

COMMITTEE OF THE WHOLE

MARCH 21, 2022

6:00 PM

1. Setting the goals and priorities of the Commission

**NOTICE FOR, AND AGENDA FOR, A REGULAR MEETING OF THE CITY COMMISSION,
CITY OF LEWISTOWN, MARCH 21, 2022 AT 7:00 P.M. AT THE CENTRAL MONTANA
COMMUNITY CENTER LOCATED AT 307 W WATSON**

To participate virtually the options are as follows:

To join by zoom: <https://zoom.us/j/8486275925?pwd=dTVGbndDK253ZUJLMjRuZXU5QVpMdz09>

Meeting ID: 848 627 5925 Passcode: 59457

To participate by phone: dial (253) 215-8782 Meeting ID: 848 627 5925 Passcode: 59457

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES – March 7, 2022

COURTESIES

PROCLAMATIONS

BOARD AND COMMISSION REPORTS

CITY MANAGER REPORT

PUBLIC COMMENT – non agenda items

CONSENT AGENDA

Acknowledgment of the claims that have been paid from March 1, 2022 to March 17, 2022 for a total of \$212,509.06

***REGULAR AGENDA – Resolutions, Ordinances & Other Action Items:**

1. Discussion and action on proposing amendments to current sewer base rate structure (**Action: approve, disapprove or amend proposed sewer base rate structure**) City Manager Holly Phelps
2. Discussion and action on recommending a proposed sewer rate to move forward with the sewer rate increase process (**Action: approve, disapprove or amend recommend a sewer rate to move forward with the sewer rate increase process**) City Manager Holly Phelps
3. Discussion and action on entering into an agreement with Dorsey & Whitney to provide bond counsel and authorize the City Manager to sign the agreement (**Action: approve, disapprove or amend entering into an agreement to provide bond counsel and authorize the City Manager to sign the agreement**) City Manager Holly Phelps
4. Discussion and action on approving Resolution No. 4085, a resolution of the City of Lewistown to allow Sole Source Procurement for the 2022 Lewistown Water System Improvements Project (**Action: approve, disapprove or amend Resolution No. 4085**) City Manager Holly Phelps
5. Discussion and action on appointing Douglas Day to the Historic Resources Commission for a two year term (**Action: approve, disapprove or amend appointing Douglas Day to Historic Resources Commission**) City Manager Holly Phelps

CITIZENS' REQUESTS

COMMISSIONER'S MINUTE

ADJOURNMENT

* All citizens are invited to make comment on any agenda item prior to action being taken by the Commission



DAN SEMMENS
semmens.dan@dorsey.com

March 16, 2022

Ms. Holly Phelps, City Manager
Ms. Nikki Brummond, City Finance Director
City of Lewistown
305 West Watson Street
Lewistown, MT 59457

Via Email and First-Class Mail

Re: Water System Revenue Bond
(DNRC Drinking Water State Revolving Fund Loan Program)
City of Lewistown, Montana

Dear Holly and Nikki:

We understand the City of Lewistown, Montana (the "City") intends to borrow funds to pay a portion of the costs of improvements (the "Project") to the City's water system (the "System"). It is anticipated that the City would obtain financing for the Project from the State's Drinking Water State Revolving Fund Loan Program (the "Program"). We would be pleased to serve as bond counsel in connection with the issuance by the City of its approximately \$3,330,000 Water System Revenue Bond (the "Bond") to pay some of the costs of the Project. The purpose of this letter is to outline the services we would provide in that capacity and provide a fee estimate in connection with the Project.

As bond counsel, our principal function is to render an opinion with respect to authorization and issuance of the Bond. The opinion is rendered in written form at the time the Bond is delivered to the DNRC. The opinion would be addressed to the DNRC, as purchaser, and the City, and both parties are entitled to rely on it.

In fulfilling that function and responsibility, we will perform the following tasks for the City:

1. prepare the bond resolution and the Bond and review proceedings of the City relating to other outstanding bonds;
2. review water rate ordinances and resolutions to confirm that rates and charges are in effect at the times the Bond is issued to provide adequate revenues to pay the costs of operating and maintaining the System and to pay debt service on the Bond consistent with the Program requirements and adopted in accordance with the provisions of law;
3. coordinate with the City Clerk, or other designated officer of the City, the adoption of resolutions and other actions necessary to be taken by the governing body of the City;

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Ms. Nikki Brummond, City Finance Director
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4. advise the City of the statutory requirements for the issuance of the Bond and the Program rules for the purchase of the Bond by the Program;
5. prepare closing papers for the City and supervise closing on the Bond; and
6. deliver the opinions discussed above to the City and the DNRC.

The fee for our services is a function of the size of the total Project, the principal amount of the bond issue, and the amount of time expended. Based on the Project as proposed, we estimate a fee of approximately \$20,000 for the services listed in items 1 through 6 above as bond counsel. We would expect to be paid at the time of issuance of the Bond. Our fees are eligible costs of the Project and can be paid from the proceeds of the Bond. It is mutually agreed that the services set forth in this letter are solely for the benefit of the City.

You should be aware that we have served as bond counsel to the State of Montana (the "State") with respect to establishing the Program and the issuance of the State's general obligation bonds to fund the Program. As bond counsel for the City's Bond, we would not represent the State or the DNRC in the negotiation of the terms of the Bond, the bond resolution, or other aspects of the proposed financing. At this point, the terms of the financing have been established in the approved Program documents and regulations and our principal task is to draft bond resolutions that conforms to these requirements and the terms of a Letter of Approval for Drinking Water Revolving Fund Loan Program that has been or will be delivered by the DNRC. (In advising the City of the statutory and other legal requirements for the issuance of the Bond, in accordance with provisions of the Program requirements and statutory provisions, we can advise the City with respect to the legal implications of the covenants required under the Program that would be contained in the bond resolution.) Accordingly, we do not anticipate that our acting as bond counsel to the State with respect to the Program will represent any practical impediment to our acting as bond counsel to the City with respect to the Bond; and, in fact, we believe our familiarity with the Program could be an advantage to the City in completing its proceedings efficiently.

As bond counsel to the State and the Program, however, we are available to the State, and we would intend to respond to questions raised by the DNRC regarding requirements of the Program, the operative documents relating to the State's bonds and the legal issues relating to the type of obligation being purchased by the Program to evidence the Program loan, in this case municipal revenue bonds. In such a response, we would not attempt to advocate a position on behalf of either the State or the City, but to respond in our capacity as bond counsel with respect to the State's outstanding bonds. While we would attempt to render independent advice, the potential for a conflict of interest or the appearance of a conflict of interest is present. The State has consented to our acting as bond counsel for the City's Bond.

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We trust that our serving as bond counsel to the City for the Bond and as bond counsel to the State with respect to the Program is acceptable to you. If our serving as bond counsel to the City as outlined herein is acceptable to you, please acknowledge such acceptance by signing the attached acknowledgment and returning a copy of this letter to us.

Very truly yours,



Dan Semmens

DPS/vm

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Ms. Nikki Brummond, City Finance Director
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ACKNOWLEDGMENT

The undersigned acknowledges receipt of the attached and foregoing engagement letter dated March 16, 2022, and confirms, on behalf of the City, the City's consent to the representation described therein.

Accepted this _____ day of _____, 2022.

CITY OF LEWISTOWN, MONTANA

By: _____

Its: _____

RESOLUTION NO. 4085

A Resolution of the City of Lewistown to allow Sole Source Procurement for the 2022 Lewistown Water System Improvements Project

WHEREAS, the City of Lewistown ("City") is a City in Fergus County operating under a charter established in 1899; and

WHEREAS, the City regularly procures supplies and services as part of managing, operating, and maintaining the water and sewer facilities; and

WHEREAS, the City is obligated to follow competitive bidding process for goods and services as required by Section 7-5-2301, MCA; and

WHEREAS, state law, particularly Section 18-4-124, MCA, provides that a political subdivision of the State may adopt any or all parts of Chapter 4 of Title 18, and specifically 18-4- 306(a) MCA, as well as the accompanying rules promulgated by the State Department of Administration; and

WHEREAS, in certain situations, there is only one source is acceptable or suitable for the supply or service item;

WHEREAS, it would be in the best interests of the City based on equipment uniformity and operational and maintenance reasons to allow for the sole source procurement of the equipment required for the installation of the new water SCADA System;

WHEREAS, the City will require the submission of cost pricing data in connection with an award under this section;

WHEREAS, the City will maintain a record listing of the supplies or services procured under this contract, the amount of the contract, and maintain publicly available records for a minimum of 5 years.

BE IT FURTHER RESOLVED that the City of Lewistown adopts the sole source procurement of the required SCADA System Equipment and Commissioning.

PASSED AND APPROVED this 22nd day of March, 2022.

Gayle Doney, Chair
Lewistown City Commission

Attest:

Nikki Brummond

EXHIBIT "A"

Sole Source Procurement - Records

- (1) A contract may be awarded for a supply or service item without competition when, under rules adopted by the City, the Manager, or a designee determines in writing that:
 - (a) there is only one source for the supply or service item;
 - (b) only one source is acceptable or suitable for the supply or service item;
or
 - (c) the supply or service item must be compatible with current supplies or services.
- (2) The City may require the submission of cost or pricing data in connection with an award under this section.
- (3) The City shall maintain or shall require the Manager to maintain a record listing all contracts made under this section for a minimum of 4 years. The record must contain:
 - (a) each contractor's name;
 - (b) the amount and type of each contract; and
 - (c) a listing of the supplies or services procured under each contract.
- (4) The record must be available for public inspection.

APPLICATION FOR LEWISTOWN BOARDS AND COMMISSIONS

PLEASE NOTE: ALL APPLICATIONS ARE INCLUDED IN COMMISSION PACKETS AND PUBLISHED ON THE CITY WEBSITE.

DATE: <u>3/8/22</u>		*APPLICATION DEADLINE:	
BOARD, COMMISSION OR COMMITTEE APPLYING FOR: <u>LEWISTOWN HISTORIC RESOURCE COMMISSION</u>			
NAME: <u>DOUGLAS DODY</u>		HOME PHONE: <u>406 538 8405</u>	
STREET ADDRESS: <u>1118 WEST WATER ST</u>		BUSINESS PHONE: <u>406 200 6493</u>	
ZIP CODE: <u>LEWISTOWN, MT 59457</u>		EMAIL ADDRESS: <u>doddy92@gmail.com</u>	
MAILING ADDRESS: <u>SAME</u>		IN WHICH WARD DO YOU RESIDE <u>2</u> (1-3)	
ZIP CODE:			
Are you a citizen of the U.S.A.? ☒ Yes ☐ No		Are you a registered voter? ☒ Yes ☐ No	
How long immediately prior to this date have you been continuously a legal resident of the City of Lewistown? <u>17yr</u>			
How long immediately prior to this date have you been continuously a legal resident of the State of Montana? <u>21yr</u>			
PLEASE PROVIDE THE FOLLOWING INFORMATION (You may attach a separate sheet to this form.)			
Brief resume of your educational background. • BS IN BIOCHEMISTRY & CELLULAR BIOLOGY; UNIVERSITY OF CALIFORNIA • JD LAW; UNIVERSITY OF MONTANA SCHOOL OF LAW			
Current Occupation: <u>ATTORNEY</u>		Current Employer: <u>DRIGGS, BULL & DODY</u>	
Previous Community Service: <u>- PUBLIC DEFENSE</u> <u>- RELIGIOUS</u> <u>- BOY SCOUTS OF AMERICA</u>			
PLEASE LIST TWO PERSONAL REFERENCES:			
Name: <u>SETH HAWKINS</u>		Daytime Phone: <u>801 718-5506</u>	
Address:			
Name: <u>TYSON SMITH</u>		Daytime Phone: <u>406 535-6317</u>	
Address:			
What is your interest in serving on this board, commission or committee? <u>I LOVE MONTANA AND ITS RICH HERITAGE. LORAINZ AND I OWN TWO HISTORIC BUILDINGS IN THE LEWISTOWN BUSINESS DISTRICT.</u>			
Do you have special knowledge, interest or experience that would qualify you for a position on this board, commission or committee? <u>I BRING YEARS OF LEGAL AND MANAGEMENT EXPERIENCE TO THE BOARD AND HAVE PARTICIPATED IN BOARDS ON BOTH THE STATE, LOCAL AND NATIONAL LEVEL.</u>			

*Please return you completed application to the City of Lewistown: 305 W Watson Lewistown 59457