Gender	Female	Male	Total
City Manager	4	3	7
Community Development	9	16	25
Economic Development	1	5	6
Finance	9	2	11
Fire	3	46	49
HR	3	1	4
IT	0	9	9
Legal	10	3	13
Library	16	2	18
Municipal Court	8	1	9
Parks & Rec	10	23	33
Police	8	62	70
Public Works	12	99	111
Strategic Services	5	5	10
Total	98	277	375

C. City Full Time Employees, Top 25% Earnings details:

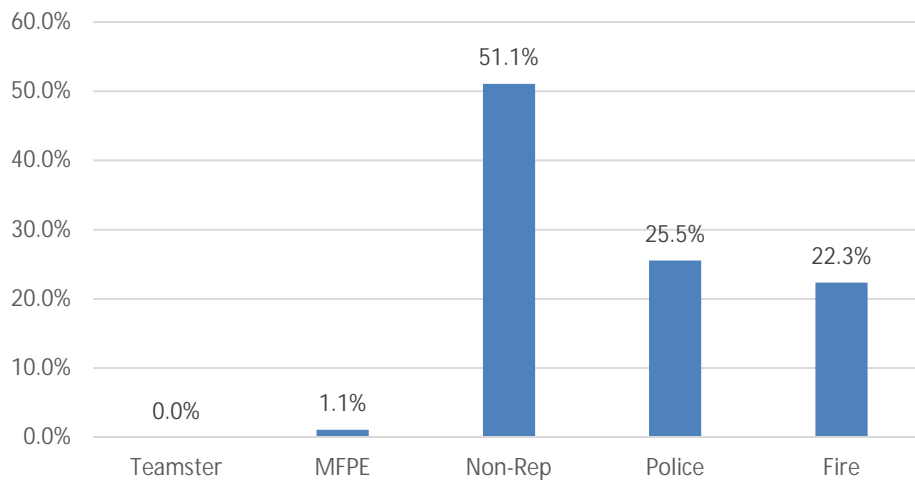
The information below shows the characteristics of the City's top 25% of full-time employee wage earners as of December 31st, 2020.



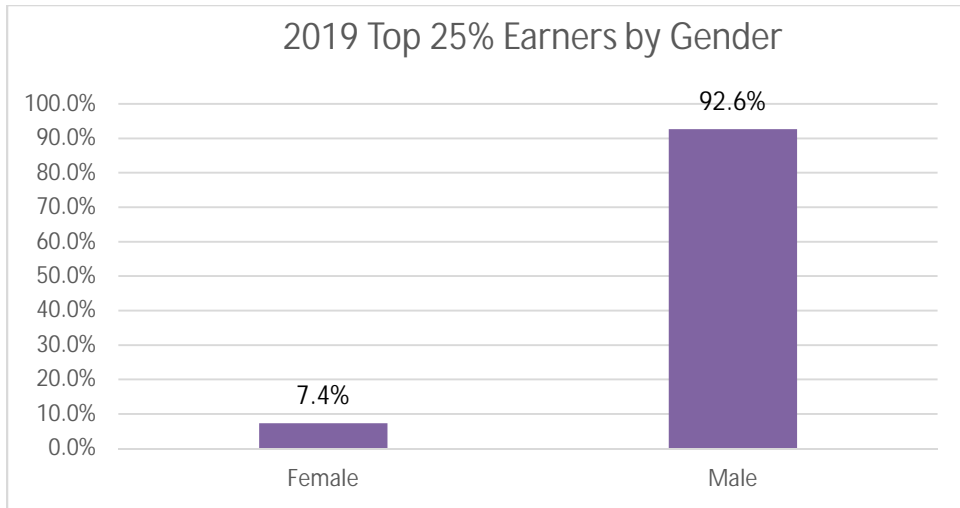
Top 25% of Earners by Education Level



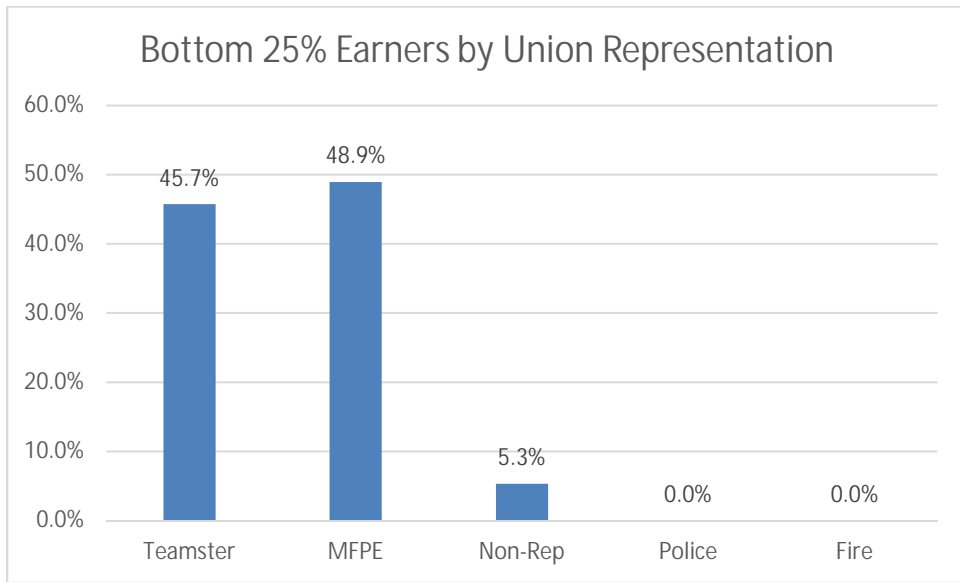
Top 25% Earners by Union Representation

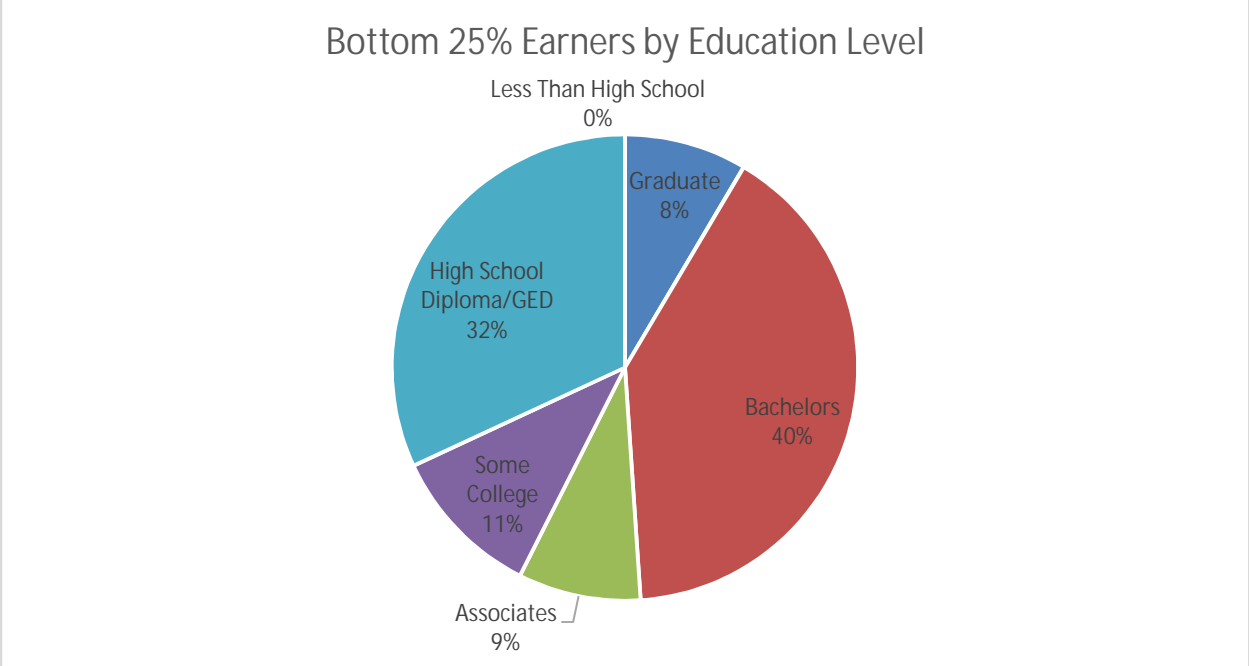


At 10.6% of the top 25% of headcount, women are now a significantly larger percentage of the top 25% of earners in 2020 as compared to our 2019 data, below.



D. City Full Time Employees, Bottom 25% Earnings details:
 The information below shows the characteristics of the City's bottom 25% of full-time employee wage earners as of December 31st, 2020.





E. Past Year Policies and Practices to Impact Gender Pay Equity

The City is committed to continually improving processes and policies in order to accomplish goals related to diversity and pay equity. Over the past year, we have been nimble and supportive in our response to the COVID-19 pandemic and how it has impacted our workforce

The COVID-19 pandemic has drastically altered the workplace and national data shows that its impacts on women have been substantially larger than its impacts on men. Much of this has to do with childcare. A study done by the Bipartisan Policy Center and Morning Consult found that more than 70% of parents with children under age 5 have seen changes to their options for childcare, including child care closing or operating with limited hours or space. Most of the responsibility for filling this gap falls to women, and nationally we are seeing a disproportionate number of women being driven from the workforce.

The City of Bozeman has offered programs to our staff throughout the pandemic that will hopefully offset this occurrence and limit the impact of childcare disruptions on our own workforce.

First, the City offered paid leave at the beginning of the pandemic through June 15th, 2020. This was a significant investment in staff, especially in those who had lost childcare or were now needed to be present for their child’s virtual learning because schools and daycares had closed. Staff were able to retain their jobs while caring for their children in these unprecedented times.

After this ended, employees had access to Emergency Paid Sick Leave (EPSL) through the federal government. After EPSL expired on December 31st, 2020, the City chose to extend the EPSL program. The City felt it important to keep the benefit and help ensure the safety of our workforce.

Our recreation programs also operated throughout the summer. They were open to employees and the general public. We were one of a few programs that continued to operate during this time, maintaining opportunities for our workforce and their children.

During the fall, the City created a child care program for school aged children, as schools engaged in hybrid learning models. This program, called Operation Rec Ed, was offered to City staff and provided free of charge. Its hours of operation went beyond the normal school day, from 7:45am-5:30pm. It offered learning pods for children on the two remote learning days per week. Rather than being at home, these children were able to complete their schoolwork and participate in fun programming with the MSU Tech Club and Public Library. Therefore, staff were able to come to work for these two days rather than having to supervise their children's remote learning. This was a successful and safe option that kept many parents in the workforce through the fall season.

In 2020 we also started work on our Inclusive City project. While initially focused on race equity, these items will also positively impact inclusion for minorities of all types in our workplaces. Human Resource Department initiatives include diversity training, an employee engagement survey, review of the performance appraisal system, and an update to advertisements for vacancies. One item in our Inclusive City project is to review the Thrive Index. After doing so, we are considering expanding parental leave. We will see more progress on these initiatives in 2021.

F. Historic applicant and employee data tracked for specific positions:

1. Female Applicants for Police Officer Positions: The number of female applicants for police officer positions has held steady from the prior year, but is less than in previous years.
 - 2020 – 14
 - 2019 – 14
 - 2018 – 29
 - 2017 – 33
 - 2016 – 30
 - 2015 – 15

2. Female Police Officers on Staff: The number of female police officers on staff has declined from the prior year (shown as a percentage of current officers on staff).
 - 2020 – 4, (6.9%)
 - 2019 – 5, (8.3%)
 - 2018 – 3, (6.9%)
 - 2017 – 6, (9.2%)
 - 2016 – 5, (7.7%)
 - 2015 – 3, (4.6%)
 - 2014 – 2, (3%)

3. Female Applicants for Firefighter positions: We started tracking this data in 2019 and did not have a recruitment in 2020.

- 2020 – 2
 - 2019 – 5
4. Female Firefighters on Staff: In 2019 we hired our first female firefighters in the history of the department, and have continued to retain them. The number of female firefighters on staff has remained the same, but the percentage of officers on staff has declined from the prior year. (Shown as a percentage of current officers on staff.)
- 2020 – 2, (4.2%)
 - 2019 – 2, (4.1%)
5. Female Teamster Employees on Staff: The number of female employees in the Teamster union (Public Works/Parks/Facilities) has continued to increase in both number and percentage of current staff.
- 2020 – 8, (7.9%)
 - 2019 – 7, (6.9%)
 - 2018 – 6, (5.9%)
 - 2017 – 6, (6.1%)
 - 2016 – 7, (7.3%)
 - 2015 – 5, (5.2%)

We believe it is critical to continue to utilize best practices in administering pay:

- Pay based on market data for positions
 - Collective bargaining rules apply for our Police, Fire, MFPE and Teamster Unions.
 - Annual increases are based on pre-set steps, and are applied uniformly
- Pay transparency
 - Pay rates are available for all positions. There is no prohibition or punishment for discussing pay with anyone, including co-workers, supervisors, or Human Resources

G. City of Bozeman Thrive Index assessment:

The City has been consistent in upholding the objectives put forth in the THRIVE Index, as hiring and employment practices are designed to be fair and equitable to all applicants and employees.

No changes have been made in our general response this year, but as part of our Inclusive City project, we met on January 8th to review the best practices of the THRIVE Index. In this meeting, we identified some areas where we can consider additional updates to policies. While each year we have continued to evaluate employment practices against the Thrive Index with very good results (see below), we wanted to look holistically and reconsider further policy changes, such as paid parental leave. In considering expanding our paid parental leave program, we are working with a group of engaged employees and will be analyzing recommendations.

CITY OF BOZEMAN AND THE THRIVE INDEX

Adequate wages and benefits	City of Bozeman	Comment
Are part-time workers paid the same (per hour, including benefits) as full-time workers performing the same or similar tasks?	Y	
Are most part-time workers guaranteed a minimum number of hours per week? If not, are there ways they could be?	Y	Some departments guarantee a range of hours vs. a set schedule - i.e. at least 12, but not more than 18
Are workers who remain on the job for a specified period of time eligible for a pay increase?	Y	
Are workers who remain on the job for a specified period of time eligible for paid sick leave for themselves or to care for a family member?	Y	
When job-skill demands or responsibilities increase, are wages adjusted upward?	Sometimes	The City works to ensure employees are working within their class specification. Reclassifications and/or promotions are the avenue for pay increases, and department heads request those during the annual budget process.
Are workers paid for their entire scheduled shift, even if business is slow?	Sometimes	Employees get paid for the hours they work. Shifts are not typically cut short, but if there is an urgent need to close a facility, employees would not be paid for the closure. This rarely happens.
Are hourly wages higher for nonstandard shifts, such as nights or weekends?	Sometimes	Depending on the Collective Bargaining Agreement, there may be shift premiums.
Opportunities for Upward Mobility		
Do low-wage workers have opportunities for on-the-job or cross-task training or outside educational opportunities that can lead to upward mobility?	Y	
Can schedules accommodate workers' pursuit of educational opportunities?	Sometimes	The City makes every effort to accommodate employees' requests for time off and/or modified schedules. However, based on the need to efficiently and safely

		operate City business, not every request can be granted every time.
When skill demands or job responsibilities increase, is training provided for newly assigned tasks?	Y	
Can workers cross-train in different areas to increase their flexibility and value to the company (recognizing that outsourcing of some functional areas or other factors may prohibit this)?	Y	
Are there opportunities for upward mobility within the company that do not require geographic relocation?	Y	
Support for personal and family needs		
Can worker breaks be scheduled to accommodate the need for phone calls at pre-specified times for working caregivers?	Y	
Are occasional calls for urgent matters allowable? Can children or caregivers call an employee at work when necessary?	Y	
Are workers who remain on the job for a specified period of time eligible during their regular work hours to care for their health or a family member's without losing pay (e.g., able to leave for an hour or two for a trip to the doctor)?	Y	
Can personal time be taken in small increments of an hour or two (for doctor's appointments, parent-teacher conferences, educational opportunities, etc.)?	Y	
Do you offer paid or unpaid maternity or paternity leave for workers? Is the length of this leave negotiable?	Y	Paid time is offered through employee accruals, our Sick Leave Bank, and our Direct Donation policies, and can be used for the entire absence (at 100% pay)
Work scheduling, predictability, and flexibility		
Is there a systematic way for workers to communicate their preferences for hours and schedules? If not, could some such system be implemented?	Y	
Does the shift/hours scheduling system take account of workers' constraints and preferences?	Y	
Are work schedules announced more than a day or two in advance? Can workers trade shifts with colleagues when time conflicts develop (allow "shift-swapping")?	Y	
If workers are asked to stay beyond the end of scheduled shifts to finish assignments or for administrative procedures, are they given advance notice of when this may be required?	Y	
Does the measured workload take into account the quality or difficulty of tasks along with simpler measures of the number of customers, clients, or patients?	Y	
Autonomy, respect, and trust		

Are workers protected from “no-fault” absence or tardiness policies (ones that lead to disciplinary actions or dismissal, even for excused absences)?	Y	
Are workers allowed or encouraged to contribute ideas to better organize or improve their work teams or work areas?	Y	
Can workers occasionally make personal phone calls?	Y	

Memorandum

REPORT TO: City Commission

FROM: Anna Saverud, Assistant City Attorney
Greg Sullivan, City Attorney

SUBJECT: Ordinance 2073, Provisional Adoption Amending Chapter 22, BMC, Creating a Second Full Time Elected Office of Municipal Court Judge

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Ordinance

RECOMMENDATION: I move to provisionally adopt Ordinance 2073 amending Chapter 22, BMC to create the office of a second full-time elected municipal court judge and eliminating the position of part-time assistant judge when the newly elected second municipal court judge takes office on January 3, 2021.

STRATEGIC PLAN: 3.1 Public Safety: Support high quality public safety programs, emergency preparedness, facilities, and leadership.

BACKGROUND: The City of Bozeman’s Charter provides at Sec. 4.05 that there shall be a municipal court as prescribed by state law. Montana Code Annotated §3-6-201 historically provided for the position of a part-time assistant municipal court judge. Chapter 22 of Bozeman Municipal Code codified the part-time assistant municipal court judge position for the Bozeman Municipal Court. Since 2009, the judge filling the part-time position has been selected by the elected municipal court judge and has served for the duration of the elected judge’s term, subject to approval by the Commission.

The 2021 Montana Legislature amended §3-6-201, MCA to remove part-time assistant municipal court judges, in Senate Bill 127. This bill had bipartisan support passing the Senate 50-0 and the House 74-24. At the time of publication of this memorandum, the bill is currently in the enrollment stages waiting to be signed by the governor. There is no indication this bill will be vetoed. The bill requires all judges serving in municipal courts in the State of Montana to be elected. The bill is effective a year after passage and approval.

Ordinance 2073 amends the Bozeman Municipal Code to remove authorization for part-time assistant judges and create the office of a second full-time elected municipal court judge. To ensure compliance with the effective date of SB127 and to avoid the need for a special election, this ordinance is brought before the Commission so it may obtain provisional and final approval in time for the opening of candidacy filings for the November 2021 general election. Candidates may begin filing on April 22,

2021. Please refer to section 2 of the Ordinance. This ordinance will not affect the ability of the municipal court to appoint temporary judges.

UNRESOLVED ISSUES: None

ALTERNATIVES: Continue to operate with one full-time elected municipal court judge but no part-time assistant judge.

FISCAL EFFECTS: Currently the appointed and confirmed assistant judge is a .75 FTE so the fiscal effect will be in making that position full-time. There has also been a request made for additional support staff that will be addressed in the City Manager's requested budget.

Attachments:

[Ordinance 2073.docx](#)

[SB0127.pdf](#)

Report compiled on: March 29, 2021



ORDINANCE NO. 2073

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA CREATING A SECOND OFFICE OF MUNICIPAL COURT JUDGE, AMENDING CHAPTER 22 OF THE BOZEMAN MUNICIPAL CODE, ESTABLISHING A STAGGERED ELECTION CYCLE FOR THE MUNICIPAL JUDGES, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Sec. 4.05 of the City of Bozeman's Charter, there shall be a municipal court as prescribed by state law; and

WHEREAS, the City has previously created the office of a full time elected municipal court judge pursuant to Title 3, Chapter 6, MCA; Ordinance 1490, and the provisions of Bozeman Municipal Code Chapter 22; and

WHEREAS, §3-6-201, MCA and Sec. 22.01.050, BMC provide for part-time assistant judges appointed by the elected municipal court judge and confirmed by the Bozeman City Commission to serve with all the rights and responsibilities of a full-time judge; and

WHEREAS, the 2021 Montana Legislature amended §3-6-201, MCA, to remove the authorization for part-time assistant judges and now Montana state law requires all municipal court judges to be elected; and

WHEREAS, it is in the interests of the City to establish a second full-time elected municipal court judge position to comply with State law, to manage the municipal court's caseload and to more efficiently administer justice in the City of Bozeman.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA:

Section 1

That Chapter 22 of the Bozeman Municipal Code shall be amended as follows and any sections within not amended herein shall remain in effect:

Sec. 22.01.050 Office of municipal judge.

The office of the municipal judge is hereby established for the city. There will be ~~at least one~~ two full-time municipal judges. The commission may change the number of full-time municipal judges by ordinance. ~~as determined by ordinance of the commission and there may also be one or more part time assistant judges appointed by the chief municipal judge subject to approval by the commission. If there is only one full time judge, that judge shall be considered the chief judge. If there is more than one full time judge, The chief judge of the municipal court shall~~ be determined in accordance with title 3, chapter 6, of the Montana Code Annotated (MCA 3-6-101 et seq.).

Sec. 22.01.060. - Method of selection and term of office.

Each person holding the office of full-time municipal judge will be elected at a general election and will hold office for a period of four years. ~~Each assistant part time judge shall serve for the term of the appointing full time municipal judge.~~ The terms of the municipal judges shall be staggered.

Sec. 22.01.090. - Compensation and expenses.

A. The city commission will establish the annual salary or the annual rate of adjustment of the a municipal judge ~~by resolution. A municipal judge who appoints an assistant judge will set the assistant judge's compensation.~~

B. The municipal judges will receive any actual and necessary expenses as budgeted in the city's annual budget.

Section 2

The City Commission hereby authorizes the creation of a second full time office of a municipal court judge to commence on the first Monday in January of 2022. The Bozeman City Commission hereby requests the Gallatin County Clerk and Recorder (Elections Administrator) to immediately commence with an election for the second full time municipal court judge to occur on November 9, 2021.

Notwithstanding Section 1, the current part-time assistant municipal court judge position remains in effect and is duly authorized to continue in office until the newly elected municipal court judge takes office on January 3, 2022, at which time the position of part-time assistant municipal judge will terminate.

Section 3

Repealer.

All provisions of the ordinances of the City of Bozeman in conflict with the provisions of this ordinance are, and the same are hereby, repealed and all other provisions of the ordinances of the City of Bozeman not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 4

Savings Provision.

This ordinance does not affect the rights and duties that matured, penalties that were incurred or proceedings that were begun before the effective date of this ordinance. All other provisions of the Bozeman Municipal Code not amended by this ordinance shall remain in full force and effect.

Section 5

Severability.

That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof, other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Bozeman Municipal Code as a whole.

Section 6

Codification Instruction.

The provisions of Section 1 shall be codified as appropriate in Chapter 22 of the Bozeman Municipal Code. Section 2 shall not be codified.

Section 7

Effective Date.

This ordinance shall be in full force and effect thirty (30) days after final adoption.

PROVISIONALLY ADOPTED by the City Commission of the City of Bozeman, Montana, on first reading at a regular session held on the 6th day of April, 2021.

CYNTHIA L. ANDRUS
Mayor

ATTEST:

MIKE MAAS
City Clerk

APPROVED AS TO FORM:

GREG SULLIVAN
City Attorney



AN ACT REVISING LAWS ON THE SELECTION OF MUNICIPAL COURT JUDGES; ELIMINATING THE ABILITY OF A MUNICIPAL COURT JUDGE TO APPOINT A PART-TIME ASSISTANT JUDGE; AMENDING SECTION 3-6-201, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-6-201, MCA, is amended to read:

"3-6-201. Number of judges -- election -- term of office -- chief judge -- duties of chief judge -- assistant judge. (1) The governing body of a city shall determine by ordinance the number of judges required to operate the municipal court.

(2) A municipal court judge ~~who is not a part-time assistant judge appointed under subsection (6)~~ must be elected at the general election, as provided in 13-1-104(3). The judge's term commences on the first Monday in January following the election. The judge shall hold office for the term of 4 years and until a successor is elected and qualified.

(3) Except as provided in subsection (2), all elections of municipal court judges are governed by the laws applicable to the election of district court judges.

(4) (a) If there is more than one municipal court judge, the judges shall adopt a procedure by which they either:

- (i) select a chief municipal court judge at the beginning of each calendar year; or
- (ii) select a chief municipal court judge for a specific period of time.

(b) If the judges cannot agree, the judge with the most seniority shall serve as the chief municipal court judge.

(5) The chief municipal court judge shall provide for the efficient management of the court, in cooperation with the other judge or judges, if any, and shall:

- (a) maintain a central docket of the court's cases;
 - (b) provide for the distribution of cases from the central docket among the judges, if there is more than one judge, in order to equalize the work of the judges;
 - (c) request the jurors needed for cases set for jury trial;
 - (d) if there is more than one judge, temporarily reassign or substitute judges among the departments as necessary to carry out the business of the court; and
 - (e) supervise and control the court's personnel and the administration of the court.
- ~~(6) A municipal court judge may, with the approval of the governing body of the city, appoint a part-time assistant judge, who must have the same qualifications as a judge pro tempore under 3-6-204, to serve during the municipal court judge's term of office. An order by a part-time assistant judge has the same force and effect as an order of a municipal court judge."~~

Section 2. Effective date. [This act] is effective 1 year after passage and approval.

- END -

I hereby certify that the within bill,
SB 127, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2021.

Speaker of the House

Signed this _____ day
of _____, 2021.

SENATE BILL NO. 127

INTRODUCED BY C. FRIEDEL, B. BROWN, J. ELLSWORTH, C. GLIMM, G. HERTZ, S. HINEBAUCH, D.
KARY, T. MANZELLA, T. MCGILLVRAY, B. MOLNAR, K. REGIER, L. BREWSTER, B. LER, J. READ, K.
SEEKINS-CROWE, K. ZOLNIKOV

AN ACT REVISING LAWS ON THE SELECTION OF MUNICIPAL COURT JUDGES; ELIMINATING THE
ABILITY OF A MUNICIPAL COURT JUDGE TO APPOINT A PART-TIME ASSISTANT JUDGE; AMENDING
SECTION 3-6-201, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Memorandum

REPORT TO: City Commission

FROM: Greg Sullivan, City Attorney
Jeff Mihelich, City Manager

SUBJECT: Appoint New Bozeman City Commissioner

MEETING DATE: April 6, 2021

AGENDA ITEM TYPE: Administration

RECOMMENDATION: I move to appoint _____ to the position of Bozeman City Commissioner with a term ending in compliance with Section 2.06(c) of the Bozeman Charter for the the term that will expire at the beginning of the first regularly scheduled meeting in January of 2022.

STRATEGIC PLAN: 1.1 Outreach: Continue to strengthen and innovate in how we deliver information to the community and our partners.

BACKGROUND: On March 12, 2021 former City of Bozeman Commissioner Michael Wallner resigned from office. Based on the [City's Charter](#), a vacancy in the city commission shall be filled for the remainder of the unexpired term, pursuant to state law. [Montana Code Annotated 7-4-4112](#) states the position is considered open and subject to nomination and election at the next general municipal election, occurring November, 2021. Pending an election and qualification, the council shall, by a majority vote of the members, appoint a person within 30 days of the vacancy to hold the office until a successor is elected and qualified.

On September 15, 2020, information was provided on the process for filling a vacant position. Click [here](#) for that information. Substantively, this process is the same.

REQUIRED QUALIFICATIONS FOR CITY COMMISSIONER:
A person is qualified for the position of commissioner if: (i) the person's principal residence is within the city; (ii) the person is a registered elector of the city; and (iii) meets all other qualifications of Montana law including United States citizenship. See [Charter, Sec. 2.02\(a\)](#); [Sect. 7-4-4104, MCA](#)

PROCESS/SCHEDULE:
Public participation is a critical aspect of the appointment process. As such, and considering the short time frame for appointment, we recommended a number of steps to ensure a clear and transparent process and that the public has a meaningful opportunity to participate prior to the Commission's appointment.

1. The City Manager posted a notice of vacancy on Wednesday, March 17th. See attached notice. The notice was posted on the City's website, posted to the City's eNotifications, distributed to various social media outlets, and published in a local newspaper. A project page on the City's website was created that includes this process and candidate submittals.
2. The advertisement required interested citizens to submit a statement of interest indicating their qualifications for and interest in the office of commissioner. See above for a discussion on legal qualifications. The statement of interest and qualifications must be limited to no more than 1000 words.
3. As Montana law requires the vacancy to be filled within 30 days, the last day for the Commission to make the appointment is April 11, 2021. To conduct the appointment at a regular meeting, the last available regular meeting prior to the statutory deadline was April 6, 2021. The Commission may schedule a special meeting to make the appointment.
4. In order for the Commission to fill the vacancy at its regular meeting on April 6th, the agenda and supporting materials must be published on Thursday, April 1st. Therefore, a candidate's statement of qualifications and interest must have been submitted by 9 am, March 29th. The candidate's submittals are included in these packet materials and have been made available for the public review. All materials submitted are considered public information.
5. At the beginning of the agenda item where the Commission will appoint a new member, we suggest candidates be provided an opportunity to make a short presentation not longer than three minutes. After the presentations the Commission should take public comment and then make the appointment by motion and vote.
6. After appointment, the person appointed must be sworn into office. We suggest the taking of the oath occur immediately after the appointment is made. The person will, upon swearing in, commence their role as a commissioner. The City Clerk will file the oath of office with the Gallatin County Elections Administration as soon as possible following the taking of the oath.

UNRESOLVED ISSUES: None.

ALTERNATIVES: As directed by the Commission.

FISCAL EFFECTS: Minimal

Attachments:

[City Commission Vacancy Notice.pdf](#)

[Statement of Interest and Qualifications_Christopher Coburn.pdf](#)

[Statement of Interest and Qualifications_Tom Woods.pdf](#)

Report compiled on: March 29, 2021

From: [Jesse DiTommaso](#)
To: dclegals@dailychronicle.com
Cc: [Mike Maas](#)
Subject: Please Publish 3/17/21, 3/21/21, 3/24/21, & 3/28/21
Date: Monday, March 15, 2021 9:11:48 AM

Good morning,

Please publish the below Public Notice on [Wednesday, March 17, 2021](#), [Sunday, March 21, 2021](#), [Wednesday, March 24, 2021](#), and [Sunday, March 28, 2021](#).

**Public Notice of Vacancy on the Bozeman City Commission
And Invitation to Submit Statement of Qualifications and Interest**

The Bozeman City Commission notifies the citizens of the City of Bozeman that a vacancy exists in the office of a Bozeman City Commissioner. The Commission requests any registered voter of the City of Bozeman with their primary residence within city limits and who meets the requirements of holding public office in Montana, interested in being appointed to the office of City Commissioner to submit a statement indicating their qualifications for and interest in the office of City Commissioner.

The statement must be no more than 1000 words and received in the Bozeman City Clerk's office no later than 9:00 a.m. on Monday, March 29, 2021. Candidates and information received by the Clerk after this deadline will not be considered by the Commission. Candidates must provide five printed copies and also email the statement to agenda@bozeman.net. The required information must be delivered to the Clerk's office located at Bozeman City Hall, 121 N. Rouse Ave or by mailing it to: Mike Maas, Bozeman City Clerk, P.O. Box 1230 Bozeman, MT 59771-1230. Mailed submittals must be received by the above deadline. All information submitted will be considered public information and will be available to the public via the City Clerk and may be posted on the city's website at www.bozeman.net for public viewing on or about March 30, 2021.

The City Commission may make a decision on appointment as early as the regularly scheduled meeting on Tuesday, April 6, 2021.

The public is encouraged to submit comments on the process of appointment or on individual candidates to the City Clerk's Office. You may also email comments to agenda@bozeman.net.

Thank you,

Jesse DiTommaso | Deputy City Clerk

City of Bozeman | 121 N. Rouse Ave. | Bozeman, MT 59715

Pronouns: [she/her/hers](#)

www.bozeman.net



CHRISTOPHER COBURN



March 22, 2021

Dear Bozeman City Commissioners,

With excitement, I submit this letter to be formally considered for appointment to the Bozeman City Commission. Since the appointment process in October, my interest in and seriousness about serving our community as a City Commissioner has only grown. I launched my campaign earlier this year and have had the opportunity to connect with many of our neighbors. As a result, I have a deeper understanding of the issues we face. My intention is, and always has been, to have a positive impact on the community – and I believe I have the experience, commitment, and character to be immediately helpful as a City Commissioner.

Experience

For the past two years, I've served on the Gallatin City-County Board of Health. Working to protect our community as we've navigated the COVID-19 pandemic has been both humbling and rewarding, and has taught me a great deal of what it takes to be a part of an effective and efficient team that makes population level decisions. Through this work, I've been able to use my public health expertise to analyze and balance our response to an emergency – considering health, economic, and social factors. This same lens will be helpful to the City Commission as land use and zoning decisions dominate the agenda. After all, the way we choose to build our city has direct and long-term implications for our collective health.

In addition to the practical experience I've gained as a Board of Health member, I've become comfortable with the work and process of the Commission by consistently attending and participating in City Commission meetings. I spend my Tuesday evenings watching, listening, and learning how the Commission makes decisions – from how motions are made to what criteria are considered for a zone map amendment. I also attend other City board meetings, and participate in other City processes – such as being part of the RFP team that selected the firm to complete the equity indicators and gaps analysis or attending the developer's roundtable discussion on affordable housing.

While there are undoubtedly still things to learn, these experiences have given me valuable insights into how the Commission and City operate. If appointed, I'm prepared to immediately start contributing in a meaningful way.

Commitment

As a Montanan, I was raised to value community and was taught the importance of stewardship. As a Bozemanite, I've lived those tenets and have consistently been involved in our community.

I served on the Design Advisory Council for Haven as they worked to imagine their new facility, am on the planning committee for a supportive housing program that HRDC is leading, and sit on the steering committee for Elevating Behavioral Health – a local collaboration of leading community organizations working to improve behavioral health services and awareness. I also am a member of the COVID-19 Vaccine Distribution Task Force, and part of the Task Force to Advance the Status and Safety of All Women and Girls.

I'm a collaborator by conviction, and take my involvement in community efforts seriously because I know the value of follow-through, and that trust is the most important thing we can foster. As a Commissioner, I'll leverage the trust-based, reciprocal relationships I've developed to build the strong engagement our community is asking for.

Character

I've gained the respect of my peers and this community by demonstrating the type of friend, neighbor, team member, and leader I am. I show up. I'm engaged. I do the work, and I ask what's next. I understand that we're stronger when we work together, and I appreciate the power of an honest conversation. I value and respect individuals, and make it my priority to present authentically, listen intently, and find commonalities. I'm guided by purpose, not by ego. I know that it's not about me, but rather about us – and how we get to where we need to go, together.

The only way I know how to accomplish something is to work hard. I've gotten used to balancing multiple projects or priorities at once. To be successful at this, I've found one has to be disciplined, skilled with time management, and clear about boundaries – both to care for oneself, and to be present for others. I honed these skills while completing my graduate degree and also working a full-time job, and intend to use them to be successful as a City Commissioner.

I'm both prepared and excited to serve our community as a City Commissioner. I'm confident I will be a strong partner as we work towards the attainment of a future reflected in the Bozeman Strategic Plan, the Bozeman Community Plan, and the Bozeman Climate Plan. I have the education, experience and technical understanding to do the job. More than that, I have the passion, commitment and collaborative spirit needed to truly engage this community.

I'm a young professional with a lot in common with most of Bozeman. The experiences and perspectives of the many folks like me are currently not represented on the Commission. I firmly believe our community is better when everyone is included, and we learn from and honor the lived experiences of others.

Thank you for the opportunity, and for your consideration. It would be an honor to serve alongside you.

With appreciation,



Christopher Coburn

Pronouns: He / Him

I was born and grew up in Cleveland, Ohio. I don't recall having a choice in that but when I first came to work as a bartender in Montana in 1982 I quickly decided that this is where I want to live. While living in Montana over the last 39 years I have been a bus driver, bell hop, bartender, musician, maintenance specialist, personnel manager, guide, hotel manager and most recently, a teacher. It's not that I can't hold a job, but as we all know it takes a diverse skill set to succeed here. I'm currently an instructor for the Physics departments at MSU.

I met my wife Katie in 1992 while we were working in Yellowstone Park. We moved to Bozeman in 1997 in order to go back to school at MSU and succeeded in finding a rental in a very competitive market. In 1999 I cashed in my retirement and we purchased a small duplex home for \$124,000. We sold that home in 2010 and paid down our student loan debt.

Another reason we sold our 2 bedroom house was that in 2005 and 2007 we were blessed with two great boys, Kelty and Finnian, who are 15 and 13 years old and currently making their way through our Bozeman Public schools. We rented a 3 bedroom house for a few years before purchasing our current home in 2015. We are fortunate to have done so as 6 years later I don't think we could afford to buy the same house we currently live in.

I tell this part of my story because I think it's important for people to know that I've struggled with the same affordability issues that face the next generation. It's gotten worse and I want to do something about it.

I've been active in local issues and politics for the past 20 years. In 2012 I successfully ran for the state legislature because I believe that government should be conducted by real people and should serve the interests of real people. That's how I approached my responsibilities. My job was to read legislation on a wide variety of issues, listen to opposing viewpoints, communicate with constituents and vote on legislation in a way that best served the citizens of Montana. I worked 12-hour days for a salary of \$91.00 per day. I refer to my time in the legislature as "the worst job I've ever loved."

In the House of Representatives I was appointed to the Appropriations committee, which is the body that crafts the \$10 billion state budget. As a member of the Education subcommittee, I worked with senators and representatives from across the aisle to formulate the K-12 school budget as well as the higher education budget. I helped MSU gain approval for the Romney Hall renovation, negotiated the tuition freeze (in each term), expanded our local medical school and veterinary programs and won approval for more research dollars to flow to the university system. I'm proud to say that K-12 funding was also expanded on my watch.

As one of your legislators, my particular focus was in trying to bring transparency and fairness to hospital bills. I also fought to change the way our monopoly utility treats ratepayers and plans for the future. These are battle in which I had more losses than wins, but as a consumer advocate and a scientist I strongly feel that we are not doing nearly enough to address health care costs and climate change. I refuse to give up fighting for our children's future.

It has been an honor and a privilege to represent your interests in the legislature. If it were not for term limits I would still be serving there, trying to keep the legislature from restricting the way Bozeman tries to deal with our growth issues. I try to think of growth as being an issue, not a problem but it's becoming harder to maintain that optimism.

We have a great town and a wonderful community that is undergoing rapid change. There is a lot of good that has come from those changes. I'm very proud that Bozeman has become a more diverse and accepting culture than when I first came here, but that is being threatened by the issue of affordability. The City Commission recognizes this and I fully supported the plan that was developed to address affordable housing. I really appreciated the way it placed financial responsibility for affordable housing on the parties that are profiting the most from the housing boom. That's fair.

I am very disappointed that the legislature saw fit to wreck our affordable housing plan. It has also seen fit to stymie our attempts to run our city as we wish. If we want a local option tax we should be able to do that. If we want to declare our community a place of sanctuary we should have that right. Unfortunately, we can't rely on state government to help us with our issues. We are going to have to go back to the drawing board and come up with new solutions. I very much want to be part of that.

I've recently earned a Master of Public Administration degree, but I feel my best preparation for public service comes from my experience as an elected official. In the 5 elections I have participated in I have knocked on thousands of doors and talked to thousands of constituents on the phone. I've discussed a wide variety of issues with an even wider variety of perspectives. In addition to getting to know our community better, this experience has taught me to be a better listener. I've learned to be patient and find common ground with those who hold different ideologies than I do. I've also learned that crafting public policy is not about "winning." It's about trying to do the best we can to plan for a better future.

I want to help,

A handwritten signature in cursive script that reads "Tom Woods". The signature is written in dark ink and is positioned below the text "I want to help,".

Tom Woods