

COMMITTEE OF THE WHOLE

NOVEMBER 7, 2022

6:00 P.M.

THERE WILL BE NO COMMITTEE OF THE WHOLE
REGULAR MEETING STARTS AT 7 PM

NOTICE FOR, AND AGENDA FOR, A REGULAR MEETING OF THE CITY COMMISSION, CITY OF LEWISTOWN, NOVEMBER 7, 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 – October 17, 2022

COURTESIES

PROCLAMATIONS

BOARD AND COMMISSION REPORTS

CITY MANAGER REPORT

PUBLIC COMMENT – non agenda items

CONSENT AGENDA

Acknowledgement of the claims that have been paid from October 15, 2022 to October 31, 2022 for a total of \$63,606.39.

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

1. Public hearing on a request for a zoning amendment submitted by Merritt Olson requesting to amend the zoning of property located at the corner of 12th Ave N and Broadway.
2. Discussion and action on approving a zoning amendment submitted by Merritt Olson requesting to amend the zoning of property located at the corner of 12th Ave N and Broadway (**Action: approve, disapprove or amend zoning amendment request by Merritt Olson**) City Manager Holly Phelps
3. Discussion and action on approving the Overhead Electric Powerline Easement with Northwestern Energy located in the area of 3rd Ave S and Cook Street and authorizing the City Manager to sign the agreement (**Action: approve, disapprove or amend approving the powerline easement and authorizing the City Manager to sign the agreement**) City Manager Holly Phelps
4. Discussion and action on approving the Water System Improvements Project, Task order number four for the bidding and construction phase of the project (**Action: approve, disapprove or amend the water system improvements project task order four**) City Manager Holly Phelps
5. Discussion and action on reappointing Anna Morris to the Fergus Conservation District Board of Supervisors (**Action: approve, disapprove or amend reappointing Anna Morris to the Board of Supervisors**) City Manager Holly Phelps
6. Discussion on railroad leasing process and what options are available.

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

**City County Planning Board Meeting
PUBLIC HEARING – October 20, 2022 at 5:30 pm
At the COMMUNITY CENTER – 307 W. WATSON STREET**

An Application for a Zoning Amendment

1. APPLICANT

Merritt Olson
1117 W. Broadway St
Lewistown, MT 59457

2. PROPERTY AFFECTED

The property on which the amendment is requested is a vacant lot located at the corner of 12th Avenue North and West Broadway and is more particularly described as Lot 6 of Blk 11 of the Sunnyside Addition to the City of Lewistown.

The application from Merritt Olson requesting a Zoning Amendment from the current Residential Single-Family (R-1) Zoning to a Neighborhood Commercial (NC) District. To allow for the for an eating establishment, restaurant (without sale of alcoholic beverages). The owner hopes to operate a mobile food truck at this location. Their anticipated hour of operation would be Monday-Friday 11am – 7 pm.

3. REQUESTED ACTION

The applicant is requesting an amendment to the official zoning map for the above property. The property is currently in a Residential Single-Family (R-1) Zoning District. The applicant has requested to change the zoning of this lot to Neighborhood Commercial (NC).

4. REVIEW BASED ON THE 12-POINT TEST CONSISTENT WITH PURPOSES OF ZONING:

a. Comprehensive Plan:

The Comprehensive plan designates the subject property as Low-Density Residential. The intended use for the subject property upon rezoning is consistent with this.

The Lewistown Comprehensive Plan (1971) goals include "develop residential areas with density patterns that are related to existing and proposed public facilities and services".

Lewistown Growth Policy (2006) goals include the encouragement of infill development to avoid urban sprawl; protect residential areas from the encroachment of incompatible or unrelated uses; and to

design "walkable" neighborhoods that combine commercial and residential amenities and features.

- b. **Contribute towards reducing congestion in the streets:**
The ultimate use for the rezoned property is to allow for a commercial use could adversely impact the parking of the residential area. To address this potential issue, the property will need to provide off-street parking as required in city code.
- c. **Secure safety from fire, panic and other dangers:**
No adverse impacts have been identified.
- d. **Promote health and general welfare:**
This zoning amendment should have no change on this condition.
- e. **Provide adequate light and air:**
No impacts contemplated.
- f. **Prevent overcrowding of land:**
This is not determined to be a factor.
- g. **Avoid undue concentration of population:**
This is not determined to be a factor.
- h. **Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements:**
No changes are anticipated. The net number of connections would be the same.
- i. **Consider the character of the district:**
This is not determined to be a factor. This property is already adjacent to a commercial district.
- j. **Consider the peculiar suitability of the property for particular uses:**
This is not determined to be a factor. The typography may be an issue for use of the property, but this issue would be present whether the use is commercial or residential in nature.
- k. **Conserve the value of buildings:**
Lewistown City Code 11-3-2 states: intended uses in the NC a Neighborhood Commercial district is to provide convenience type commercial facilities within or adjacent to a residential neighborhood.

I. **Encourage the most appropriate use of land throughout the city:**

One of the purposes of zoning is to regulate the use of buildings, structures, and land for residences, trade, industry and other purposes. Each zoning district has listed permitted uses and conditional uses in the zoning ordinance. Care must be exercised when considering a request for a zoning change that could adversely impact a neighborhood if an incompatible use of land or buildings were to occur. Incompatible uses may not always be immediately evident.



Figure 1: Aerial View

Page 4 of 5



Figure 4: View looking East

SUMMARY:

Merritt Olson, the owner of the vacant lot located on the western corners of 12th Avenue North and West Broadway Street, is requesting to amend the Official Zoning Map of the city. The proposal is to change the above-described parcel to Neighborhood Commercial (NC) from its current designation of Residential Single-Family (R-1). The application has been made to allow for the for an eating establishment, restaurant (without sale of alcoholic beverages). The owner hope to operate a mobile food truck at this location. Their anticipated hour of operation would be Monday-Friday 11am – 7 pm.

The zoning commission is charged with reviewing the request and making a recommendation to the City Commission. The City Commission will also hold a public hearing on the proposal on November 7, 2022 and is expected to make a final decision after that public hearing. The City Commission will, of course, take into account the recommendation of the Zoning Commission.

A public hearing was held before the City-County Planning Board on October 20, 2022 at the Council on Aging – Community Center. The board considered the facts presented and through public comment and recommended the approval of this amendment with the condition to address parking in the area. The City-County Planning Board is recommending the City Commission approve the proposal for the Amendment to Zoning Ordinance application with the condition that the applicant discourage parking on 12th Avenue.

After Recording, Return To:
NorthWestern Energy
Lands & Permitting Department
11 East Park Street
Butte, MT 59701-1711

OVERHEAD ELECTRIC POWERLINE EASEMENT

City of Lewistown, a Montana municipal corporation, whose address is 305 W Watson St, Lewistown, MT 59457-2961, "Grantor", in consideration of \$1.00 and other good and valuable consideration, in hand paid, the receipt of which is acknowledged, does grant and convey to **NORTHWESTERN CORPORATION D/B/A NORTHWESTERN ENERGY**, a Delaware corporation, 11 East Park Street, Butte, MT 59701-1711, "Grantee", and to its successors, assigns and apportionees, a utility easement up to twenty feet (20') feet in width, with an additional ten feet (10') of temporary width during times of construction, upon which to construct, operate, maintain, replace, upgrade, and remove an electric powerline(s) and necessary appurtenances, including any that may extend beyond the easement width, over, under, along and across that certain real property located in Fergus County, Montana, and particularly described as follows:

Township 15 North, Range 18 East, M.P.M., Fergus County, MT

Section 14. Abandoned Railroad in N2SW4 & SW4NW4 of Section 14 & Abandoned Railroad in S2SW of Section 14

As described on Exhibit "A", attached hereto and made a part hereof.

TOGETHER with reasonable right of access to and from the easement area over lands of the Grantor using existing roads and trails where practicable; the right to use and keep the easement area free and clear of any and all obstructions or structures, except fences; and the right to clear and remove all timber, brush, or vegetation outside of the easement area that may, in the Grantee's sole opinion, endanger the powerline, communications system or necessary appurtenances.

GRANTOR covenants with the Grantee that the Grantor is lawfully seized and possessed of the real estate above-described, and that the Grantor has a good and lawful right to convey it, or any part thereof.

DATED this _____ day of _____, 20____.

GRANTOR:

City of Lewistown, a Montana municipal corporation.

By: _____
Signature Print

Its: _____
Title

Acknowledgement appears on following page

STATE OF _____)
COUNTY OF _____) ss.

This instrument was acknowledged before me on _____, 20____,
by _____ the _____ of _____
City of Lewistown, a Montana municipal corporation.

(NOTARY SEAL)

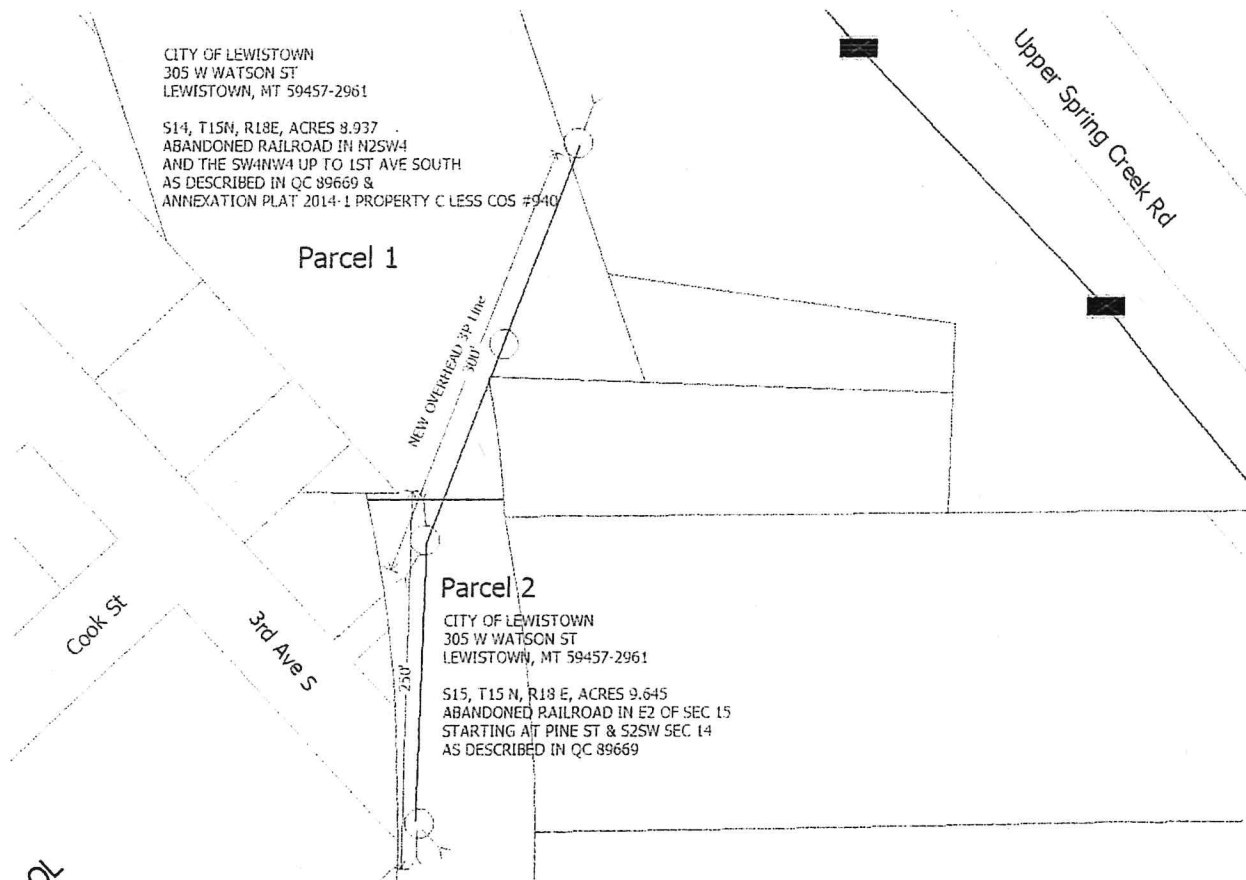
Notary Signature: _____
Notary Print Name: _____
Notary Public for the State of _____
Residing at _____
My Commission Expires _____, 20____

Project: 340181806 LEW SI 22BASEUGCU
Agent: _____ Ryan Lower
SAP No.: _____
Qrm# _____

Exhibit "A"

The following is made a part of that certain Overhead Electric Powerline Easement dated _____ by and between City of Lewistown, a Montana municipal corporation, of 305 W Watson St, Lewistown, MT 59457-2961, hereinafter known as "Grantor" and Northwestern Corporation D/B/A NorthWestern Energy, hereinafter known as "Grantee".

All distances, areas and measurements shown below are approximate and not to scale.



TOWNSHIP 15 N, RANGE 18 EAST, M.P.M., Fergus County, MT

Parcel 1 legal description is as follows: S14, T15N, R18E, ACRES 8.937, ABANDONED RAILROAD IN N2SW4, AND THE SW4NW4 UP TO 1ST AVE SOUTH, AS DESCRIBED IN QC 89669 & ANNEXATION PLAT 2014-1 PROPERTY C LESS COS #940

Parcel 2 legal description is as follows: S15, T15 N, R18 E, ACRES 9.645, ABANDONED RAILROAD IN E2 OF SEC 15 STARTING AT PINE ST & S2SW SEC 14, AS DESCRIBED IN QC 89669

TASK ORDER NUMBER FOUR
AGREEMENT TO FURNISH ENGINEERING SERVICES
to
CITY OF LEWISTOWN
for
LEWISTOWN WATER SYSTEM IMPROVEMENTS
BIDDING, AND CONSTRUCTION PHASE SERVICES

This Task Order provides for professional engineering services to be performed by ROBERT PECCIA & ASSOCIATES, INC. (hereinafter the Engineer), for the **CITY OF LEWISTOWN, MONTANA** (hereinafter the Client), in accordance with Article 1 of the Agreement to Furnish Engineering Services to **CITY OF LEWISTOWN, MONTANA** for WATER, WASTEWATER, and ON-CALL ENGINEERING SERVICES, dated February 11, 2020, (hereinafter the Agreement). All provisions of the Agreement are incorporated by reference. This Task Order represents an authorization to proceed with the scope of services, schedule, and compensation described herein. This Task Order, when executed by both parties, shall become a supplement to and part of the basic Agreement.

ARTICLE 1. SCOPE OF SERVICES

The Engineer agrees to furnish the following professional engineering services in connection with the **LEWISTOWN WATER SYSTEM IMPROVEMENTS - 2022**, hereinafter referred to as the Project. This project includes two Schedules (construction contracts). These are; Schedule 1 – 6th Avenue Water Main Replacement, and Schedule 2 – Castle Ridge Booster Station, Lower Pump Station Improvements, Big Spring Chlorination.

A. BID PHASE SERVICES

Coordination with Client for Land Acquisition at Castle Butte Pump Station

The City is acquiring land for the proposed Castle Butte Booster Station. This acquisition requires a boundary line adjustment. RPA will coordinate with the City as requested to complete this boundary line adjustment. RPA will also coordinate with the City as requested to support their effort in supplying a Site Title of Opinion for the property where improvements associated with this project are to be completed.

Advertise for Bids

Unless otherwise directed by the Client, the Engineer will coordinate the advertisement for bids in the *Lewistown Argus*. RPA will also post the bid documents electronically on Quest CDN. RPA will also give electronic notice (E-mail) to a list of some of the contractors who have been interested in the type of work included in the Project.

Pre-Bid Conference

The Engineer shall schedule and conduct a Pre-Bid Conference for the project. The location and time for the Pre-Bid Conference will be clearly stated in the *Invitation for Bids* and/or *Information for Bidders* sections of the Specifications. The intent of this conference is to make the Contractors fully aware of the project requirements.

The Engineer is responsible for conducting the meeting and taking meeting notes and answering any technical design related questions. A *Pre-Bid Conference Sign-In Sheet* shall be circulated amongst the attendees for a record of those persons present. The Engineer will keep notes at this meeting and provide to the Client.

Plan Holder's List

The Engineer will distribute plans and specifications to those Contractors who request them. No plans and specifications shall be sent to any Contractor who has not supplied the proper deposit. Each set of plans and specifications shall be numbered sequentially in the order in which they are transmitted. The Engineer will maintain a record of the plans and specifications which have been sent to the Contractors and the Client. This record shall include the Contractor's name and address, plan set number, and deposit received, in the *Planholder's List*. In addition, the Engineer shall maintain a current *Planholder's List* which identifies all Contractors who have received plans and specifications. This *Planholder's List* shall be updated at least twice a week.

Answer Bidder Questions

The Engineer shall correspond and answer bidder questions and clarify bid documents. If questions warrant an addendum the engineer will issue addenda as described below.

Prepare and Issue Addenda

On some projects it becomes necessary to send out a written addenda to the plans and/or specifications. The addenda serve to make clarifications or changes in the *Contract Documents* prior to the bid opening. All written addenda issued will become part of the *Contract Documents* and all bidders shall be bound by such addenda, therefore a copy of the addenda shall be sent to all planholders on the list. The issuance of any addenda is the responsibility of the Engineer.

Bid Opening

The Engineer shall attend the Bid Opening. When the Client requests that we open and read the bids aloud, it shall be the Engineer's responsibility to do so.

Unless otherwise directed by the Client, the only bid information that will be read aloud at the bid opening will be the Contractor's name and address, Contractor's registration number, the Contractor's base bid, and additive alternate bids if applicable. The Engineer shall inform all persons attending the Bid Opening about the information that will be read aloud. Bids which are received after the scheduled Bid Opening time shall not be opened and shall be returned to the

Bidder *unopened*.

The Engineer will review all bids received (especially the lowest bid) for bid irregularities. Items to be reviewed include the Bid Bond, acknowledgment of receipt of any and all addenda, Contractor's registration number and proper completion of all bid document forms. If irregularities are discovered in the low bidder's package, the Engineer shall bring it to the attention of the Client and encourage them to consult their attorney.

Prepare and Distribute Bid Tabulations

The Engineer is responsible for preparing the Contractor's bid onto a *Bid Tabulation Sheet*. Any math errors in the Contractor's bid will be noted on the bid tabulations and the correct figure shown. The Bid Tabulation Sheet shall be provided to the Client, Bidders, and Funding Agencies.

Evaluate Bids and Make Recommendation to Owner

After the *Bid Tabulations* have been prepared and approved, the Engineer shall write a *Recommendation of Award* letter to the Client.

The *Recommendation of Award* letter shall be based on the lowest responsive bid, the absence of any bid irregularities (or in accordance with an Attorney's opinion in the case of bid irregularities), and the ability of the Contractor to perform the work. If the Contractor's qualifications are not known, a Pre-Award Conference may be required prior to the *Recommendation of Award*.

The intent of a Pre-Award Conference is to determine if the Contractor is qualified to properly complete the work within the allotted construction time. The following topics will be considered in particular:

1. The Contractor's organization and equipment available for the project.
2. The Contractor's proposed construction schedule.
3. The Contractor's past performance on similar projects.
4. The Contractor's proposed wage rates for use on the project.
5. The Contractor's understanding of the plans and specifications.

If after the Pre-Award Conference it appears the Contractor is qualified to complete the project, the Engineer shall recommend award to the Contractor. If the Contractor does not appear to be qualified, the Engineer shall recommend to the Client the Contractor's bid be disqualified and the next lowest bidder be considered - or that all bids be rejected and the project be re-bid, whichever their Attorney believes to be appropriate. The Engineer does not have the authority to make these decisions for the Client.

Notice of Award and Contract Documents

Once a Contractor has been approved by the Client the Engineer shall complete and transmit a *Notice of Award* to the Client for their signature. The Client shall be asked to sign the Notice and forward to the Contractor for their signature.

After the Contractor signs the *Notice of Award*, the Engineer shall send the *Agreement Between Client and Contractor* to the Contractor. The Contractor should be asked to sign and return the Agreement and provide the required *Performance and Payment Bonds, Certificates of Insurance, and Power of Attorney*.

B. CONSTRUCTION PHASE SERVICES

Project Management

The Engineer shall discuss with City staff aspects of the bidding and construction phases. The Engineer will track engineering budgets, invoices, and coordinate with the City on project related matters. The Engineer will provide updates and information to the Client through the duration of bidding and construction phases.

Update MDEQ on Schedule and Compliance

The City of Lewistown has entered a Consent Order to complete this project and provide chlorination of the City's drinking water system. RPA will provide updates to MDEQ, work with MDEQ if necessary for schedule changes, and provide documentation of milestones.

Contract Document Review

Upon receipt of the *Contract Documents* from the Contractors, the Engineer shall review the *Agreement, Performance Bond, Payment Bond, Certificates of Insurance, Power of Attorney, and Workers' Compensation Certificate* for conformance with the project requirements. Particular attention should be given to the Owners and Engineers Protective Liability portion of the *Certificate of Insurance* to confirm that RPA and the Client are named as "additional insured" to the limits required by the Specifications.

If the Engineer determines the *Contract Documents* are acceptable from RPA's perspective, they will be forwarded to the Client for their review and acceptance. If the Documents are not acceptable, the Engineer shall return them to the Contractor for correction and resubmission.

Pre-Construction Conference

The Engineer shall schedule a Preconstruction Conference (Pre-Con) with the Owner, Contractor, and any other applicable representatives. Both the Engineer and the Engineer's On-Site Representative shall attend the Pre-Con. The Engineer is responsible for conducting the Pre-Con, and recording accurate minutes of the items discussed. The Engineer shall prepare a *Preconstruction Conference Agenda* which lists the topics of discussion applicable to the project.

The main purpose of the Preconstruction Conference is to introduce and designate responsible personnel, establish the Contractor's proposed construction schedule, clarify the submittal and pay request process, and discuss the major project requirements.

Submittal Review

The Engineer shall review the submittals compared to each item's specifications. The Engineer is responsible for ensuring the submittals received from the Contractor are reviewed and returned well within the time frame allowed in the Specifications. A *Submittal Log*, shall be maintained and kept current during the course of the Submittal Review process. This *Submittal Log* will provide a permanent record of when submittals were received by the Engineer, when they were returned, and what actions are required of the Contractor.

Construction Progress Meetings

Construction progress meeting shall be held Monthly, to notify Client of progress, discuss project status, and discuss potential issues. Minutes of the progress meetings shall be distributed to all conference participants.

Construction Administration and Observation

1. The Engineer will provide one full-time construction observer to cover both Schedule 1 and Schedule 2. The observer will perform field inspection services during the course of construction to keep track of quantities, progress, and other related items. The attached estimate includes a construction period of 240 calendar days and assumes both construction schedules will take place concurrently. This allows for the 210 Calendar Days allowed for Schedule 2 and 30 days for Punchlist and other on-site observation.
2. The construction observer will keep a written record of field observations, including materials incorporated into the work. The On-Site Observer will act as an agent of the Owner in the Owner's relations with the Construction Contractor; to provide on-the-job day-to-day observation of the Project construction; to recommend the amounts of payments due the Contractor as set forth in the Contract Documents; and to keep records, maps, and plans for the preparation of record drawings after the Project is constructed.
3. The Engineer shall act as the Client's agent for certain matters incidental to coordination of the project during construction; but the Engineer will not supervise the Contractor's personnel; operate or have direct use of equipment; be responsible for construction means, methods, techniques, and procedures; be responsible for safety precautions on the project, or in any way infringe on the duties of the Contractor(s). The Contractor alone is responsible for the adequate performance in conformance with the intent of the Construction Contract involving all aspects of the project and for the acts or omissions of the Contractor's agents or employees.
4. The Engineer shall manage the Project and monitor its percent complete status by preparing

project status and financial analyses as requested by the Client or other interested agencies.

5. The Engineer will furnish to the Client copies of such diaries, survey notes, or field measurements generated during construction as the Owner may request.
6. Provide interpretations of the Contract Documents, specifications and drawings for the Contractors, Owner, and Engineers' On-Site Observer.

Process Pay Applications

Partial Pay Requests are processed periodically throughout the course of the construction project. Normal projects allow the Contractor to request partial payments every 30-days. The Engineer is ultimately responsible for certifying each pay request; however, he/she shall work closely with the Engineer's On-Site Observer and the Owner in processing the request.

Prepare Change Orders

During the course of construction, it may become necessary to add, modify, or delete work items and/or contract time. Any changes in the original Scope of Work shall be handled through the issuance of a *Change Order*. The Engineer shall then prepare a final *Change Order*, and the *Change Order* shall be signed by the Client and Contractor.

Punchlist and Final Project Inspection

When the Contractor has substantially completed the construction project, representatives of the Owner, the Contractor, and the Engineer shall visit the project site for a Final Project Inspection. A thorough walk-through inspection shall be conducted to provide the Client the opportunity to comment on the quality of the finished project, to point out work items or cleanup which require additional work. The Engineer shall develop a punchlist and distribute to the Contractor and Client. The Engineer shall update the punchlist as items are completed by the Contractor until all items are completed.

Record Drawings

The Engineer shall develop a set of Record Drawings to reflect changes that may have occurred compared to the original drawings. The record drawings shall be developed from Contractor's supplied as-builts and the Engineers On-Site Observer notes that document changes made in the field. Record Drawings will then be certified and submitted to the Montana Department of Environmental Quality.

Warranty Inspection

A warranty inspection shall be performed eleven months after substantial completion on the project facilities. The primary objective of the eleven-month inspection is to test all the facilities and materials for proper functioning prior to the expiration of the Contractor's one-year warranty on parts and labor.

ARTICLE 2. SCHEDULE

It is anticipated that those services listed above under Article 1, Scope of Services, are to be completed during the time period from September 15, 2022, to December 31, 2024.

ARTICLE 3. COMPENSATION

A. BUDGET

The budget for those services described above under Article 1, Scope of Services, shall be paid on an hourly rate not to exceed \$ 347,400. An estimate of hours for items included in this Task Order are shown in Attachment One "Schedule of Estimated Engineering Costs."

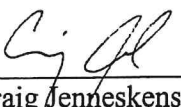
DATED this 20th day of October 2022.

CITY OF LEWISTOWN

By: _____

Holly Phelps, City Manager

ROBERT PECCIA & ASSOCIATES, INC.

By:  _____
Craig Jenneskens PE, President

Attachment One
Schedule of Estimated Engineering Costs
Robert Peccia & Associates, Inc.

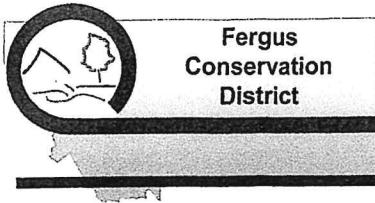
Bidding and Construction Phase Services - Task Order Four
Lewistown, Montana

Work Item	Group Manager	Project Manager	Project Designer	Project Inspector	Structural Engineer	Surveyor	Accountant	CADD Operator	Admin.	Total Hours
BID PHASE SERVICES										
1 Coordination with Client for Land Acquisition at Castle Butte Pump Station										
2 Advertise for Bids	12.00	16.00								28.00
3 Pre-Bid Conference	2.00	2.00								8.00
4 Plan Holder's List	2.00	10.00	4.00	8.00					4.00	24.00
5 Answer Bidder Questions		2.00	2.00							16.00
6 Prepare and Issue Addenda	2.00	32.00	16.00						12.00	50.00
7 Bid Opening		10.00	10.00					6.00	8.00	34.00
8 Prepare and Distribute Bid Tabulations		8.00	4.00							12.00
9 Evaluate Bids and Make Recommendation to Owner		4.00	4.00							8.00
10 Notice of Award and Contract Documents	2.00	8.00	2.00							12.00
										8.00
CONSTRUCTION PHASE SERVICES										
11 Project Management	16.00	16.00					12.00			44.00
12 Update MDEQ on Schedule and Compliance	30.00									30.00
13 Contract Document Review	2.00	16.00								18.00
14 Pre-Construction Conference	4.00	8.00	2.00	8.00						22.00
15 Submittal Review		50.00	80.00		50.00					180.00
16 Construction Progress Meetings	12.00	56.00	20.00	1400.00	40.00	24.00				88.00
17 Construction Administration and Observation	80.00	320.00								1864.00
18 Process Pay Applications		64.00								64.00
19 Prepare Change Orders	8.00	40.00								48.00
20 Punchlist and Final Project Inspection	8.00	32.00	24.00							64.00
21 Record Drawings	2.00	20.00	20.00					80.00	20.00	142.00
22 Warranty Inspection	2.00	16.00								18.00
Total Hours	184.00	738.00	188.00	1416.00	90.00	24.00	12.00	86.00	44.00	2782.00
Labor Cost Per Employee	\$ 36,481.68	\$ 97,903.08	\$ 17,275.32	\$ 138,229.92	\$ 16,965.90	\$ 3,649.20	\$ 1,824.60	\$ 10,449.00	\$ 3,243.88	\$ 326,022.38

DIRECT EXPENSES

Equipment (Survey GPS \$400/day)	\$1,000.00
Printing	\$800.00
Computer Charges	\$3,967.00
Misc. Supplies	\$488.12
Nuclear Densometer	\$5,200.00
Mileage	\$9,922.50
Total Direct Expenses	\$21,377.62

Labor	\$326,022.38
Direct Expenses	\$21,377.62
Total Engineering Fee	\$347,400.00



Fergus Conservation District

211 McKinley, Suite 3
Lewistown, MT 59457
Phone: 406-708-3001

October 11, 2022

City Commissioners
305 West Watson
Lewistown, MT 59457

Dear City Commissioners:

According to State Law, the City of Lewistown is entitled to have an appointee serve on the Fergus Conservation District Board of Supervisors. Anna Morris has been serving in this capacity, but her term will expire November 2022. These appointments are for a three-year term.

Anna has indicated her willingness to serve another term. She has been a knowledgeable and effective member of the Board of Supervisors since 2014 where she filled the unexpired term of the last Urban Supervisor.

If, for some reason, the city does not choose to reappoint Anna Morris, we would appreciate a list of possible appointees be furnished to the Fergus Conservation District for consideration. This would not, of course, bind the city of Lewistown to any particular individual.

The Board would appreciate a reply to this request prior to November 8th, 2022. If you reappoint Anna Morris, we just need a letter stating this.

Sincerely,

Nita Bronec
Co Chairperson, FCD

RESOLUTION NO. 3820

A RESOLUTION AMENDING RESOLUTION NO. 3787, ADOPTING A POLICY FOR THE USE, LEASE AND SALE OF RAIL CORRIDOR PROPERTIES ACQUIRED FROM BURLINGTON NORTHERN SANTA FE PURSUANT TO NATIONAL TRAILS SYSTEMS ACT

WHEREAS, in 2006 the City of Lewistown entered into a sales contract to acquire all of Burlington Northern Santa Fe's (BNSF) interest in its rail corridor and trail-related structures (including land, bridges, culverts, ballast and earthwork) (hereafter referred to as the Rail Corridor) situated between milepost 13.88 and milepost 28.347 in Fergus County, Montana, including any existing leases, which property and leases are described in the Railbanking and Bargain Sale Contract dated December 11, 2006, which document is incorporated by reference herein; and,

WHEREAS, the purchase of the Rail Corridor is subject to Section 8(d) of the National Trails Systems Act, 16 U.S.C. Section 1247(d), and the rules and regulation of the U.S. Surface Transportation Board, as amended; and,

WHEREAS, the City's use of the Rail Corridor pursuant to the National Trails Systems Act shall not impair future restoration of rail service and BNSF reserves the right to reactivate and restore rail service on the Rail Corridor. Upon BNSF's notice of intent to restore rail service the City is required to re-convey the Rail Corridor to BNSF free and clear of any encumbrances or liens not in effect prior to the date of the closing of the sale between the City and BNSF ; and,

WHEREAS, the City of Lewistown received a deed for the Rail Corridor dated July 27, 2007; and

WHEREAS, the City periodically receives requests from various persons and entities to acquire portions of the Rail Corridor by lease or purchase, which requests should be addressed by the City in a uniform, consistent manner so as to insure that the City maintains its obligations to the public, the Railbanking and Bargain Sale Contract dated December 11, 2006, the National Trails Systems Act, 16 U.S.C. Section 1247(d) as amended, and the rules and regulation of the U.S. Surface Transportation Board, as amended.

WHEREAS the primary use of Rail Corridor is as a trail system for the benefit of the public; and,

WHEREAS, the City may allow uses of Rail Corridor beyond trails provided that such uses would not interfere with existing or proposed trails or the future restoration of rail services, including leasing or potential sale of excess corridor property.

WHEREAS, the City Commission created its first formal policy regarding the use and leasing of Rail Corridor property by way of Resolution 3787 adopted on April 16, 2012, and the Commission desires to amend that policy to provide additional guidance.

NOW THEREFORE, BE IT RESOLVED, that when reviewing proposed uses of Rail Corridor that the highest priority shall be to insure that no action, activity or condition is allowed that could in any way have a negative impact on the future restoration of rail service to Lewistown and Central Montana. The primary goal shall be that of preserving the Rail Corridor, unencumbered, for use as trails and open space by the public.

BE IT FURTHER RESOLVED, that no encumbrance, such as a sale or indefinite lease, of Rail Corridor shall be allowed unless the City Commission first approves the same and has received all necessary releases from the Surface Transportation Board and BNSF. Any encumbrance allowed without such approval shall be null and void.

BE IT FURTHER RESOLVED, that the following policy regarding the use, lease and sale of Rail Corridor is hereby adopted by the City of Lewistown:

1. Routine requests by persons or entities to purchase any portion of Rail Corridor will not be considered. The City Commission may entertain requests to purchase excess portions of the Rail Corridor only if a substantial public benefit is demonstrated and all of the following criteria are met:
 - a. The prospective buyer provides a detailed written proposal describing the proposed excess corridor area for purchase, the proposed use or uses, public benefit of the project, any possible impact on restoration of future rail services, the likely costs associated with acquisition and

any other information deemed necessary by the City.

- b. The Lewistown Park Board, Public Works Department, Planning Department and City Manager recommend supporting the request and, after receiving public comment, the City Commission finds the proposed sale to be in the public interest and grants preliminary approval, subject to all other requirements being met;
 - c. The buyer provides adequate documentation to verify that the proposed purchase of Rail Corridor would not interfere with restoration of any future rail transportation;
 - d. The buyer agrees to bear all costs associated with acquisition, including but not limited to obtaining necessary releases and approvals from entities such as BNSF and the Surface Transportation Board, and any associated costs of sale, including but not limited to required studies, surveys, appraisals, legal fees, title insurance or closing costs;
 - e. That the purchase is for fair value, as determined in the sole discretion of the City Commission, taking into account the value as determined by a certified appraiser, public benefit, and any other factors deemed appropriate by the Commission;
 - f. That all statutory requirements for sale of city property and public bidding requirements are complied with;
 - g. That, after all above requirements are met, the City Commission finally approves the sale at a public meeting after receiving public input and upon a finding that the sale is in public interest; such final approval being within the sole discretion of the City Commission.
2. No easement or permanent encumbrance of any kind will be granted on over, or under Rail Corridor.
- a. In lieu of an easement, the City may grant an entity a permissive use on, over, or under Rail Corridor for public purposes provided the receiving entity enters into a written agreement under such terms and

conditions approved by the City and acknowledging that no permanent easement shall be created and that upon termination of the use, any plant or equipment installed shall be removed at the owner's expense and that the Rail Corridor shall be restored to its original condition. Such agreement shall be recorded with the Fergus County Clerk and Recorder.

3. The City will entertain requests for renewable leases on those portions of excess Rail Corridor as approved by the Lewistown Park Board and City Commission. Such leases shall be:
 - a. made on forms approved by the City and reviewed by the city attorney;
 - b. from year to year;
 - c. terminable by the City at any time, without cause;
 - d. for fair market value as determined in a manner by the City Manager and City Commission.

PASSED AND APPROVED by the Lewistown City Commission on the 5th day of August, 2013.



FRANK GREMAUX
Chairman of the Commission

ATTEST:



Nikki Brummond, City Clerk