



Livingston City Commission Agenda

September 03, 2019

5:30 PM

City – County Complex, Community Room

1. Call to Order

2. Roll Call

3. Moment of Silence

4. Pledge of Allegiance

5. Public Comment

Individuals are reminded that public comments should be limited to item over which the City Commission has supervision, control jurisdiction, or advisory power (MCA 2-3-202)

6. Consent Items

A. APPROVE MINUTES FROM 8/20/2019 REGULAR CITY COMMISSION MEETING. PG. 4

B. RATIFY CLAIMS PAID FROM 8/15/2019-08/30/2019 PG. 7

7. Proclamations

8. Scheduled Public Comment

9. Public Hearings

A. PUBLIC HEARING ON RESOLUTION NO. 4874-A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO FIX THE TAX LEVY FOR FISCAL YEAR 2019-2020. PG. 18

10. Ordinances

11. Resolutions

A. RESOLUTION NO. 4877 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2018-2019, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$2,952,743 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$3,000,326. PG. 23

B. RESOLUTION NO. 4878 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, FIXING THE TAX LEVY FOR FISCAL YEAR 2019-2020 AND GIVING NOTICE OF A PUBLIC HEARING THEREON. PG. 28

C. RESOLUTION NO. 4879 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO SIGN A STANDARD AUDIT CONTRACT WITH AMATICS CPA GROUP. PG. 33

D. RESOLUTION NO. 4880 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH TD&H ENGINEERING FOR CONSTRUCTION ADMINISTRATION FOR THE

PARK STREET WATER MAIN REPLACEMENT, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT TO INCLUDE THE USE OF CONTINGENCY FUNDS AS DEEMED NECESSARY. PG. 53

E. RESOLUTION NO. 4881 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO SIGN A GENERAL SERVICES AGREEMENT AND SECTION 00500 AGREEMENT WITH WESTERN MUNICIPAL CONSTRUCTION FOR CONSTRUCTION SERVICES FOR THE 2019 PARK STREET WATER MAIN REPLACEMENT, AND TO EXECUTE THE AGREEMENT TO INCLUDE THE USE OF CONTINGENCY FUNDS AS DEEMED NECESSARY. PG. 72

12. Action Items

13. City Manager Comment

14. City Commission Comments

15. Adjournment

Calendar of Events

Date	Time	Event
August 30. 2019		Livingston Fire and Rescue Fill the Boot event Firefighters will be at Albertsons & Town and Country Foods
September 2. 2019	All Day	<i>Labor Day- All City Offices/Facilities Closed</i>
September 12. 2019	5:30 PM	Angel Line Board Meeting Community Room-City/County Complex
September 13. 2019	3:30 PM	Historic Preservation Board Meeting Community Room-City/County Complex

Supplemental Material

Notice

- **Public Comment:** The public can speak about an item on the agenda during discussion of that item by coming up to the table or podium, signing-in, and then waiting to be recognized by the Chairman. Individuals are reminded that public comments should be limited to items over which the City Commission has supervision, control, jurisdiction, or advisory power (MCA 2-3-202).
- **Meeting Recording:** An audio and/or video recording of the meeting, or any portion thereof, may be purchased by contacting the City Administration. The City does not warrant the audio and/or video recording as to content, quality, or clarity.
- **Special Accommodation:** If you need special accommodations to attend or participate in our meeting, please contact the Fire Department at least 24 hours in advance of the specific meeting you are planning on attending.

Item Attachment Documents:

- A. APPROVE MINUTES FROM 8/20/2019 REGULAR CITY COMMISSION MEETING.**

LIVINGSTON CITY COMMISSION

MINUTES

August 20, 2019 5:30 PM

City-County Complex, Community Room

1 Call to Order

2 Roll Call

* Hogle, Schwarz, Mabie, and Nootz were present.

3 Moment of Silence

4 Pledge of Allegiance

5 Public Comments (00:02:07)

* Jack Luther (00:02:17)

* Jay Keifer (00:06:56)

6 Consent Items (00:14:54)

* Schwarz motioned to approve consent items, Nootz seconded.
All in favor, motion passed 4-0.

7 Proclamations

8 Scheduled Public Comment (00:15:19)

* Paul Reichert, Executive Director of Prospera Business Network, with Economic Development update to City Commission.

* Adam Stern of City Planning Board & Jim Baerg from City Zoning Commission with policy recommendation regarding large format retail. (00:24:54)

9 Public Hearings (00:39:22)

* ORDINANCE NO. 2081- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AMENDING ORDINANCE 2030 AND CHAPTER 9, ARTICLE IV SECTION 9-222 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED "PARKING STOPPING, AND STANDING" BY ESTABLISHING A NO PARKING TOW-AWAY ZONE ADJACENT TO THE WILCOXONS PLANT ON WEST CLARK STREET MAKING VIOLATIONS THEREOF A CIVIL OFFENSE, AND PROVIDING A PENALTY.

* Mabie motioned, Schwarz seconded.

All in favor, motion passed 4-0.

10 Ordinances

11 Resolutions (00:43:32)

* RESOLUTION NO. 4874- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF IT'S INTENT TO FIX THE TAX LEVY FOR FISCAL YEAR 2019-2020 AND GIVING NOTICE OF A PUBLIC HEARING THEREON.

* Jay Keifer made comment (00:44:58)

* Schwarz made comment (00:47:30)

* Schwarz made motion, Mabie seconded

All in favor, motion passes 4-0.

* RESOLUTION NO. 4875- AUTHORIZING THE CITY MANAGER TO SIGN AN ADDENDUM TO THE PROFESSIONAL SERVICES AGREEMENT WITH FOUR CORNERS RECYCLING, LLC. AMENDING CARDBOARD RECYCLING FEES FOR FISCAL YEARS 2020-2022. (00:49:00)

* Dave Leverette of Four Corners recycling made comments (00:50:07)

* Shannon Holmes, Public Works Director made comments (00:57:20)

* Mabie made comments (00:58:34)

* Schwarz made comments (01:01:07)

* Jay Keifer made comments (01:05:18)

* Nolan Lister made comments (01:08:22)

* Hogle made comments (01:11:23)

* Melissa made comments (01:12:56)

* Nootz motioned, Mabie seconded

All in favor, motion passes 4-0.

*** RESOLUTION NO. 4876 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO SIGN A GENERAL SERVICES AND MASTER AGREEMENT WITH ONSITE ENERGY, INC., FOR INSTATLLATION OF A SOLAR ENERGY STORAGE SYSTEM AT THE NEW WASTE WATER RECLAMATION FACILITY. (01:15:10)**

- * Jay Keifer made comments (01:16:32)**
- * Shannon Holmes made comments (01:18:37)**
- * Nootz read email comment from Energy Corps intern Cameron Teranchi (01:19:59)**
- * Mabie made comments (01:22:24)**
- * Schwarz motioned, Nootz seconded**
- All in favor, motion passes 4-0.**

12 Action Items (01:22:47)

- * DISCUSS SCHEDULING COMMISSIONERS LISTENING SESSIONS FOR SEPTEMBER**
City will publically notice Commission will be at a series of Farmers Market through September 18th.

13 City Manager Comments-made comments (01:29:06)

- * Update on Conservation Board draft By-Laws
- * Civic Center closed from 08/26/2019-09/15/2019 to resurface gym floors.

14 City Commissioner Comments (01:30:30)

- * Nootz made comments (01:30:30)
- * Mabie made comments (01:32:51)
- * Schwarz made comments (01:33:13)
- * Hoglund made comments (01:34:20)

15 Adjournment (01:37:33) 07:08 pm

Item Attachment Documents:

B. RATIFY CLAIMS PAID FROM 8/15/2019-08/30/2019

Report Criteria:
Detail report type printed

Vendor Number	Name	Invoice Number	Description	Seq	Invoice Date	Invoice Amount	Discount Amount	Check Amount	Check Number	Check Issue Date
1	TECH ELECTRIC, INC	40691	Transfer Station	1	08/12/2019	114.00	.00	114.00	89567	08/22/2019
Total 1:						114.00	.00	114.00		
22	ALL SERVICE TIRE & ALI	57372	Flat repair	1	07/17/2019	40.00	.00	40.00	89401	08/07/2019
		57375	Flat repair	1	07/18/2019	15.00	.00	15.00	89356	07/30/2019
		57376	New Tires on 49-8152C	1	07/18/2019	760.00	.00	760.00	89401	08/07/2019
		57423	New Tires	1	07/24/2019	165.00	.00	165.00	89462	08/13/2019
		57476	Flat repair	1	08/01/2019	15.00	.00	15.00	89401	08/07/2019
Total 22:						995.00	.00	995.00		
23	CARQUEST AUTO PARTS	1912-447600	V Belt Industrial	1	07/11/2019	6.29	.00	6.29	89360	07/30/2019
		1912448275	Cleaning supplies	1	07/08/2019	66.19	.00	66.19	89465	08/13/2019
		1912-449530	Batteries for 88' Chevy	1	07/31/2019	103.84	.00	103.84	89409	08/07/2019
		1912-449719	Air hose	1	08/02/2019	22.31	.00	22.31	89465	08/13/2019
		1912-450547	Air filter	1	08/12/2019	130.20	.00	130.20	89527	08/22/2019
		1912-450598	Air filter	1	08/12/2019	82.60	.00	82.60	89527	08/22/2019
		1912-450841	Multi Use Pump	1	08/14/2019	14.71	.00	14.71	89527	08/22/2019
		1912-451025	Silverstar	1	08/16/2019	18.19	.00	18.19	89527	08/22/2019
Total 23:						444.33	.00	444.33		
26	LIVINGSTON ACE HARD	F05623	PARK DEPT.SUPPLIES	1	07/18/2019	145.48	.00	145.48	89377	07/30/2019
		F05624	Street Dept. Supplies	1	07/18/2019	59.96	.00	59.96	89377	07/30/2019
		F05973	Water Dept. Supplies	1	07/18/2019	42.93	.00	42.93	89377	07/30/2019
		F08272	Water Dept. Supplies	1	07/22/2019	18.09	.00	18.09	89377	07/30/2019
Total 26:						266.46	.00	266.46		
34	MOUNTAIN AIR SPORTS	9680	Junior Aquatics	1	07/15/2019	155.50	.00	155.50	89550	08/22/2019
		9692	Reserve Clothing	1	07/22/2019	36.00	.00	36.00	89550	08/22/2019
		9698	Reserve Clothing	1	07/23/2019	54.00	.00	54.00	89550	08/22/2019
Total 34:						245.50	.00	245.50		
47	WILCOXSON'S	9648	Ice Cream - Pool	1	07/20/2019	92.00	.00	92.00	89396	07/30/2019
Total 47:						92.00	.00	92.00		
54	GATEWAY OFFICE SUPP	45339	UPS	1	07/22/2019	18.23	.00	18.23	89423	08/07/2019
		45407	BINDERS	1	07/30/2019	35.00	.00	35.00	89423	08/07/2019
		45407	Credit for overcharge	2	07/30/2019	10.20-	.00	10.20-	89423	08/07/2019
		45417	Supplies	1	07/30/2019	25.70	.00	25.70	89423	08/07/2019
		45483	Supplies	1	08/05/2019	3.20	.00	3.20	89477	08/13/2019
Total 54:						71.93	.00	71.93		
55	LIVINGSTON HEALTH CA	200023425 S	PT#770004149; 10/18	1	07/30/2019	238.00	.00	238.00	89487	08/13/2019
		4031455	Patient Supplies	1	07/24/2019	6.16	.00	6.16	89432	08/07/2019
		4043869	Medications	1	08/08/2019	218.79	.00	218.79	89546	08/22/2019
Total 55:						462.95	.00	462.95		

Vendor Number	Name	Invoice Number	Description	Seq	Invoice Date	Invoice Amount	Discount Amount	Check Amount	Check Number	Check Issue Date
100	HACH COMPANY	11554131	Rugged Field Kit	1	07/18/2019	3,086.00	.00	3,086.00	89424	08/07/2019
Total 100:						3,086.00	.00	3,086.00		
102	INDUSTRIAL TOWEL	97877	Bennett Street	1	07/26/2019	43.30	.00	43.30	89426	08/07/2019
		98364	Rug Maint, Towels	1	08/01/2019	35.12	.00	35.12	89426	08/07/2019
		98616	Finance Office	1	08/02/2019	33.63	.00	33.63	89426	08/07/2019
		99299	Bennett Street	1	08/09/2019	43.30	.00	43.30	89538	08/22/2019
		99798	Finance Office	1	08/15/2019	35.12	.00	35.12	89538	08/22/2019
Total 102:						190.47	.00	190.47		
112	MONTANA RAIL LINK	451744	Agreement 88742-Sewer Li	1	08/01/2019	100.00	.00	100.00	89495	08/13/2019
		451928	Agreement 600286- Sewer	1	08/01/2019	100.00	.00	100.00	89495	08/13/2019
		452068	Agreement 96713-Sewer Li	1	08/01/2019	100.00	.00	100.00	89495	08/13/2019
		452228	Agreement 600065-Water	1	08/01/2019	568.00	.00	568.00	89495	08/13/2019
		452231	Agreement 600129-Water	1	08/01/2019	100.00	.00	100.00	89495	08/13/2019
		452235	Agreement 600223-Water	1	08/01/2019	100.00	.00	100.00	89495	08/13/2019
		452236	Agreement 600224- Water	1	08/01/2019	100.00	.00	100.00	89495	08/13/2019
Total 112:						1,168.00	.00	1,168.00		
122	DEPARTMENT OF REVEN	529703-1	Helena Sand & Gravel - Gr	1	08/06/2019	3,740.76	.00	3,740.76	89533	08/22/2019
Total 122:						3,740.76	.00	3,740.76		
131	CITY OF LIVINGSTON	TK2018-0677	Bond Conversion - L. Clark	1	08/14/2019	890.00	.00	890.00	4463	08/16/2019
		TK2019-0324	Bond Conversion - G. Tele	1	08/20/2019	685.00	.00	685.00	4467	08/23/2019
Total 131:						1,575.00	.00	1,575.00		
151	NORTHWESTERN ENER	3120133-8	110 S B St	1	08/09/2019	204.93	.00	204.93	88061	01/25/2019
		3120133-8	110 S B Street	2	08/09/2019	167.78	.00	167.78	84721	09/06/2017
		3120133-8	110 South B St.	3	08/09/2019	148.24	.00	148.24	84922	10/04/2017
		3120133-8	110 S B St.	4	08/09/2019	202.05	.00	202.05	88279	02/26/2019
		3120133-8	110 S B St	5	08/09/2019	333.15	.00	333.15	88472	03/26/2019
		3120133-8	110 S B St.	6	08/09/2019	200.61	.00	200.61	88659	04/23/2019
		3120133-8	110 S B St.	7	08/09/2019	190.73	.00	190.73	88845	05/21/2019
		3120133-8	110 South B St	8	08/09/2019	172.73	.00	172.73	89556	08/22/2019
		3120134-6	112 S B St	1	08/12/2019	88.01	.00	88.01	88061	01/25/2019
		3120134-6	110 S B Street	2	08/12/2019	129.73	.00	129.73	84721	09/06/2017
		3120134-6	112 South B St.	3	08/12/2019	100.17	.00	100.17	84922	10/04/2017
		3120134-6	112 S B St.	4	08/12/2019	128.01	.00	128.01	88279	02/26/2019
		3120134-6	112 S B St	5	08/12/2019	132.86	.00	132.86	88472	03/26/2019
		3120134-6	112 S B St.	6	08/12/2019	113.34	.00	113.34	88659	04/23/2019
		3120134-6	112 S B St.	7	08/12/2019	113.39	.00	113.39	88845	05/21/2019
		3120134-6	112 South B St.	8	08/12/2019	116.31	.00	116.31	89556	08/22/2019
Total 151:						2,542.04	.00	2,542.04		
162	CENTURYLINK	406-222-471	Finance Fax	1	07/17/2019	65.33	.00	65.33	88601	04/17/2019
		406-222-471	Finance Fax	2	07/17/2019	68.19	.00	68.19	88822	05/21/2019
		406-222-471	Finance Fax	3	07/17/2019	12.19	.00	12.19	89530	08/22/2019
		406-222-924	WWTP	1	08/04/2019	142.72	.00	142.72	89530	08/22/2019
Total 162:						288.43	.00	288.43		

Vendor Number	Name	Invoice Number	Description	Seq	Invoice Date	Invoice Amount	Discount Amount	Check Amount	Check Number	Check Issue Date
250	INSTY-PRINTS	31485	Budget books	1	07/25/2019	840.70	.00	840.70	89427	08/07/2019
Total 250:						840.70	.00	840.70		
294	CHAPPELL'S BODY SHOP	411	Car wash cards	1	07/19/2019	120.00	.00	120.00	89413	08/07/2019
		412	Car wash cards	1	07/26/2019	60.00	.00	60.00	89413	08/07/2019
Total 294:						180.00	.00	180.00		
423	NORTHWEST PIPE FITTI	5169177	Pipe	1	07/08/2019	1,446.58	.00	1,446.58	89555	08/22/2019
		5169177-1	Pipe	1	07/08/2019	261.02	.00	261.02	89555	08/22/2019
		5169177-2	Pipe	1	07/11/2019	266.61	.00	266.61	89555	08/22/2019
		CM5169177	Credit	1	07/11/2019	221.18-	.00	221.18-	89555	08/22/2019
		CM5169177-	Credit	1	07/11/2019	128.06-	.00	128.06-	89555	08/22/2019
		CM5169177-	Credit	1	07/16/2019	61.60-	.00	61.60-	89555	08/22/2019
		CM5169177-	Credit	1	07/16/2019	157.00-	.00	157.00-	89555	08/22/2019
Total 423:						1,406.37	.00	1,406.37		
468	LIVINGSTON FIRE SERVI	15539	Annual extinguisher-WWT	1	08/01/2019	564.40	.00	564.40	89486	08/13/2019
		15545	Extinguisher Annual Maint.	1	08/08/2019	302.65	.00	302.65	89545	08/22/2019
Total 468:						867.05	.00	867.05		
682	CENTRON SERVICES	2019_07 PA	3069 Collections July 19'	1	07/28/2019	63.35	.00	63.35	89411	08/07/2019
Total 682:						63.35	.00	63.35		
745	DELL MARKETING L.P.	1032948503	Maggie Computer	1	07/17/2019	1,052.10	.00	1,052.10	89416	08/07/2019
Total 745:						1,052.10	.00	1,052.10		
776	KENYON NOBLE	7213913	Supplies	1	07/15/2019	31.50	.00	31.50	89375	07/30/2019
Total 776:						31.50	.00	31.50		
845	US BANK St. Paul	2265-01; 08/	REPLACE WATER MAINS	1	08/15/2019	7,647.00	.00	7,647.00	89340	07/23/2019
		2265-01; 08/	REPLACE WATER MAINS	2	08/15/2019	255.60	.00	255.60	89340	07/23/2019
		2425-01; 08/	STREET REPAIR PROJEC	1	08/15/2019	20,311.33	.00	20,311.33	89340	07/23/2019
		2425-01; 08/	STREET REPAIR PROJEC	2	08/15/2019	2,768.94	.00	2,768.94	89340	07/23/2019
		2676-01; 08/	PURCHASE PROPERTY F	1	08/15/2019	15,142.39	.00	15,142.39	89340	07/23/2019
		2676-01; 08/	PURCHASE PROPERTY F	2	08/15/2019	1,019.23	.00	1,019.23	89340	07/23/2019
		2760-01; 08/	REMODEL POLICE/DISPA	1	08/15/2019	3,503.47	.00	3,503.47	89340	07/23/2019
		2760-01; 08/	REMODEL POLICE/DISPA	2	08/15/2019	1,021.87	.00	1,021.87	89340	07/23/2019
		2840-01; 8/1	PURCHASE NEW STREE	1	08/15/2019	21,108.07	.00	21,108.07	89340	07/23/2019
		2840-01; 8/1	PURCHASE NEW STREE	2	08/15/2019	3,664.32	.00	3,664.32	89340	07/23/2019
Total 845:						76,442.22	.00	76,442.22		
1390	KEN'S EQUIPMENT REPA	53540	G1 Repair	1	07/05/2019	410.00	.00	410.00	89428	08/07/2019
		53628	Medic 3 repair	1	07/17/2019	421.70	.00	421.70	89428	08/07/2019
		53638	Roush Truck DNR1867 rep	1	07/18/2019	160.00	.00	160.00	89428	08/07/2019
Total 1390:						991.70	.00	991.70		
1687	HANSER'S AUTOMOTIVE	0248	LPD Tow	1	07/16/2019	85.00	.00	85.00	89371	07/30/2019

Vendor Number	Name	Invoice Number	Description	Seq	Invoice Date	Invoice Amount	Discount Amount	Check Amount	Check Number	Check Issue Date
Total 1687:						85.00	.00	85.00		
1783	J & H OFFICE EQUIPMEN	1415137	Library printer buyout #QT	1	07/08/2019	1,806.48	.00	.00	89483	08/13/2019
		1415137	Library printer buyout #QT	2	07/08/2019	1,806.48				
		1415137	Library printer buyout #QT	3	07/08/2019	1,806.48	.00	1,806.48	89483	08/13/2019
Total 1783:						1,806.48	.00	1,806.48		
1845	GENERAL DISTRIBUTING	00782684	Oxygen	1	07/31/2019	30.38	.00	30.38	89478	08/13/2019
Total 1845:						30.38	.00	30.38		
1920	HORIZON AUTO PARTS	859073	Coupler	1	08/10/2019	33.39	.00	33.39	89537	08/22/2019
Total 1920:						33.39	.00	33.39		
2001	KARNATZ TREE SERVICE	28	Stumping- Sacajewa Park	2	08/01/2019	1,100.00	.00	.00	89485	Multiple
		28	Stumping- Sacajewa Park	3	08/01/2019	1,100.00	.00	1,100.00	89521	08/19/2019
		28	Stumping- Sacajewa Park	4	08/01/2019	1,100.00				
		29	502 N 5th - Stump Grind	1	08/20/2019	1,200.00	.00	1,200.00	89540	08/22/2019
	6/10/19- SAC		Stumping- Sacajewa Park	1	06/10/2019	1,100.00	.00	.00	89485	Multiple
	6/10/19- SAC		Stumping- Sacajewa Park	2	06/10/2019	1,100.00				
Total 2001:						2,300.00	.00	2,300.00		
2087	WISPWEST.NET	499031	Pool internet	1	08/01/2019	40.17	.00	40.17	89455	08/07/2019
		499031	Civic Center	2	08/01/2019	30.32	.00	30.32	89455	08/07/2019
Total 2087:						70.49	.00	70.49		
2241	AFFCO	13560	19 Light Poles	1	07/23/2019	52,345.00	.00	52,345.00	89400	08/07/2019
Total 2241:						52,345.00	.00	52,345.00		
2346	MONTANA DEPT OF ENVI	5L1900820	MTR000494 - Acreage	1	07/22/2019	750.00	.00	750.00	89381	07/30/2019
Total 2346:						750.00	.00	750.00		
2516	FRONTLINE AG SOLUTIO	661251	nuts and bolts	1	07/18/2019	3.81	.00	3.81	89475	08/13/2019
		666249	Parks Department mower p	1	07/29/2019	6.82	.00	6.82	89475	08/13/2019
		667123	Parks Department mower p	1	07/30/2019	333.20	.00	333.20	89475	08/13/2019
Total 2516:						343.83	.00	343.83		
2571	CENTRAL SERVICES DIVI	2020-05-052	CJIN Access	1	06/26/2019	671.79	.00	671.79	89201	07/09/2019
		2020-05-091	CJIN fees	1	06/26/2019	9,189.75	.00	9,189.75	89529	08/22/2019
Total 2571:						9,861.54	.00	9,861.54		
2595	TOWN & COUNTRY FOO	8236002-07/	Class Supplies	1	07/17/2019	26.73	.00	26.73	89393	07/30/2019
		8236002-07/	Class Supplies	1	07/21/2019	5.53	.00	5.53	89393	07/30/2019
Total 2595:						32.26	.00	32.26		
2604	MUNICIPAL EMERGENCY	IN1360479	TAIL COAT, TAIL PANT, DY	1	07/22/2019	66.47	.00	66.47	89440	08/07/2019

Vendor Number	Name	Invoice Number	Description	Seq	Invoice Date	Invoice Amount	Discount Amount	Check Amount	Check Number	Check Issue Date
Total 2604:						66.47	.00	66.47		
2631	MONTANA STATE - FIRE	34-139	Bernard Fire Instructor 1 C	1	07/15/2019	95.00	.00	95.00	89382	07/30/2019
Total 2631:						95.00	.00	95.00		
2662	BOUND TREE MEDICAL,	83284465	Patient Supplies	1	07/22/2019	2.71	.00	2.71	89358	07/30/2019
		83305368	Patient Supplies	1	08/08/2019	311.01	.00	311.01	89526	08/22/2019
		83310286	Patient Supplies	1	08/13/2019	250.54	.00	250.54	89526	08/22/2019
Total 2662:						564.26	.00	564.26		
2671	COMDATA	20316333	Fire Dept. Fuel	1	08/01/2019	539.33	.00	539.33	89470	08/13/2019
		20316333	EMS Dept. Fuel	2	08/01/2019	2,334.67	.00	2,334.67	89470	08/13/2019
		20316354	Building Dept. Fuel	1	08/01/2019	83.62	.00	83.62	89414	08/07/2019
		20316354	Water Dept. Fuel	2	08/01/2019	676.57	.00	676.57	89414	08/07/2019
		20316354	Sewer Dept. Fuel	3	08/01/2019	439.51	.00	439.51	89414	08/07/2019
		20316354	Parks Dept. Fuel	4	08/01/2019	1,013.37	.00	1,013.37	89414	08/07/2019
		20316354	Street Dept. Fuel	5	08/01/2019	506.51	.00	506.51	89414	08/07/2019
		20316354	Solid Waste Dept. Fuel	6	08/01/2019	239.94	.00	239.94	89414	08/07/2019
		20316354	Code Enforcement Fuel	7	08/01/2019	110.44	.00	110.44	89414	08/07/2019
		20316355	Police Dept. Fuel	1	08/01/2019	1,884.81	.00	1,884.81	89414	08/07/2019
Total 2671:						7,828.77	.00	7,828.77		
2727	MMIA - LIABILITY PROGR	LIVINGSTON	FY19/20 LIABILITY ASSES	1	07/01/2019	271,492.00	.00	271,492.00	89272	07/16/2019
Total 2727:						271,492.00	.00	271,492.00		
2830	LEHRKIND'S COCA-COLA	16583036	5 gal bif spring an	1	07/17/2019	19.95	.00	19.95	89376	07/30/2019
		1658304	5 gal bif spring an	1	07/17/2019	16.50	.00	16.50	89376	07/30/2019
		1663117	5 gal bif spring	1	07/31/2019	39.80	.00	39.80	89430	08/07/2019
		1663118	5 gal bif spring	1	07/30/2019	41.25	.00	41.25	89430	08/07/2019
Total 2830:						117.50	.00	117.50		
2863	KIMBALL MIDWEST	7270631	Supplies	1	07/16/2019	722.31	.00	722.31	89429	08/07/2019
		7282630	Supplies	1	07/22/2019	32.75	.00	32.75	89429	08/07/2019
		7283148	Supplies	1	07/22/2019	53.82	.00	53.82	89429	08/07/2019
Total 2863:						808.88	.00	808.88		
2904	FISHER SAND AND GRAV	96614	1" Road Gravel	1	08/03/2019	1,715.29	.00	1,715.29	89534	08/22/2019
		96657	Flow-Fill Concrete	1	08/03/2019	1,092.50	.00	1,092.50	89534	08/22/2019
Total 2904:						2,807.79	.00	2,807.79		
2999	TEAR IT UP L.L.C.	40995	266# Dispatch	1	07/17/2019	78.52	.00	78.52	89566	08/22/2019
Total 2999:						78.52	.00	78.52		
3010	EMANUAL, ANDREW	K9 CERTIFIC	Travel Expense Reimburse	1	06/23/2019	358.95	.00	358.95	89207	07/09/2019
Total 3010:						358.95	.00	358.95		
3058	MUNICIPAL CODE CORP	00331190	Subscription 07/01/2019-0	1	07/22/2019	150.00	.00	150.00	89384	07/30/2019

Vendor Number	Name	Invoice Number	Description	Seq	Invoice Date	Invoice Amount	Discount Amount	Check Amount	Check Number	Check Issue Date
Total 3058:						150.00	.00	150.00		
3184	MASTERCARD	EMTER 2019	D✦cor	1	08/01/2019	203.00	.00	203.00	89571	08/22/2019
		EMTER 2019	Tools and material	2	08/01/2019	59.86	.00	59.86	89571	08/22/2019
		EMTER 2019	Bracket	3	08/01/2019	8.29	.00	8.29	89571	08/22/2019
		EMTER 2019	Ice	4	08/01/2019	10.50	.00	10.50	89571	08/22/2019
		EMTER 2019	Glass for frame	5	08/01/2019	12.00	.00	12.00	89571	08/22/2019
		EMTER 2019	Screws	6	08/01/2019	8.29	.00	8.29	89571	08/22/2019
		EMTER 2019	Hanger	7	08/01/2019	18.69	.00	18.69	89571	08/22/2019
		EMTER 2019	Lime and gear	8	08/01/2019	232.88	.00	232.88	89571	08/22/2019
		FETTERHOF	Office supplies	1	08/01/2019	12.60	.00	12.60	89571	08/22/2019
		FETTERHOF	Postage	2	08/01/2019	100.00	.00	100.00	89571	08/22/2019
		FETTERHOF	Postage	3	08/01/2019	24.99	.00	24.99	89571	08/22/2019
		FETTERHOF	Travel - AICPA Conference	4	08/01/2019	209.19	.00	209.19	89571	08/22/2019
		FETTERHOF	Travel - AICPA Conference	5	08/01/2019	215.00	.00	215.00	89571	08/22/2019
		FETTERHOF	Office supplies	6	08/01/2019	69.98	.00	69.98	89571	08/22/2019
		GRADY 2019	thermal paper rolls	1	08/01/2019	49.99	.00	49.99	89571	08/22/2019
		GRADY 2019	memory stick	2	08/01/2019	12.35	.00	12.35	89571	08/22/2019
		GRADY 2019	funds added	3	08/01/2019	100.00	.00	100.00	89571	08/22/2019
		GRADY 2019	monthly service charge	4	08/01/2019	17.99	.00	17.99	89571	08/22/2019
		GRADY 2019	14.984 gal fuel at 2.79/gal	5	08/01/2019	41.84	.00	41.84	89571	08/22/2019
		HAHN 2019_	Phone case	1	08/01/2019	10.00	.00	10.00	89571	08/22/2019
		HARRINGTO	NFPA 1410	1	08/01/2019	60.45	.00	60.45	89571	08/22/2019
		HOFFMAN 2	Amazon	1	08/01/2019	129.99	.00	129.99	89571	08/22/2019
		JOHANSSO	Dog bones	1	08/01/2019	59.65	.00	59.65	89571	08/22/2019
		JOHANSSO	Sharpies and handsanitizer	2	08/01/2019	160.21	.00	160.21	89571	08/22/2019
		JOHANSSO	Toner	3	08/01/2019	123.86	.00	123.86	89571	08/22/2019
		JOHANSSO	Ribbon cutting scissors	4	08/01/2019	29.99	.00	29.99	89571	08/22/2019
		LOWY 2019_	Job Posting	1	08/01/2019	192.60	.00	192.60	89571	08/22/2019
		LOWY 2019_	Pool Certs	2	08/01/2019	380.00	.00	380.00	89571	08/22/2019
		LOWY 2019_	Scheduling System rec/Po	3	08/01/2019	12.25	.00	12.25	89571	08/22/2019
		LOWY 2019_	Past Due Balance on lease	4	08/01/2019	76.10	.00	76.10	89571	08/22/2019
		LOWY 2019_	Subscription	5	08/01/2019	12.99	.00	12.99	89571	08/22/2019
		MACINNIS 2	Lockout Kit	1	08/01/2019	45.37	.00	45.37	89571	08/22/2019
		MACINNIS 2	Grainger	2	08/01/2019	99.28	.00	99.28	89571	08/22/2019
		MACINNIS 2	Paint	3	08/01/2019	45.98	.00	45.98	89571	08/22/2019
		MACINNIS 2	Traffic Cones	4	08/01/2019	262.17	.00	262.17	89571	08/22/2019
		MACINNIS 2	Tarp	5	08/01/2019	15.99	.00	15.99	89571	08/22/2019
		MACINNIS 2	Cleaning Supply	6	08/01/2019	66.19	.00	66.19	89571	08/22/2019
		MACINNIS 2	June	7	08/01/2019	6,284.33	.00	6,284.33	89571	08/22/2019
		MACINNIS 2	Paint	8	08/01/2019	45.99	.00	45.99	89571	08/22/2019
		MACINNIS 2	Station Supplies	9	08/01/2019	15.98	.00	15.98	89571	08/22/2019
		MACINNIS 2	Cleaning Supply	10	08/01/2019	36.99	.00	36.99	89571	08/22/2019
		PORTEEN 2	Arbitration Conference	1	08/01/2019	270.00	.00	270.00	89571	08/22/2019
		SCHWEIGE	Valve	1	08/01/2019	864.81	.00	864.81	89571	08/22/2019
		SCHWEIGE	Subscription	2	08/01/2019	82.46	.00	82.46	89571	08/22/2019
		SINGER 201	Permanent Markers	1	08/01/2019	10.05	.00	10.05	89571	08/22/2019
		SINGER 201	Supplies	2	08/01/2019	126.03	.00	126.03	89571	08/22/2019
		SINGER 201	Toner	3	08/01/2019	372.99	.00	372.99	89571	08/22/2019
		SINGER 201	Voice Recorder for Commi	4	08/01/2019	417.83	.00	417.83	89571	08/22/2019
		SINGER 201	Shelves for Finance Office	5	08/01/2019	102.49	.00	102.49	89571	08/22/2019
		SINGER 201	Supplies for Police Dept	6	08/01/2019	390.55	.00	390.55	89571	08/22/2019
		SINGER 201	Supplies for Police Dept	7	08/01/2019	118.00	.00	118.00	89571	08/22/2019
		SINGER 201	Supplies for Police Dept	8	08/01/2019	143.92	.00	143.92	89571	08/22/2019
		TARR 2019_	Teen Space	1	08/01/2019	13.98	.00	13.98	89571	08/22/2019
		TARR 2019_	Promo Materials Fair Event	2	08/01/2019	7.99	.00	7.99	89571	08/22/2019

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		TARR 2019_	Promo Materials Fair Event	3	08/01/2019	45.40	.00	45.40	89571	08/22/2019	
		TARR 2019_	Promo Materials Fair Event	4	08/01/2019	44.76	.00	44.76	89571	08/22/2019	
		TARR 2019_	Junior Acquatic Supplies	5	08/01/2019	10.90	.00	10.90	89571	08/22/2019	
		TARR 2019_	Promo Materials Fair Event	6	08/01/2019	23.45	.00	23.45	89571	08/22/2019	
		TARR 2019_	Promo Materials Fair Event	7	08/01/2019	4.47	.00	4.47	89571	08/22/2019	
		TARR 2019_	Promo Materials Fair Event	8	08/01/2019	19.00	.00	19.00	89571	08/22/2019	
		TARR 2019_	Ad for Rec Center Meeting	9	08/01/2019	20.00	.00	20.00	89571	08/22/2019	
		WHITMAN 2	Tablet case	1	08/01/2019	224.98	.00	224.98	89571	08/22/2019	
		WULF 2019_	Ped Restraint	1	08/01/2019	814.00	.00	814.00	89571	08/22/2019	
		WULF 2019_	Subscription	2	08/01/2019	29.16	.00	29.16	89571	08/22/2019	
		Total 3184:						13,731.02	.00	13,731.02	
3210	LIVINGSTON LOCKS & CL	126751	Duplicate Keys	1	08/13/2019	36.00	.00	36.00	89547	08/22/2019	
		Total 3210:						36.00	.00	36.00	
3237	WHISTLER TOWING, LLC	10160	LPD Tow	1	08/13/2019	75.00	.00	75.00	89570	08/22/2019	
		10601	LPD Tow	1	08/12/2019	75.00	.00	75.00	89570	08/22/2019	
		10602	LPD Tow	1	08/12/2019	75.00	.00	75.00	89570	08/22/2019	
		10603	LPD Tow	1	08/12/2019	75.00	.00	75.00	89570	08/22/2019	
		10604	LPD Tow	1	08/12/2019	75.00	.00	75.00	89570	08/22/2019	
		3770	BATTERY- MEDIC 2	1	07/18/2019	530.25	.00	530.25	89395	07/30/2019	
		3782	M4 Tow	1	07/24/2019	1,021.10	.00	1,021.10	89454	08/07/2019	
		3819	M1 AC Recharge	1	08/07/2019	194.33	.00	194.33	89570	08/22/2019	
		9728	LPD Tow	1	07/18/2019	352.50	.00	352.50	89395	07/30/2019	
		Total 3237:						2,473.18	.00	2,473.18	
3357	ADVANCED TECHNOLOG	22451	DPD Liquid	1	07/15/2019	56.00	.00	56.00	89355	07/30/2019	
		Total 3357:						56.00	.00	56.00	
3371	BALCO UNIFORM COMPA	54826	Reserve CLothing	1	08/08/2019	76.00	.00	76.00	89525	08/22/2019	
		Total 3371:						76.00	.00	76.00	
3376	TRANSUNION RISK & ALT	380349-2019	investigative resear	1	07/01/2019	27.20	.00	27.20	89234	07/09/2019	
		380349-2019	380349 Investigative Rese	1	08/01/2019	72.80	.00	72.80	89451	08/07/2019	
		Total 3376:						100.00	.00	100.00	
3378	AMERICAN AUTOMOTIVE	5212	Brakes and roters; 16' Ford	1	07/31/2019	267.33	.00	267.33	89402	08/07/2019	
		5212	Brakes and roters; 16' Ford	2	07/31/2019	90.00	.00	90.00	89402	08/07/2019	
		5266	14 Interceptor Parts	1	08/09/2019	463.12	.00	463.12	89524	08/22/2019	
		5266	14 Interceptor Service	2	08/09/2019	135.00	.00	135.00	89524	08/22/2019	
		Total 3378:						955.45	.00	955.45	
3387	J & H, Inc.	564674	Canon Monthly Maint.	1	08/08/2019	29.30	.00	29.30	89539	08/22/2019	
		Total 3387:						29.30	.00	29.30	
3390	TD&H ENGINEERING, IN	17761	Park Street Water	1	07/18/2019	6,843.08	.00	6,843.08	89449	08/07/2019	
		17761	041 Livingston Gateway	2	07/18/2019	253.57	.00	253.57	89449	08/07/2019	
		17761	041 Livingston Gateway	3	07/18/2019	253.58	.00	253.58	89449	08/07/2019	
		17761	020 Civil	4	07/18/2019	96.25	.00	96.25	89449	08/07/2019	

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		17761	020 Civil	5	07/18/2019	200.00	.00	200.00	89449	08/07/2019
		17762	Phase III & IV	1	07/18/2019	23,371.69	.00	23,371.69	89449	08/07/2019
		17762	Phase III & IV	2	07/18/2019	22,357.45	.00	22,357.45	89449	08/07/2019
		Total 3390:				53,375.62	.00	53,375.62		
3440	CHARTER COMMUNICATI	0179852081	414 E Callender	1	08/14/2019	2,629.84	.00	2,629.84	89531	08/22/2019
		0179852081	414 E Callender	2	08/14/2019	60.91	.00	60.91	89531	08/22/2019
		0179852081	414 E Callender	3	08/14/2019	60.94	.00	60.94	89531	08/22/2019
		0179852081	414 E Callender	4	08/14/2019	73.13	.00	73.13	89531	08/22/2019
		0179852081	414 E Callender	5	08/14/2019	73.13	.00	73.13	89531	08/22/2019
		0179852081	414 E Callender	6	08/14/2019	73.20	.00	73.20	89531	08/22/2019
		0179852081	414 E Callender	7	08/14/2019	73.13	.00	73.13	89531	08/22/2019
		0179852081	414 E Callender	8	08/14/2019	73.13	.00	73.13	89531	08/22/2019
		0179878081	330 Bennett St.	1	08/14/2019	110.63	.00	110.63	89531	08/22/2019
		0179878081	330 Bennett St.	2	08/14/2019	110.64	.00	110.64	89531	08/22/2019
		0179878081	330 Bennett Interne	3	08/14/2019	132.77	.00	132.77	89531	08/22/2019
		0179878081	330 Bennett St.	4	08/14/2019	132.77	.00	132.77	89531	08/22/2019
		0179878081	330 Bennett St.	5	08/14/2019	132.77	.00	132.77	89531	08/22/2019
		0179878081	330 Bennett St.	6	08/14/2019	132.77	.00	132.77	89531	08/22/2019
		0179878081	330 Bennett St.	7	08/14/2019	132.77	.00	132.77	89531	08/22/2019
		Total 3440:				4,002.53	.00	4,002.53		
3528	DD Enterprises	2055	Dust control	1	07/31/2019	7,473.86	.00	7,473.86	89415	08/07/2019
		Total 3528:				7,473.86	.00	7,473.86		
3586	TARR, MARGARET	2019_07_21	Amazon	1	07/21/2019	60.35	.00	60.35	89565	08/22/2019
		2019_08_18	Michaels/Costco	1	08/18/2019	122.06	.00	122.06	89565	08/22/2019
		2019_08_19	Town & Country/Ace	1	08/19/2019	19.19	.00	19.19	89565	08/22/2019
		Total 3586:				201.60	.00	201.60		
3593	HYDRO INTERNATIONAL	SIN-001422	Rebuild parts	1	07/23/2019	5,557.75	.00	5,557.75	89425	08/07/2019
		Total 3593:				5,557.75	.00	5,557.75		
3651	MARLIN BUSINESS BANK	17205731	5 Getac Rugged Com	1	07/24/2019	1,273.21	.00	1,273.21	89435	08/07/2019
		Total 3651:				1,273.21	.00	1,273.21		
3688	MURDOCH'S RANCH & H	K01036/37	Supplies	1	07/15/2019	38.97	.00	38.97	89385	07/30/2019
		K01037/B	Cleaning, WRF	1	07/15/2019	242.92	.00	242.92	89500	08/13/2019
		K01088/37	Supplies	1	08/06/2019	36.97	.00	36.97	89500	08/13/2019
		K01097/37	Glyphospate	1	08/08/2019	99.98	.00	99.98	89500	08/13/2019
		K01099	WWTP Supplies	1	08/09/2019	429.98	.00	429.98	89553	08/22/2019
		K01126	Supplies	1	08/19/2019	209.73	.00	209.73	89553	08/22/2019
		K01127	Light	1	08/19/2019	49.98	.00	49.98	89553	08/22/2019
		Total 3688:				1,108.53	.00	1,108.53		
3722	CATHARINE, SUZANNE	7/11/19 FUEL	Reimbursement	1	07/11/2019	37.05	.00	37.05	89466	08/13/2019
		Total 3722:				37.05	.00	37.05		
3763	CASELLE	74430-ANNU	2019 Annual Conference F.	1	07/31/2019	150.00	.00	150.00	89410	08/07/2019

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		74430-ANNU	2019 Annual Conference F.	2	07/31/2019	150.00	.00	150.00	89410	08/07/2019
		74430-ANNU	2019 Annual Conference F.	3	07/31/2019	150.00	.00	150.00	89410	08/07/2019
		74469 - CON	2019 Annual Conference K	1	08/15/2019	495.00	.00	495.00	89528	08/22/2019
		96900	Support and Maint.	1	08/01/2019	2,690.26	.00	2,690.26	89410	08/07/2019
		96900	Support and Maint.	2	08/01/2019	90.27	.00	90.27	89410	08/07/2019
		96900	Support and Maint.	3	08/01/2019	90.27	.00	90.27	89410	08/07/2019
		96900	Support and Maint.	4	08/01/2019	151.64	.00	151.64	89410	08/07/2019
		96900	Support and Maint.	5	08/01/2019	151.64	.00	151.64	89410	08/07/2019
		96900	Support and Maint.	6	08/01/2019	241.92	.00	241.92	89410	08/07/2019
	Total 3763:					4,361.00	.00	4,361.00		
999999	MISC, (999999)	1500400	Overpayment on Account	1	08/20/2019	8.05	.00	8.05	89544	08/22/2019
		2019-08-20	Refund of Early/Late Care	1	08/20/2019	30.00	.00	30.00	89522	08/21/2019
		TK2015-0293	Restitution- C. DAVIS	1	08/08/2019	100.00	.00	100.00	89481	08/13/2019
		TK2018-0667	Bond Release - L. Clark	1	08/14/2019	270.00	.00	270.00	4465	08/16/2019
		TK2019-0150	Bond Release - J. Pope	1	08/14/2019	770.00	.00	770.00	4464	08/16/2019
		TK2019-0333	Bond Release - R. Smith	1	08/14/2019	770.00	.00	770.00	4466	08/16/2019
	Total 999999:					1,948.05	.00	1,948.05		
1000005	MEBULBS-PREMIUM QU	4106236-01	LED BULBS	1	07/15/2019	656.84	.00	656.84	89436	08/07/2019
	Total 1000005:					656.84	.00	656.84		
1000014	REPUBLIC SERVICES #6	0670-000162	Disposal/Recycling	1	07/31/2019	110,094.40	.00	110,094.40	89559	08/22/2019
	Total 1000014:					110,094.40	.00	110,094.40		
1000041	SWS Equipment	0116167	Snow blower	1	07/31/2019	20,000.00	.00	20,000.00	89448	08/07/2019
		0116224	Pressure Switch	1	08/01/2019	169.59	.00	169.59	89564	08/22/2019
	Total 1000041:					20,169.59	.00	20,169.59		
1000079	DAVID BUSHNELL CONS	461	Transfer station window re	1	08/03/2019	1,252.00	.00	1,252.00	89471	08/13/2019
	Total 1000079:					1,252.00	.00	1,252.00		
1000081	IAFC MEMBERSHIP	127001 MEM	MEMBERSHIP DUES 127	1	08/01/2019	285.00	.00	285.00	89209	07/09/2019
	Total 1000081:					285.00	.00	285.00		
1000084	CIVICPLUS	188795	CivicRec Annual Renewal	1	08/01/2019	1,026.00	.00	1,026.00	89362	07/30/2019
		188795	CivicRec Annual Renewal	2	08/01/2019	3,078.20	.00	3,078.20	89362	07/30/2019
	Total 1000084:					4,104.20	.00	4,104.20		
1000089	PATTENGALE VENTURES	WRF-CERT.	WRF-Certificate Display	1	07/25/2019	175.00	.00	175.00	89504	08/13/2019
	Total 1000089:					175.00	.00	175.00		
1000092	DOCTOR CLEAN	6755	Finance Office window clea	1	08/06/2019	415.00	.00	415.00	89472	08/13/2019
	Total 1000092:					415.00	.00	415.00		
1000097	HELENA SAND AND GRA	529703-1	Pay App #1 - 2019 CIP Sch	1	08/06/2019	370,335.24	.00	370,335.24	89536	08/22/2019

Vendor Number	Name	Invoice Number	Description	Seq	Invoice Date	Invoice Amount	Discount Amount	Check Amount	Check Number	Check Issue Date
Total 1000097:						370,335.24	.00	370,335.24		
Grand Totals:						1,053,467.	.00	1,053,467.		

Report Criteria:
Detail report type printed

Item Attachment Documents:

- A. PUBLIC HEARING ON RESOLUTION NO. 4874-A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO FIX THE TAX LEVY FOR FISCAL YEAR 2019-2020.**

RESOLUTION NO. 4874

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO FIX THE TAX LEVY FOR FISCAL YEAR 2019-2020 AND GIVING NOTICE OF A PUBLIC HEARING THEREON.

WHEREAS, pursuant to 7-6-4001 et seq. Montana Code Annotated (MCA), and by Resolution No. 4862 the City Commission approved the Final Budget for the City of Livingston for Fiscal Year 2019-2020; and

WHEREAS, after determining the Final Budget, the City Commission is required to determine the property tax levy needed for each fund by:

- a) adding the total amount of the appropriations and authorized expenditures for the budget year;
- b) adding an additional amount as a reserve to meet expenditures made from the fund during the months of July to November of the next fiscal year;
- c) subtracting the working capital; and
- d) subtracting the total estimated revenue, other than the property tax levy, for the budget year; and

WHEREAS, pursuant to 7-6-4036, MCA, the City of Livingston is required to fix the tax levy by the later of the first Thursday after the first Tuesday in September or within 30 days after receipt of the certified taxable values, at levels that will balance the budget as provided for in 7-6-4034 MCA and in the manner provided by 15-10-201, MCA, i.e. shall make and fix every such levy in mills and tenths and hundredths of mills; and

WHEREAS, the value of the mill for Fiscal Year 2019-2020 is \$14,349.69; and

WHEREAS, the City Commission, pursuant to 7-6-4001 et seq. MCA, shall conduct a public hearing on the proposed tax levy for Fiscal Year 2020 on September 3, 2019, at 5:30 p.m.

NOW, THEREFORE, BE IT RESOLVED, by the City Commission of the City of Livingston, Montana, as follows:

Section One. That it is the intent of the City Commission of the City of Livingston, Montana to fix, levy and assess the general all-purpose mill levy and authorized additional mill levies against all taxable property, both real and personal in the City of Livingston, Montana, for the Fiscal Year beginning July 1, 2019, and ending on June 30, 2020, as follows:

Fund	Title	Mill
Mill levies subject to limit (15-10-420, MCA):		
1000	General	151.22
2190	Comprehensive Insurance	10.00
2220	Library	7.00
Total mills subject to limit:		168.22
 Mill levies not subject to mill levy limit (2-18-703(3), MCA):		
2372	Permissive Health Insurance	31.56
Total mills not subject to limit:		31.56
 Voter approved mill levies:		
3003	2000 Fire Truck GOB	1.65
3005	2016 Fire Truck GOB	2.50
5510	Ambulance	2.00
Total voter approved mills:		6.15
 Total mills:		205.93

Section Two. That it is the intent that the effective date of this Resolution will be July 1, 2019.

Section Three. That it is the intent that the taxes fixed, levied and assessed will be collected by the County of Park, Montana, and the Finance Officer of the City of Livingston shall cause to be certified to the County Treasurer and the County Clerk and Recorder of Park County, Montana, a copy of this Resolution immediately after passage.

Section Four. That it is the intent that the Finance Officer will within a reasonable time forward a complete copy of the final budget together with tax levies to the Department of Commerce.

Section Five. That it is the intent to authorize the City Manager pursuant to 7-6-4031 Montana Code Annotated to transfer appropriations between items within the same fund.

Section Six. That it is the intent, pursuant to 7-6-4006 MCA, appropriations may be adjusted pursuant to procedures authorized by the City Commission for:

- a) debt service funds for obligations related to debt approved by the governing body;
- b) trust funds for obligations authorized by trust covenants;
- c) any fund for federal, state, local or private grants and shared revenue accepted and approved by the City Commission;
- d) any fund for special assessments approved by the City Commission;
- e) the proceeds from the sale of land;
- f) any fund for gifts or donations; and
- g) money borrowed during the fiscal year.

Section Seven: That it is the intent pursuant to 7-6-4012 MCA, to have the City Commission authorize adjustment to appropriations funded by fees throughout the budget period which are based upon the cost of providing a service and are fully funded by the related fees for services, fund reserves or non-fee revenue such as interest for:

- a) proprietary fund appropriations; or
- b) other appropriations specifically identified in the final budget resolution as fee-based appropriations.


BE IT FURTHER RESOLVED that the Notice attached hereto as Exhibit A be published as required by law.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this 20th day of August, 2019.



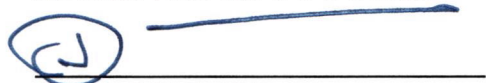
DOREL HOGLUND – Chairperson

ATTEST:



FAITH KINNICK
Recording Secretary

APPROVED AS TO FORM:



JAY PORTEEN
City Attorney

NOTICE

A public hearing will be held by the City Commission of Livingston, Montana, on September 3rd, 2019, at 5:30 p.m. in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, on **RESOLUTION NO. 4874** entitled **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO FIX THE TAX LEVY FOR FISCAL YEAR 2019-2020 AND GIVING NOTICE OF A PUBLIC HEARING THEREON**. All interested persons are invited to attend the public hearing, to make comments or make objections to said assessments. For additional information contact the City of Livingston at 414 East Callender Street, Livingston, MT, 59047, or by phone at 823-6001.

(Publish twice at least 6 days apart and the notice needs also to be posted and copies made available to the public).

Item Attachment Documents:

- A. RESOLUTION NO. 4877 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2018-2019, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$2,952,743 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$3,000,326.**

RESOLUTION NO. 4877

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2018-2019, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$2,952,743 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$3,000,326.

WHEREAS, by Resolution No. 4813 the City of Livingston adopted its budget for Fiscal Year 2018-2019 (FY 18-19); and

WHEREAS, Mont. Code Ann. §§ 7-6-4006(4), 7-6-4031(2) and 7-6-4006(3) provide that the budget may be amended by conducting a public hearing thereon; and

WHEREAS, any proposed budget amendment which provide for additional appropriations must identify the fund reserves, unanticipated revenue or previously unbudgeted revenue that will fund the appropriations; and

WHEREAS, the budget for FY 18-19 requires a budget amendment by making appropriation adjustments in the amount of \$2,952,743 and revenue adjustments in the amount of \$3,000,326 as specified herein.

NOW, THEREFORE, be it resolved by the City Commission of the City of Livingston, Montana, that the budget for Fiscal year 2018-2019 is amended as follows:

Revenue Estimate Adjustments

Fund Department	Description/Purpose	Account	Amount
General Fund	Permissive Health Insurance	1000-383006	235,949
Comprehensive Liability	Real property taxes	2190-311010	40,195
Library Fund	Permissive Health Insurance	2220-383006	40,295
Dispatch Fund	Permissive Health Insurance	2300-383006	46,421
Street Maintenance Fund	Permissive Health Insurance	2500-383000	27,600
TIF - Downtown	Bond Proceeds	2310-381020	2,015,000
Sidewalks	Sidewalk assessments	2600-363030	144,500
Ambulance Services	Ambulance services	5510-343000	450,366
		TOTAL	\$ 3,000,326

Resolution No. 4877

Amending the budget for Fiscal Year 2018-2019 by making appropriation adjustments in the amount of \$2,952,743 and revenue adjustments in the amount of \$3,000,326.

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Appropriation Adjustments

Fund	Description/Purpose	Account	Amount	Fund Reserves	Unanticipated Revenues	Unbudgeted Revenues	
General Fund	Health Insurance	1000-402-410360-143	13,118			X	
	Health Insurance	1000-403-410400-143	5,137			X	
	Health Insurance	1000-404-410540-143	6,217			X	
	Health Insurance	1000-404-410550-143	6,218			X	
	Health Insurance	1000-406-411030-143	7,169			X	
	Health Insurance	1000-407-411100-143	12,433			X	
	Health Insurance	1000-409-460449-143	26,496			X	
	Health Insurance	1000-431-420101-143	78,536			X	
	Health Insurance	1000-441-420401-143	45,590			X	
	Health Insurance	1000-443-420403-143	5,298			X	
	Health Insurance	1000-454-440640-143	3,571			X	
	Health Insurance	1000-455-430950-143	27,950			X	
	Comprehensive Liability	Insurance premiums	2190-460-510330-510	22,119			X
		Insurance premiums	2190-460-510330-511	2,788			X
Insurance premiums		2190-460-510330-512	783			X	
Health-Sanitarian Dispatch	Transfer to close fund	2270-400-521000-822	45	X			
	Overtime	2300-432-420102-120	16,121	X	X		
TIF - Downtown	Health Insurance	2300-432-420102-120	43,652			X	
	HRB Claim - Legal fees	2300-432-420160-350	14,000	X	X		
	HRB Settlement	2300-432-420160-814	62,500	X	X		
	Phase III & IV of Downtown	2310-400-470300-640	1,250,018			X	
PERD	Debt Service	2310-400-490500-610	125,000	X			
	Debt Service	2310-400-490500-620	34,153	X			
	Debt Service	2310-400-490500-630	38,425	X			
Health Insurance	Transfer to close fund	2370-400-521000-822	12,334	X			
Police Pension	Transfer to close fund	2371-400-521000-822	89,699	X			
Fire Pension	Transfer to close fund	2373-400-521000-822	8,751	X			
Impact Fees	Transfer to close fund	2374-400-521000-822	45,239	X			
	Office Furniture	2399-441-420400-221	4,226	X			
Street Maintenance	Fire Command Vehicle	2399-441-420400-940	4,019	X			
	Health Insurance	2500-451-430240-143	25,414			X	
Sidewalks	Phase I & II of Downtown	2500-451-430240-960	130,233	X			
	Downtown sidewalk replacement	2600-400-430240-914	179,500			X	
TIF - West End	PFL Project	3200-400-430520-361	365,100	X			
Fire Truck/Bond Proceeds Ambulance	Transfer to debt service fund	4100-441-521000-805	10,190	X			
	Reserve wages	5510-442-420402-110	12,055		X		
	Reserve wages	5510-442-420402-112	5,400		X		
	Reserve wages	5510-442-420402-114	615		X		
	Reserve wages	5510-442-420402-116	2,890		X		
	Reserve wages	5510-442-420402-120	3,500		X		
	Ambulance wages	5510-442-420730-112	94,140		X		
	Ambulance wages	5510-442-420730-113	49,200		X		
	Ambulance wages	5510-442-420730-114	50,730		X		
	Ambulance wages	5510-442-420730-115	4,011		X		
	Ambulance wages	5510-442-420730-116	113,400		X		
	Ambulance wages	5510-442-420730-120	(105,240)		X		
	TOTAL			<u>2,952,743</u>			

Resolution No. 4877

Amending the budget for Fiscal Year 2018-2019 by making appropriation adjustments in the amount of \$2,952,743 and revenue adjustments in the amount of \$3,000,326.

Dated this 3rd day of September, 2019.

DOREL HOGLUND - Chairperson

ATTEST:

APPROVED AS TO FORM:

FAITH KINNICK
Recording Secretary

JAY PORTEEN
City Attorney

Resolution No. 4877

Amending the budget for Fiscal Year 2018-2019 by making appropriation adjustments in the amount of \$2,952,743 and revenue adjustments in the amount of \$3,000,326.

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NOTICE

A public hearing will be held by the City Commission of Livingston, Montana, on September 17th, 2019, at 5:30 p.m. in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, on **Resolution No. 4877** entitled **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2017-2018, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$2,952,743 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$3,000,326 AND CALLING FOR A PUBLIC HEARING** by making amendments as follows:

Revenue Estimate Adjustments				Fund	Unanticipated Revenues	Unbudgeted Revenues
Fund	Description/Purpose	Account	Amount			
General Fund	Permissive Health Insurance	1000-383006	235,949			
Comprehensive Liability	Real property taxes	2190-311010	40,195			
Library Fund	Permissive Health Insurance	2220-383006	40,295			
Dispatch Fund	Permissive Health Insurance	2300-383006	46,421			
Street Maintenance Fund	Permissive Health Insurance	2500-383000	27,600			
TIF - Downtown	Bond Proceeds	2310-381020	2,015,000			
Sidewalks	Sidewalk assessments	2600-363030	144,500			
Ambulance Services	Ambulance services	5510-343000	450,366			
			TOTAL			
						\$ 3,000,326
Appropriation Adjustments				Fund Reserves	Unanticipated Revenues	Unbudgeted Revenues
Fund	Description/Purpose	Account	Amount			
General Fund	Health Insurance	1000-402-410360-143	13,118			X
	Health Insurance	1000-403-410400-143	5,137			X
	Health Insurance	1000-404-410540-143	6,217			X
	Health Insurance	1000-404-410550-143	6,218			X
	Health Insurance	1000-406-411030-143	7,169			X
	Health Insurance	1000-407-411100-143	12,433			X
	Health Insurance	1000-409-460449-143	26,496			X
	Health Insurance	1000-431-420101-143	78,536			X
	Health Insurance	1000-441-420401-143	45,590			X
	Health Insurance	1000-443-420403-143	5,298			X
	Health Insurance	1000-454-440640-143	3,571			X
	Health Insurance	1000-455-430950-143	27,950			X
	Comprehensive Liability	Insurance premiums	2190-460-510330-510	22,119		
Insurance premiums		2190-460-510330-511	2,788			X
Insurance premiums		2190-460-510330-512	783			X
Health-Sanitarian	Transfer to close fund	2270-400-521000-822	45	X		
Dispatch	Overtime	2300-432-420102-120	16,121	X	X	
	Health Insurance	2300-432-420102-120	43,652			X
	HRB Claim - Legal fees	2300-432-420160-350	14,000	X	X	
	HRB Settlement	2300-432-420160-814	62,500	X	X	
TIF - Downtown	Phase III & IV of Downtown	2310-400-470300-640	1,250,018			X
	Debt Service	2310-400-490500-610	125,000	X		
	Debt Service	2310-400-490500-620	34,153	X		
	Debt Service	2310-400-490500-630	38,425	X		
PERD	Transfer to close fund	2370-400-521000-822	12,334	X		
Health Insurance	Transfer to close fund	2371-400-521000-822	89,699	X		
Police Pension	Transfer to close fund	2373-400-521000-822	8,751	X		
Fire Pension	Transfer to close fund	2374-400-521000-822	45,239	X		
Impact Fees	Office Furniture	2399-441-420400-221	4,226	X		
	Fire Command Vehicle	2399-441-420400-940	4,019	X		
Street Maintenance	Health Insurance	2500-451-430240-143	25,414			X
	Phase I & II of Downtown	2500-451-430240-960	130,233	X		
Sidewalks	Downtown sidewalk replacement	2600-400-430240-914	179,500			X
TIF - West End	PFL Project	3200-400-430520-361	365,100	X		
Fire Truck/Bond Proceeds	Transfer to debt service fund	4100-441-521000-805	10,190	X		
Ambulance	Reserve wages	5510-442-420402-110	12,055		X	
	Reserve wages	5510-442-420402-112	5,400		X	
	Reserve wages	5510-442-420402-114	615		X	
	Reserve wages	5510-442-420402-116	2,890		X	
	Reserve wages	5510-442-420402-120	3,500		X	
	Ambulance wages	5510-442-420730-112	94,140		X	
	Ambulance wages	5510-442-420730-113	49,200		X	
	Ambulance wages	5510-442-420730-114	50,730		X	
	Ambulance wages	5510-442-420730-115	4,011		X	
	Ambulance wages	5510-442-420730-116	113,400		X	
	Ambulance wages	5510-442-420730-120	(105,240)		X	
			TOTAL			2,952,743

All interested persons are invited to attend and give their comments. For additional information contact Paige Fetterhoff, Finance Officer, 110 South B Street, Livingston, MT 59047, or by phone at 823-6003. (Publish twice at least 6 days apart and the notice needs also to be posted and copies made available to the public.)

Resolution No. 4877

Amending the budget for Fiscal Year 2018-2019 by making appropriation adjustments in the amount of \$2,952,743 and revenue adjustments in the amount of \$3,000,326.

Item Attachment Documents:

- B. RESOLUTION NO. 4878 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, FIXING THE TAX LEVY FOR FISCAL YEAR 2019-2020 AND GIVING NOTICE OF A PUBLIC HEARING THEREON.**

RESOLUTION NO. 4878

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, FIXING THE TAX LEVY FOR FISCAL YEAR 2019-2020 AND GIVING NOTICE OF A PUBLIC HEARING THEREON.

WHEREAS, pursuant to 7-6-4001 et seq. Montana Code Annotated (MCA), and by Resolution No. 4862 the City Commission approved the Final Budget for the City of Livingston for Fiscal Year 2019-2020; and

WHEREAS, after determining the Final Budget, the City Commission is required to determine the property tax levy needed for each fund by:

- a) adding the total amount of the appropriations and authorized expenditures for the budget year;
- b) adding an additional amount as a reserve to meet expenditures made from the fund during the months of July to November of the next fiscal year;
- c) subtracting the working capital; and
- d) subtracting the total estimated revenue, other than the property tax levy, for the budget year; and

WHEREAS, pursuant to 7-6-4036, MCA, the City of Livingston is required to fix the tax levy by the later of the first Thursday after the first Tuesday in September or within 30 days after receipt of the certified taxable values, at levels that will balance the budget as provided for in 7-6-4034 MCA and in the manner provided by 15-10-201, MCA, i.e. shall make and fix every such levy in mills and tenths and hundredths of mills; and

WHEREAS, the value of the mill for Fiscal Year 2019-2020 is \$14,349.69; and

WHEREAS, pursuant to Resolution #4874, following legal notice, the City Commission, pursuant to 7-6-4001 et seq. MCA, conducted a public hearing on the proposed tax levy for Fiscal Year 2020 on September 3, 2019, at 5:30 p.m.

NOW, THEREFORE, BE IT RESOLVED, by the City Commission of the City of Livingston, Montana, as follows:

Section One. That the City Commission of the City of Livingston, Montana fix, levy and assess the general all-purpose mill levy and authorized additional mill levies against all taxable property, both real and personal in the City of Livingston, Montana, for the Fiscal Year beginning July 1, 2019, and ending on June 30, 2020, as follows:

Fund	Title	Mill
Mill levies subject to limit (15-10-420, MCA):		
1000	General	151.22
2190	Comprehensive Insurance	10.00
2220	Library	7.00
	Total mills subject to limit:	168.22
Mill levies not subject to mill levy limit (2-18-703(3), MCA):		
2372	Permissive Health Insurance	31.56
	Total mills not subject to limit:	31.56
Voter approved mill levies:		
3003	2000 Fire Truck GOB	1.65
3005	2016 Fire Truck GOB	2.50
5510	Ambulance	2.00
	Total voter approved mills:	6.15
		<hr/>
	Total mills:	205.93
		<hr/> <hr/>

Section Two. That the effective date of this Resolution will be July 1, 2019.

Section Three. That the taxes fixed, levied and assessed will be collected by the County of Park, Montana, and the Finance Officer of the City of Livingston shall cause to be certified to the County Treasurer and the County Clerk and Recorder of Park County, Montana, a copy of this Resolution immediately after passage.

Section Four. That the Finance Officer will within a reasonable time forward a complete copy of the final budget together with tax levies to the Department of Commerce.

Section Five. That the City Commission hereby authorize the City Manager pursuant to 7-6-4031 Montana Code Annotated to transfer appropriations between items within the same fund.

Section Six. That, pursuant to 7-6-4006 MCA, appropriations may be adjusted pursuant to procedures authorized by the City Commission for:

- a) debt service funds for obligations related to debt approved by the governing body;
- b) trust funds for obligations authorized by trust covenants;
- c) any fund for federal, state, local or private grants and shared revenue accepted and approved by the City Commission;
- d) any fund for special assessments approved by the City Commission;
- e) the proceeds from the sale of land;
- f) any fund for gifts or donations; and
- g) money borrowed during the fiscal year.

Section Seven: That, pursuant to 7-6-4012 MCA, the City Commission hereby authorizes adjustments to appropriations funded by fees throughout the budget period which are based upon the cost of providing a service and are fully funded by the related fees for services, fund reserves or non-fee revenue such as interest for:

- a) proprietary fund appropriations; or
- b) other appropriations specifically identified in the final budget resolution as fee-based appropriations.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this 3rd day of September, 2019.

DOREL HOGLUND – Chairperson

ATTEST:

APPROVED AS TO FORM:

FAITH KINNICK
Recording Secretary

JAY PORTEEN
City Attorney

NOTICE

A public hearing will be held by the City Commission of Livingston, Montana, on September 3rd, 2019, at 5:30 p.m. in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, on **RESOLUTION NO. 4874** entitled **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO FIX THE TAX LEVY FOR FISCAL YEAR 2019-2020 AND GIVING NOTICE OF A PUBLIC HEARING THEREON.** All interested persons are invited to attend the public hearing, to make comments or make objections to said assessments. For additional information contact the City of Livingston at 414 East Callender Street, Livingston, MT, 59047, or by phone at 823-6001.

(Publish twice at least 6 days apart and the notice needs also to be posted and copies made available to the public).

Item Attachment Documents:

- C. RESOLUTION NO. 4879 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO SIGN A STANDARD AUDIT CONTRACT WITH AMATICS CPA GROUP.**

RESOLUTION NO. 4879

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO SIGN A STANDARD AUDIT CONTRACT WITH AMATICS CPA GROUP.

WHEREAS, the City of Livingston (the “City”) is audited every year pursuant to state law;

WHEREAS, the City has engaged Amatics CPA Group to conduct the yearly audits in the past and the City has been satisfied with Amatics CPA Group’s work;

WHEREAS, the previous contract entered into by and between the City and Amtacis CPA Group has expired,; and

WHEREAS, the City’s finance department and Amatics CPA Group desire to enter into the Standard Audit Contract attached hereto as Exhibit A, which contract will cover audits for the next three (3) years.

NOW, THEREFORE, be it resolved by the City Commission of the City of Livingston, Montana, as follows:

The City Manager is hereby authorized to enter into the Standard Audit Contract attached hereto as Exhibit A with Amatics CPA Group for audit services that will cover the next three (3) years.

Dated this 3rd day of September, 2019.

DOREL HOGLUND – Chairperson

ATTEST:

APPROVED AS TO FORM:

FAITH KINNICK
Recording Secretary

JAY PORTEEN
City Attorney

STANDARD AUDIT CONTRACT

This Contract is made this 29th day of July, 2019, by and among

Amatics CPA Group

Certified Public Accountant
("Contractor"),

City of Livingston, Montana

Governmental Entity
("Entity"),

and the **Montana Department of Administration, Local Government Services**, ("State"), acting under the authority of Title 2, Chapter 7, Part 5, of the Montana Code Annotated. **The State's mailing address, phone number and e-mail address are P.O. Box 200547, Helena, MT 59620-0547; (406) 444-9101; and LGSPortalRegistration@mt.gov.**

1. **Effective Date:** This contract is not effective with respect to any party until it is approved and signed by the State, as required by Section 2-7-506(3), MCA. The Contractor may not begin any audit work until the State gives this approval. If the Contractor begins work before the State's approval of the contract and the State subsequently does not approve the contract, the Contractor is not entitled to receive any compensation for the work performed.
2. **Audit Period and Payment:** This contract covers the following audit period(s):
July 1, 2018 to June 30, 2021.
 - A. The Entity shall pay the Contractor for the audit work on the basis of time and necessary out-of-pocket expenses, which will not exceed:

\$ 17,700 for initial (or sole) audit covering 07 / 01 / 18 to 06 / 30 / 19 .
 \$ 18,500 for subsequent audit covering 07 / 01 / 19 to 06 / 30 / 20 .
 \$ 19,500 for subsequent audit covering 07 / 01 / 20 to 06 / 30 / 21 .

The Entity shall pay the fees listed in Appendices A, B & C, as applicable, which are attached hereto and incorporated by reference. Any change to the audit fees requires a contract amendment.
 - B. The contract payments do not include the cost of additional work that may be required if the Contractor discovers a defalcation or material irregularity. Any change in the scope of the audit services to be provided under this contract requires a contract amendment.
 - C. The Contractor may submit interim bills to the Entity each month, based upon the estimated percentage of contract completion. The Entity may retain ten percent (10%) of each of these estimates until the Contractor has delivered the final audit report, at which time the Entity shall release the amount retained.
3. **Peer Review:** The Contractor shall provide the Entity with a copy of its most recent external peer review

4. **Audit Scope:** The Contractor shall perform the following:

- A. The Contractor shall conduct the audit in accordance with (i) generally accepted auditing standards adopted by the American Institute of Certified Public Accountants and (ii) the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

The Contractor shall opine on the presentation of the Entity's financial statements in accordance with the Entity's applicable financial reporting framework prescribed at Section 2-7-504, MCA.

If the Contractor's opinion on the Entity's financial statements is other than unmodified, the Contractor shall fully discuss the reasons with the Entity in advance of issuing a report. If, for any reason, the Contractor is unable to complete the audit or is unable to form or has not formed an opinion, the Contractor may decline to express an opinion or decline to issue a report as a result of the engagement.

- B. The Contractor shall perform tests of internal control over financial reporting. Findings resulting from these tests shall be reported in accordance with Government Auditing Standards
- C. The Contractor shall perform tests of the Entity's compliance with provisions of laws, regulations, contracts, and grant agreements. The Contractor shall use the local government compliance supplement prepared by the State, as required by Section 2-7-505(2), MCA, in conjunction with Government Auditing Standards to determine the compliance testing to be performed during the audit. Findings resulting from these tests shall be reported in accordance with Government Auditing Standards. If the Contractor becomes aware of fraud, waste or abuse, the Contractor shall report related findings in accordance with Government Auditing Standards. The Contractor shall perform tests, including but not limited to the following, to determine whether:
- (1) the Entity has complied with all appropriate statutes and regulations, as required by Section 2-7-502, MCA;
 - (2) the Entity has complied with the provisions of each of its debt covenants and agreements;
 - (3) if the audit is of a county, city or town, the Entity has retained money in a local charge for services fund contrary to the requirements of Sections 17-2-301 through 17-2-303, MCA, as required by Section 17-2-302, MCA. **The Contractor shall report any findings of noncompliance with the provisions of these statutes, regardless of materiality;** and
 - (4) if the audit is of a county or consolidated city/county government, the Entity has complied with state laws relating to receipts and disbursements of agency or custodial funds maintained by the Entity, as required by Section 2-7-505, MCA.

If required by the State, the Contractor shall provide documentation of testing performed to comply with (3) and (4), above.

- D. When applicable, the audit must meet all requirements of the Federal Single Audit Act of 1984, as amended, and Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements*,

- E. The audit scope with regard to federal financial assistance for each fiscal year covered by this contract must be as specified in Appendices A, B and C. Any change to the audit scope with regard to federal financial assistance requires a contract amendment.
- F. Except as provided below, for purposes of determining the scope of the audit, the Entity is considered the financial reporting entity as defined in the Entity’s applicable financial reporting framework prescribed at Section 2-7-504, MCA. This provision does not preclude the Entity from engaging a different audit firm for the audit of a segment, fund or component unit of the Entity. However, both the Entity and Contractor shall notify the State whenever the Entity elects to engage a different audit firm for the audit of a segment, fund or governmental component unit. Such additional audit must be contracted for on the State’s Standard Audit Contract, and the audit firm shall be on the Roster of Independent Auditors authorized to conduct audits of Montana local governments that is maintained by the State.

If this contract is for an audit of a segment, fund, or governmental component unit of the primary government, the Entity is considered to be the segment, fund or component unit.

- G. Any school district audit must also include auditing procedures sufficient to provide an opinion as to whether the following supplemental information is fairly stated in relation to the basic financial statements:
 - (1) the school district's enrollment for the fiscal year or years being audited as reported to the Office of Public Instruction in the Fall and Spring “Student Count for ANB” reports; and
 - (2) when applicable, the extracurricular funds for pupil functions.
- H. If the Entity is a school district or associated cooperative, the Contractor shall contact the State Office of Public Instruction and the county superintendent of schools before or during the audit of the Entity. The Contractor shall determine whether those offices are aware of potential financial or legal compliance problems relating to the Entity that could affect the scope of the audit.
- I. The Contractor shall immediately notify the Entity and the State in writing of any material irregularities it discovers. If the Entity is a school district or special education cooperative, the Contractor shall also immediately notify the State Office of Public Instruction in writing.
- J. The Contractor shall notify the Entity of all proposed audit adjustments and, if the Entity concurs, shall obtain written acceptance of these proposed adjustments. The State reserves the right to request documentation of these proposed and accepted audit adjustments.

5. **Entity’s Responsibilities:** The Entity shall be responsible for:

- A. its basic financial statements, including note disclosures;
- B. all supplementary information required by its applicable financial reporting framework prescribed at Section 2-7-504, MCA and by provisions of this contract;

- C. establishing and maintaining effective internal control over financial reporting, including internal controls related to the prevention and detection of fraud;
 - D. ensuring that it complies with the laws, regulations, contracts and grant agreements applicable to its activities;
 - E. making all financial records and related information available to the Contractor;
 - F. the schedule of expenditures of federal awards required for audits conducted under Uniform Guidance;
 - G. approving all proposed audit adjustments before posting, if the Entity concurs with the proposed adjustments;
 - H. adjusting the financial statements and accounting records to correct material misstatements and to agree with the audited financial statements; and
 - I. providing the Contractor, at the conclusion of the audit engagement, with a letter that confirms certain representations made during the audit, including an affirmation that the effects of any uncorrected misstatements aggregated by the auditor during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.
6. **Dates for Annual Financial Report or Trial Balance of Accounts:** The Entity shall prepare its annual financial report or a trial balance of accounts no later than the dates specified in Appendices A, B and C. If the Entity is unable to prepare its annual financial report or trial balance by the date specified in the Appendices, the Entity shall notify the Contractor and the State in writing prior to the specified dates.
7. **Beginning the Audit:** The Contractor shall begin the audit field work based on the schedule established in Appendices A, B and C. Under Section 2-7-503(3)(a), MCA, all audits must commence within nine months from the close of the last fiscal year of the audit period.
8. **Completion of Audit:** The Contractor shall deliver the audit report to the Entity and the State, based on the schedule established in Appendices A, B and C. If the Contractor cannot deliver the audit report to the Entity and the State on the date specified in the Appendices, the Contractor shall notify the Entity and the State in writing of that fact, and the reason(s) for the delay. Under Section 2-7-503(3)(a), MCA, all audits must be completed and the reports issued within one year from the close of the last fiscal year covered by the audit. If the audit is conducted in accordance with the provisions of Uniform Guidance, the Contractor shall complete the audit and issue the audit report within the time period required by that federal regulation, unless a longer period has been agreed to in advance by the federal cognizant or oversight agency for audit. If the Entity has requested and received an extension of the due date of the Uniform Guidance from a federal agency, the Entity shall submit a copy of the approved extension to the State.
9. **Due Date Extension:** The State may grant an extension to the Entity for filing the audit report beyond the one- year due date provided for in paragraph 8, above. To do so, the Entity shall make a request to the State in writing and shall show good cause for the delinquency or demonstrate that the failure to meet the deadline provided for in paragraph 8, above, was the result of circumstances beyond the Entity's control. The State will determine good cause or circumstances beyond the Entity's control based on the facts of each case.
10. **Presentation of Audited Financial Statements:** The final audit report must contain basic financial statements and supplementary information consistent with the applicable financial reporting framework prescribed at

Section 2-7-504, MCA. In addition, other supplementary information required by provisions with contract and by Uniform Guidance must also be included, if applicable.

- A. The final audit report must also contain any supplementary or other information as agreed upon by the Entity and Contractor.
- B. If the Entity’s accounting records or other circumstances do not permit financial statements to comply with the applicable financial reporting framework prescribed at Section 2-7-504, MCA, the Contractor shall notify the State of those conditions and describe the financial statements that will be presented. The applicable auditor’s reports must be modified in accordance with professional standards to reflect a departure from the applicable financial reporting framework.
- C. If the audit is of a school district with separate elementary and high school district general funds, the general funds must be combined as a single major fund. All other funds must be separately considered for major fund criteria.
- D. If the audit is a biennial audit covering two years, the Contractor shall present complete financial statements as specified above for each year covered by the audit. However, note disclosures for both fiscal years may be in one set of notes, with separate fiscal year disclosures as necessary. The two years must be presented under one audit report cover and opined upon in one Independent Auditor’s Report.

11. **Auditor’s Reports:** All audit reports must contain the following auditor's reports, which must comply with applicable professional standards in effect for the fiscal year or years being audited:

- A. a report on the financial statements of the Entity;
- B. a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with Government Auditing Standards.
- C. a reference to a report disclosing any deficiencies in internal control or instances of noncompliance with provisions of contracts or grant agreements or abuse that have a less than material effect on the financial statements but warrant the attention of management or those charged with governance. This report must be referred to in the report required in 11.B. above.
- D. a report on any supplementary or other information presented in the audit report. This report must be given in an “other matters” paragraph(s) of the auditor’s report on the financial statements (11.A. above), and shall identify, if applicable:
 - (1) Any Required Supplementary Information (RSI), as required by the Governmental Accounting Standards Board.
 - (2) Any Supplementary Information (SI) included in the report to comply with provisions of laws, regulations, contracts, or grant agreements. For the following schedules, the Contractor shall report on whether the information is fairly stated, in all material respects, “in relation to” the financial statements as a whole, unless the condition of the financial records do not allow the auditor to render such an opinion:
 - a) schedule of school district “Student Count for ANB” required in paragraph 13.A.;
 - b) schedule of school district extracurricular fund financial activities required in paragraph

- c) schedule of expenditures of federal awards required by Uniform Guidance and in paragraph 12.A.; and
- d) Any supplementary information for financial reporting frameworks required by A.R.M. 2.4.401.

(3) Any Other Information (OI) for financial reporting frameworks required by A.R.M. 2.4.401.

(4) Any Other Information (OI) that is included in the audit report, if deemed appropriate in accordance with professional standards.

- E. a report disclosing the action taken by the Entity to correct any deficiencies or implement any recommendations contained in the prior audit report. This report must be in a format that specifically identifies, by title or summary, each deficiency or recommendation contained in the prior audit report and the action taken by the Entity on each such deficiency or recommendation.
- F. If the Contractor includes audit findings in the reports referenced in 11.B. and 11.C. above, the views of Entity officials and their planned corrective actions must also be included, as required by Government Auditing Standards, if they are available at the time the Contractor submits the audit report to the State. If the views and planned corrective actions are not available at that time, the Contractor shall so indicate in the reports.

12. **Single Audits:** All audit reports for single audits done in accordance with Uniform Guidance must contain the following:

- A. a schedule of expenditures of federal awards, prepared by the Entity, which must contain all elements required by Uniform Guidance.
- B. a report on the schedule of expenditures of federal awards. This report may be combined with other reports as provided by Uniform Guidance and professional standards. This report must comply with applicable professional standards in effect for the fiscal year or years being audited.
- C. a report on compliance for each major program and a report on internal control over compliance in accordance with Uniform Guidance. These reports must refer to the separate schedule of findings and questioned costs described in paragraph 12.D. of the contract and must comply with applicable professional standards in effect for the fiscal year or years being audited.
- D. a schedule of findings and questioned costs which must include the information required by Uniform Guidance.
- E. an Entity-prepared document, separate from the Contractor's findings, that describes the Entity's corrective action plan in accordance with Uniform Guidance for each current-year audit finding, if that plan is available at the time the Contractor submits the audit report to the State. This document should be submitted on Entity letterhead and should include a corrective action plan for each finding, regardless whether the finding is identified in accordance with Uniform Guidance or Government Auditing Standards.

13. **School Districts:** School district audit reports must include the following as supplementary

- A. a schedule of the district's enrollment as reported to the Office of Public Instruction for the fiscal year or years being audited. The schedule must contain the enrollment both as reported in the Fall and Spring "Student Count for ANB" reports and as documented by the school district's enrollment records; and
 - B. a detailed schedule of extracurricular fund financial activities.
14. **Local Governments Reporting on Non-GAAP Financial Reporting Framework:** Audit reports of local governments that report on a non-GAAP financial reporting framework as provided in A.R.M. 2.4.401 must include any Supplementary Information and Other Information required in that administrative rule.
15. **Written Report to Entity:** The Contractor shall render a single, written report for the Entity audited, including the reports and schedules referenced in paragraphs 11 through 14 above.
16. **Exit Conference:** Before submitting the final audit report, the Contractor shall hold an exit review conference in which the audit results are discussed with those charged with governance and other appropriate Entity officials and employees. The Contractor shall ensure that all members of the governing body and key members of management are notified of this exit conference. The Contractor further agrees that before the exit conference, it will not discuss the audit findings with anyone other than the Entity or the State. Once the Contractor delivers the final audit report to the Entity, the report is deemed to be a public record.
17. **Report Distribution:** The Contractor and Entity shall file copies of the audit report as specified below:
- A. The Contractor shall provide the Entity with the number of copies of the audit report specified in Appendices A, B and C. The cost of those copies is included in the total price for the engagement as set out in paragraph 2.A., above, and in the Appendices.
 - B. The Contractor shall submit one of the copies referred to in 17.A., above, to the attorney for the Entity.
 - C. Upon request by the Entity, the Contractor shall provide additional copies of the audit report at a price per copy agreed upon by the Entity and Contractor.
 - D. The Contractor shall provide the State with a text-searchable, unlocked, and unencrypted electronic copy of the audit report at no charge. The report must be submitted to the State at the same time when the Contractor delivers the final audit report to the Entity. Any report delivered separately to management or those charged with governance identifying findings and recommendations as described in 11.C. above must be submitted electronically at the same time the audit report is submitted. The Contractor shall advise the State, at the time of submitting the electronic report, of the date the final report was delivered to the Entity, the date of the audit report, the actual number of hours the Contractor spent conducting the audit, the total audit fee billed the Entity, and whether the audit was conducted in accordance with the provisions of Uniform Guidance.
 - E. If the Entity is a school district or associated cooperative, the Contractor shall provide at no additional charge copies of the audit report to the Office of Public Instruction, the county superintendent of schools, and the county attorney.
 - F. If the Entity is a city or town fire department relief association disability and pension fund, the

- G. If the audit is a single audit conducted in accordance with the provisions of Uniform Guidance, the Entity shall provide copies of the reporting package defined in Uniform Guidance and the data collection form to the federal clearinghouse designated by OMB.
18. **Entity Response:** If not included in the audit report as provided in paragraphs 11.F. and 12.E., within 30 days after receiving the audit report, the Entity shall notify the State in writing as to what action it plans to take to correct any deficiencies or implement any recommendations identified or contained in the audit report as required by Section 2-7-515, MCA, and ARM 2.4.409. This notification must also address any findings and recommendations identified in any report to management or those charged with governance described in 11.C. above. If the audit is a single audit conducted in accordance with Uniform Guidance, this corrective action plan must also meet the requirements of Uniform Guidance. If the Entity is a school district or special education cooperative, the Entity shall also send a copy of this notification to the Office of Public Instruction.
19. **Entity's Attorney:** If requested by the State, the attorney for the Entity shall report to the State on the actions taken or the proceedings instituted or to be instituted relating to violations of law and nonperformance of duty as required by Section 2-7-515(4), MCA. The attorney shall report to the State within 30 days after receiving the request.
20. **Certification of Auditor Independence:** The Contractor certifies that, as required by generally accepted government auditing standards, it and its principals and employees are independent in all matters regarding this engagement. This contract must not include non-audit services. The Contractor shall neither arrange for nor accept other work with the Entity that could in any way impair the Contractor's compliance with professional independence standards. If required by the State, the Contractor shall provide documentation that independence has been maintained in both mind and appearance as required by professional auditing standards.
21. **Contractor and Subcontractors:** The Contractor shall not assign any rights, or subcontract or delegate any duties of the contract without the Entity's and State's prior written consent.
- The Contractor is the prime contractor and is responsible, in total, for all work of any subcontractors. Any subcontractors performing audit work shall be on the Roster of Independent Auditors authorized to conduct audits of Montana local governments that is maintained by the State. The Contractor is responsible to the Entity and the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors or agents. There is no contractual relationship between any subcontractor and the State.
22. **State Participation in Conferences:** The State may participate in all entrance and exit conferences between the Entity and Contractor, as well as all major conferences held in conjunction with the audit of the Entity.
23. **Access to Records:** The Contractor shall give the State and, when required by law, the Montana Legislative Audit Division, access to the Contractor's work programs, supporting working papers, time records, and all other documents relating to the audit. Access to these documents must be provided at the State's offices in Helena, Montana. Access to working papers includes the right of the State to obtain copies of working papers, as is reasonable and necessary. The Contractor shall make the work programs and supporting working papers available to the State for use by the State or other public accounting firms as directed by the State in future audits of the Entity. The Contractor shall make the audit programs and supporting working papers available to the cognizant or oversight agency for audit or its designee, federal agencies providing direct or indirect funding, or the U.S. General Accounting Office, if requested. Access to working papers includes the right of

federal agencies to obtain copies of working papers, as is reasonable and necessary. The Contractor retain the audit report, work programs, and supporting working papers for a minimum of five years from date of the audit report, unless the State notifies the Contractor to extend the retention period. If professional standards or other applicable laws, rules, or regulations require a longer retention period, the Contractor shall retain the above materials for that specified period.

- 24. **State Review of Report:** As provided by Section 2-7-522, MCA, the State shall review the Contractor’s audit report. If the State determines that reporting requirements have not been met, it will notify the Entity and the Contractor of the significant issues of noncompliance. The Contractor shall correct the identified deficiencies within 60 days of notification.
- 25. **Independent Contractor:** The Contractor is an independent contractor and neither its principals nor its employees are employees of the State or Entity for any purposes.
- 26. **Workers’ Compensation:** The Contractor certifies that it carries Workers’ Compensation for its employees and that it has either elected Workers’ Compensation or has an approved Independent Contractor’s Exemption covering the Contractor while performing work under this contract. (Montana Code Annotated, Title 39, Chapter 71).
- 27. **Indemnity:** The Contractor shall defend and indemnify the State and Entity, their elected and appointed officials, agents, and employees from and against all claims, causes of action, damages, liabilities, court costs and attorney fees in favor of the Contractor’s employees or third parties for bodily or personal injuries, death, or damage to property arising from the acts or omissions or alleged acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors under this contract. This defense and indemnify obligation does not apply to acts or omissions arising from the sole negligence of the State or Entity under this contract. This defense and indemnity obligation survives termination or expiration of this contract.

If the Contractor is or may be obligated to pay any cost, settlement, judgment, fine, penalty, or similar award or sanction as a result of a claim, investigation, or other proceeding instituted by any third party, then to the extent that such obligation is or may be a direct or indirect result of the Entity’s intentional or knowing misrepresentation or provision to the Contractor of inaccurate or incomplete information in connection with this engagement, and not any failure on the Contractor’s part to comply with professional standards, the Entity shall defend and indemnify the Contractor against such obligations.

- 28. **Insurance – Commercial General Liability:** The Contractor shall maintain for the duration of the contract, at its cost and expense, occurrence coverage insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Contractor, and/or its agents, employees, representatives, assigns, or subcontractors. The Contractor's insurance coverage shall be primary insurance for the Contractor’s negligence with respect to the State and Entity and their elected officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the State and Entity and their officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Insurance - Professional Liability: The Contractor shall purchase and maintain occurrence coverage to cover such claims as may be caused by any act, omission, negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

If occurrence coverage is unavailable or cost-prohibitive, the state will accept ‘claims made’ coverage

provided the following conditions are met: 1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future, and 2) the claims made policy must have a three-year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

The State and Entity may require complete copies of certificates of insurance during the term of this contract.

29. **Compliance with Laws:**

- A. The Contractor shall, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. The Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Any subcontracting by the Contractor subjects subcontractors to the same provisions.
- B. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 the Contractor agrees that the hiring of persons to perform this contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this contract.

30. **Work Accommodations:** The Entity shall provide the Contractor with reasonable space in which to conduct the audit and shall respond promptly to requests for information as well as for all necessary books and records. Support for clerical, equipment, reproduction services shall be agreed upon by the Entity and the Contractor as specified in Appendices A, B and C.

31. **Termination before Audit Commences:** Before the commencement of the audit, either the Contractor or the Entity, with the State's consent, or the State alone, may terminate this contract for cause if another party has breached a material term or condition of this contract or violated an applicable law or regulation. The non-breaching party shall provide the other party written notice of the breach and allow 20 days to remedy the breach.

The Contractor and the Entity may agree to terminate this contract without cause before the commencement of the audit. If such a termination occurs, the State shall consent to the termination upon written notification by the Contractor and the Entity of their agreement to terminate this contract.

The State, however, will not consent to the cancellation of an audit contract for the sole purpose of allowing the Contractor and Entity to then enter into a new contract that extends the number of fiscal years to be audited by the Contractor. Unless there are extenuating circumstances, the existing audit contract must be completed first. This provision does not prohibit the cancellation of a contract for the purpose of replacing an annual audit with a biennial audit.

32. **Termination after Audit Commences:** After the audit has commenced, but before the audit report has been issued, either the Contractor or the Entity, with the State's consent, or the State alone, may terminate this contract for cause if another party has breached a material term or condition of this contract or violated an applicable law or regulation. The non-breaching party shall provide the other party written notice of the

breach and allow 20 days to remedy the breach. If the Contractor is the breaching party and fails to remedy the breach, the Contractor is not entitled to the fee set out in this contract. This is the Entity's and the State's sole remedy. If the Entity is the breaching party, the Entity shall pay the Contractor a pro rata portion of the fee set out in this contract, based on the percentage of work completed at the time of termination. This is the Contractor's sole remedy.

The Contractor and the Entity may agree to terminate this contract without cause after the audit has commenced but before the audit report has been issued. If such a termination occurs, the State shall consent to the termination upon written notification by the Contractor and the Entity of their agreement to terminate this contract.

33. **Contractor Compliance with CPE and Quality Control Review:** The Contractor certifies compliance with the continuing professional education requirements and the external quality control review requirements as set out in Government Auditing Standards, as established by the Comptroller General of the United States. The State may require the Contractor to provide evidence that it has met the above requirements.
34. **Single Audit Act Certification:** If the audit is required to meet the requirements of the Single Audit Act of 1984, as amended, and Uniform Guidance, the Contractor certifies that neither it nor any of its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from performing audits by any Federal department or agency.
35. **Time is of the Essence:** Time is of the essence regarding all provisions of this contract.
36. **Governing Law and Venue:** This contract is governed by the laws of Montana. The parties agree that any litigation concerning this contract in which the State is named as a party must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana. Each party shall pay its own costs and attorney fees, except as otherwise allowed in this contract. The parties also agree that any litigation concerning this contract in which the State is not named as a party must be brought in the State of Montana Judicial District in the County in which the Entity is located. Each party shall pay its own costs and attorney fees, except as otherwise allowed in this contract.
37. **Notice:** All notices under this contract must be in writing and will be deemed given if delivered personally, by mail, certified, return receipt requested, or by e-mail. All notices will (a) if delivered personally, be deemed given upon delivery, (b) if delivered by mail, be deemed given upon receipt, or (c) if delivered by e-mail be deemed given upon receipt.
38. **Invalid Provision:** If any provision of this contract is held to be illegal or unenforceable and the parties' rights or obligations will not be materially and adversely affected, such provision will be (a) severed from the contract, (b) the contract will be interpreted as if such provision was never a part of the contract and (c) the remaining provisions will stay in effect.
39. **Authority:** Each party represents that the person signing this contract has the authority to bind that party.
40. **Entire Agreement and Amendment:** This contract and the attached Appendices contain the entire understanding and agreement of the parties. No modification or amendment of this contract is valid unless it is reduced to writing, signed by the parties, and made a part of this contract.

Contractor, Entity, and State have executed this Standard Audit Contract on the date first above written:

Certified Public Accountant

Amatics CPA Group

Firm Name

By: Morgan Scan

Authorized Representative

Date: 7/30/19

Governmental Entity

City of Livingston, Montana

Entity Name

By: _____

Authorized Representative

Date: _____

**Montana Department of Administration,
Local Government Services**

By: _____

Approved By

Date: _____

APPENDIX A

Initial or Sole Audit under this Contract

GOVERNMENTAL ENTITY (ENTITY): City of Livingston, Montana

406-222-1142 Telephone: Address: 110 South B Street
(Street Address or P.O. Box)

Livingston, MT 59047
(City/Town) (Zip Code)

Paige Fetterhoff, Director of Finance, pfetterhoff@livingstonmontana.org
Contact Person(s) and E-Mail Address(es)

PUBLIC ACCOUNTANT/ACCOUNTING FIRM (CONTRACTOR) :

Amatics CPA Group

406-404-1925 Telephone: Address: PO Box 1207
(Street Address or P.O. Box)

Bozeman, MT 59771
(City/Town) (Zip Code)

Morgan Scarr, CPA, Shareholder; mscarr@amaticscpa.com
Contact Person(s) and E-Mail Address(es)

1. Audit Period and Dates of Engagement:

A. This audit will cover the fiscal year(s) ending June 30, 2019 (and _____).
(Month & Day) (Year) (Year)

B. Date to commence audit work: September 1, 2019

C. Date to submit final audit report to Entity and State: December 31, 2019

2. Time and Price for Engagement:

A. Estimated total hours - 175

B. Price for audit personnel \$ 17,700

Price for Travel _____

Price for typing, clerical and report preparation _____

Total price for this engagement \$ 17,700

3. The reporting entity contains the following discretely presented component units: _____

- 4. Date Annual Financial Report or a trial balance will be available: September 1, 2019
- 5. Number of copies of audit report Contractor will provide to Entity: 5
- 6. The Entity will provide clerical, equipment, and photocopying or reproduction services to the Contractor as follows:


- 7. The audit scope with regard to federal financial assistance received by the Entity for the above fiscal year(s) will be as indicated below:

The audit will be a single audit conducted in accordance with the provisions of Uniform Guidance because the Entity expended a total amount of federal awards **equal to or in excess of \$750,000** during the fiscal year(s), or such other dollar amount (\$ _____) that is effective for the fiscal year(s) being audited.

OR

The audit will not be a single audit conducted in accordance with the provisions of Uniform Guidance and will not include audit coverage of any federal financial assistance in accordance with requirements of that federal regulation, because the Entity expended a total amount of federal awards of **less than \$750,000** during the fiscal year(s), or such other dollar amount (\$ _____) that is effective for the fiscal year(s) being audited.

Certified Public Accountant

Amatics CPA Group
Firm Name
By: 
Authorized Representative

Date: 7/30/2019

Governmental Entity

City of Livingston, Montana
Entity Name
By: _____
Authorized Representative

Date: _____

**Montana Department of Administration,
Local Government Services**

By: _____
Approved By

Date: _____

APPENDIX B

Subsequent Audit under this Contract

GOVERNMENTAL ENTITY (ENTITY): City of Livingston, Montana

406-222-1142 Telephone: Address: 110 South B Street
(Street Address or P.O. Box)

Livingston, MT 59047
(City/Town) (Zip Code)

Paige Fetterhoff, Director of Finance, pfetterhoff@livingstonmontana.org
Contact Person(s) and E-Mail Address(es)

PUBLIC ACCOUNTANT/ACCOUNTING FIRM (CONTRACTOR) :

Amatics CPA Group

406-404-1925 Telephone: Address: PO Box 1207
(Street Address or P.O. Box)

Bozeman, MT 59771
(City/Town) (Zip Code)

Morgan Scarr, CPA, Shareholder; mscarr@amaticscpa.com
Contact Person(s) and E-Mail Address(es)

1. Audit Period and Dates of Engagement:

A. This audit will cover the fiscal year(s) ending June 30, 2020 (and _____).
(Month & Day) (Year) (Year)

B. Date to commence audit work: September 1, 2020

C. Date to submit final audit report to Entity and State: December 31, 2020

2. Time and Price for Engagement:

A. Estimated total hours - 175

B. Price for audit personnel \$ 18,500

Price for Travel _____

Price for typing, clerical and report preparation _____

Total price for this engagement \$ 18,500

3. The reporting entity contains the following discretely presented component units: _____

- 4. Date Annual Financial Report or a trial balance will be available: September 1, 2020
- 5. Number of copies of audit report Contractor will provide to Entity: 5
- 6. The Entity will provide clerical, equipment, and photocopying or reproduction services to the Contractor as follows:


- 7. The audit scope with regard to federal financial assistance received by the Entity for the above fiscal year(s) will be as indicated below:

The audit will be a single audit conducted in accordance with the provisions of Uniform Guidance because the Entity expended a total amount of federal awards **equal to or in excess of \$750,000** during the fiscal year(s), or such other dollar amount (\$ _____) that is effective for the fiscal year(s) being audited.

OR

The audit will not be a single audit conducted in accordance with the provisions of Uniform Guidance and will not include audit coverage of any federal financial assistance in accordance with requirements of that federal regulation, because the Entity expended a total amount of federal awards of **less than \$750,000** during the fiscal year(s), or such other dollar amount (\$ _____) that is effective for the fiscal year(s) being audited.

Certified Public Accountant

Amatics CPA Group
Firm Name
By: 
Authorized Representative

Date: 7/30/2019

Governmental Entity

City of Livingston, Montana
Entity Name
By: _____
Authorized Representative

Date: _____

**Montana Department of Administration,
Local Government Services**

By: _____
Approved By

Date: _____

- 4. Date Annual Financial Report or a trial balance will be available: September 1, 2021
- 5. Number of copies of audit report Contractor will provide to Entity: 5
- 6. The Entity will provide clerical, equipment, and photocopying or reproduction services to the Contractor as follows:


- 7. The audit scope with regard to federal financial assistance received by the Entity for the above fiscal year(s) will be as indicated below:

The audit will be a single audit conducted in accordance with the provisions of Uniform Guidance because the Entity expended a total amount of federal awards **equal to or in excess of \$750,000** during the fiscal year(s), or such other dollar amount (\$ _____) that is effective for the fiscal year(s) being audited.

OR

The audit will not be a single audit conducted in accordance with the provisions of Uniform Guidance and will not include audit coverage of any federal financial assistance in accordance with requirements of that federal regulation, because the Entity expended a total amount of federal awards of **less than \$750,000** during the fiscal year(s), or such other dollar amount (\$ _____) that is effective for the fiscal year(s) being audited.

Certified Public Accountant

Amatics CPA Group
Firm Name
By: 
Authorized Representative

Date: 7/30/2019

Governmental Entity

City of Livingston, Montana
Entity Name
By: _____
Authorized Representative

Date: _____

**Montana Department of Administration,
Local Government Services**

By: _____
Approved By

Date: _____

Item Attachment Documents:

- D. RESOLUTION NO. 4880-A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH TD&H ENGINEERING FOR CONSTRUCTION ADMINISTRATION FOR THE PARK STREET WATER MAIN REPLACEMENT, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT TO INCLUDE THE USE OF CONTINGENCY FUNDS AS DEEMED NECESSARY.**

RESOLUTION NO. 4880

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH TD&H ENGINEERING FOR CONSTRUCTION ADMINISTRATION FOR THE PARK STREET WATER MAIN REPLACEMENT, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT TO INCLUDE THE USE OF CONTINGENCY FUNDS AS DEEMED NECESSARY.

WHEREAS, the water main in Park Street from 10th Street to 6th Street was installed in the 1950’s with cast iron pipe that was not wrapped to prevent corrosion. The water main burst from corrosion three times over a period of eight days during the early winter of 2019 and subsequently was taken out of service to prevent additional breaks; and

WHEREAS, by Resolution No. 4846 the City Commission authorized the City Manager to sign a professional services agreement with City Engineer TD&H for design services of the Park Street water main replacement between 6th and 10th streets; and

WHEREAS, TD&H Engineering provided the City information regarding the critical nature of the Park Street Water Improvements Project, due to health and safety concerns, decreased firefighting ability and supplied a photo depicting the corrosion within the line that was taken during an inline camera inspection which document is attached to and incorporated herein as “Exhibit A”; and

WHEREAS, TD&H submitted a proposal for engineering services for construction during the 2019 Park Street Water Improvement project totaling \$60,500 which document is attached hereto and incorporated herein as “Exhibit B”; and

WHEREAS, The City desires to reconnect the loop between 6th Street and 10th street for continuity of all services within the city’s water distribution system; and

WHEREAS, The City recommends authorizing the City Manager to sign the Professional

Services Agreement with TD&H Engineering for construction administration for the 2019 Park Street Water Main Replacement, and authorize the City Manager to execute the agreement and is authorized to include the use of contingency funds as deemed necessary which document is attached hereto and incorporated herein as “Exhibit C”.

NOW, THEREFORE, BE IT RESOLVED, by the City Commission of the City of Livingston, Montana, as follows:

The General Services agreement between the City of Livingston and TD&H engineering is hereby approved. The City Manager is hereby authorized to sign said agreements and execute on behalf of the City of Livingston, Montana.

PASSED AND ADOPTED by the City Commission of the City of Livingston, Montana, September 3, 2019.

DOREL HOGLUND- Chair

FAITH KINNICK
Recording Secretary

JAY PORTEEN
City Attorney



Livingston City Commission
LEGISLATIVE ACTION SUMMARY
Resolution No: 4880

Requested by: Michael J. Kardoes, City Manager

Date of First Consideration/Status: 03 September 2019

Purpose of Legislation: Authorize the City Manager to sign a Professional Services Agreement with TD&H Engineering for construction administration for the Park Street Water Main Replacement, and authorize the City Manager to execute the Agreement to include the use of contingency funds as deemed necessary.

Statutory Authority/Reference: Budget Authority/Formal Contract

Background: The water main in Park Street from 10th Street to 6th Street was installed in the 1950’s with cast iron pipe that was not wrapped to prevent corrosion. The water main burst from corrosion three times in eight days over the winter in 2019 and was taken out of service to prevent additional breaks. As a result of taking this water main out of service, the distribution system between 10th Street and 6th Street are disconnected and there are 8 blocks of water main in 7th and 8th street that are not looped. TD&H is the City’s contract engineer. The City Administration recommends approving the attached PSA.

Staff Recommendation: Approve the General Services Agreement

Fiscal Impact:

Cost Proposal: \$55,000
Contingency: \$5,500
Total Authorized Cost: \$60,500

Funding Source:

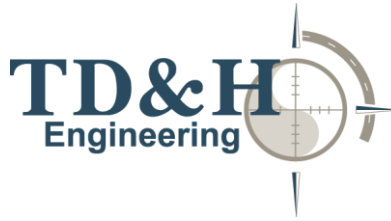
Water: \$60,500

Regulatory Impact (local): N/A

Attachments:

Professional Services Agreement
Engineers Proposal

234 East Babcock Street
Suite 3
Bozeman, MT 59715



406.586.0277
tdhengineering.com

MEMORANDUM

Date:	8/12/2019	TDH Job No.:	B15-081-046
To:	Shannon Holmes		
From:	TD&H Engineering		
Subject:	Park Street Water Improvements		

Dear Shannon-

The 10" cast iron main in Park Street between 6th Street and 10th Street is partially out of service due to multiple breaks caused by a combination of aged infrastructure and cold weather. The main is currently shut down between 6th Street and 8th Street, which causes inadequate fire flow in the area. The side streets have become long dead-end main runs and the remaining pipe that is in service has a high potential for failure during another winter season based on the frequency of breaks last year. The City of Livingston has run their camera through the 2 blocks of inactive water main in Park Street and a picture of the pipe is attached. Replacing this main is the highest water priority for the City due to health and safety concerns. The main is a critical transmission for looping water on the south side of town. Fire flows in the area with the main out of service are displayed in the table below (from calibrated City water model, 2019).

Park Street Water Main Between 6th Street and 10th Street

	Available Fire Flow (gpm)				
	6th St.	7th St.	8th St.	9th St.	10th St.
10" Water Main Operating	3,415	3,417	3,419	3,421	3,442
10" Water Main Not Operating	3,410	325	335	1,066	3,442

The loss of fire fighting ability on the collector streets with the Park Street main out of service is significant and concerning.

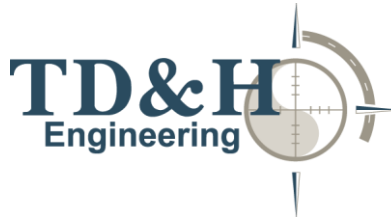
[EXHIBIT A]

0104.5 F

06/25/19

08:38a

234 East Babcock Street
Suite 3
Bozeman, MT 59715



406.586.0277
tdhengineering.com

August 27, 2019

Mr. Shannon Holmes – Public Works Director
City of Livingston
330 Bennett Street
Livingston, MT 59047

RE: PROPOSAL FOR CONSTRUCTION ADMINISTRATION FOR PARK STREET WATER IMPROVEMENTS

Dear Shannon,

Thank you for the opportunity to submit this proposal to provide engineering services for construction during the 2019 Park Street project in Livingston.

SCOPE OF WORK - ENGINEERING

Our scope of work for each schedule includes:

- Shop drawing review.
- Preconstruction conference and agency coordination.
- Construction staking.
- Construction inspection and testing.
- Project management and weekly meetings.
- Project closeout and record drawings.

Our proposed scope takes us through construction inspection and submitting record drawings to MDEQ.

SCHEDULE AND FEE

Contract time for this schedule is set at 60 calendar days, which equates to 8 weeks of construction. We have also included several trips for our senior level construction manager/P.E., Mike Kirkpatrick, to help maintain good communication with Contractor and work through the construction issues that inevitably occur on larger rehabilitation projects and pipe bursting. Our estimated fees for the scope outlined above are listed below:

1. Construction Staking.....	\$1,500
2. Construction Inspection and Management.....	\$52,700
3. Record Drawings	\$800
Subtotal	\$55,000
10% Contingency	\$5,500

**TOTAL ENGINEERING AND CONSTRUCTION
ADMINISTRATION FEE \$60,500**

The base bid for is \$439,242. Our construction management fee of \$60,500 represents approximately 14% of anticipated construction costs in the current project. The construction administration costs are higher than typical 10% of project total based on the nature of pipe bursting vs. open cut rehabilitation. It is anticipated that the proposed CA fee would be approximately 10% of traditional open cut main replacement when the amount of asphalt and concrete replacement increases significantly, further confirming our choice to direct pipe bursting for this project. The construction administration cost covers project management and weekly agency meetings, typical full-time inspection, minimal survey and testing work, and post-construction services.

Thank you for the opportunity to submit this proposal. We appreciate your confidence in our firm, and we look forward to continuing our work with you on this project. If you have any questions or comments regarding this proposal or wish to discuss the scope of services, please call.

Sincerely,



Matt McGee, PE
Project Manager
TD&H ENGINEERING

J:\2015\B15-081 City of Livingston On-Call Engineering Services\046 Park Street
WATER\DOCUMENTS\CONTRACTS\CA\LIVINGSTON PARK STREET WATER CONSTRUCTION
MANAGEMENT PROPOSAL.DOC



PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is made and entered into as of the ____ day of _____, 2018, by and between the CITY OF LIVINGSTON, MONTANA, a municipal corporation and political subdivision of the state of Montana with its principal business office located at 414 East Callender Street, Livingston, Montana 59047 (hereinafter referred to as the “City”), and THOMAS, DEAN & HOSKINS, INC., a Montana corporation with its principal office located at 1800 River Drive North, Great Falls, Montana 59401 (hereinafter referred to as the “Engineer”; and together with the City, the “Parties”).

RECITALS:

- A. The City desires to complete the project commonly known as the Park Street Water Rehabilitation Project (the “Project”), which Project requires certain professional engineering design services to be performed in connection therewith.
- B. In June 2019, the City and the Engineer entered into a Professional Services Agreement (the “June 2019 Agreement”) whereby the Engineer agreed to perform Miscellaneous and Tasked Based services for the City.
- C. The City now desires for Engineer to perform such a Task Based service in the form of Construction Management for the Park Street Water Rehabilitation Project and the Engineer desires to perform the services, all according to the terms and conditions set forth below.
- D. The Engineer is engaged in the business of professional engineering, independent of the City, and has the manpower, knowledge, expertise, skills, means, tools, licenses, if applicable, and equipment necessary to design services for the Project and is ready, willing and able to undertake and perform the same under the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions contained herein, the Parties agree as follows:

1. INCORPORATION OF RECITALS. The above Recitals are true and correct and are fully incorporated into this Agreement as if fully set forth in this Paragraph 1.

2. ENGINEER'S SERVICES. City agrees to retain Engineer to perform all services and comply with all obligations specified or indicated in the Scope of Work attached hereto and incorporated herein as **Exhibit A** (collectively, the "Services").
3. NON-DISCRIMINATION. Pursuant to Mont. Code Ann. § 49-3-207, in the performance of this Agreement the Engineer agrees that all hiring will be on the basis of merit and qualifications and that the Engineer will not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.
4. NATURE OF RELATIONSHIP.
 - a. The Engineer states that it is engaged in an established business or profession which is in no way affiliated with or connected to the City, except by this Agreement and that it uses independent judgment in the performance of services provided hereby free from control or direction of others. The Engineer shall perform the Services as an independent contractor. The Parties agree that the City is only interested in the end result of the Services, not in the method of performance, and as such, the Engineer has been and will continue to be free from the control or direction of the City in the performance of this Agreement. The Engineer shall not be deemed by virtue of this Agreement nor the performance thereof to have entered into any partnership, joint venture, employer/employee or any other legal relationship with the City besides that of an independent contractor. Because Engineer is an independent contractor, Engineer is not entitled to any workers compensation or any benefit of employment with the City.
 - b. The Engineer agrees to comply with all applicable laws, rules and regulations adopted or promulgated by any governmental agency or regulatory body, both state and federal, and furthermore agrees to assume full responsibility for the payment of all contributions of all federal and state income or other payroll tax or assessment, social security, worker's compensation insurance, unemployment insurance, self-employment tax or any other required deduction or contribution for himself or for any employees engaged by the Engineer in performance of this Agreement.
 - c. The Engineer, its officers, agents and/or employees shall not have the authority to make representations on behalf of the City, and neither shall the aforementioned entities and persons have the authority to legally bind or otherwise obligate the City to any third person or entity.

5. COMPENSATION.

- a. For the satisfactory completion of the Services, the City will pay the Engineer a sum not to exceed Fifty Five Thousand and 0/100 Hundred Dollars (\$55,00.00); provided, however, the Parties may agree to additional compensation in an amount not to exceed Five Thousand Five Hundred Dollars (\$5,500.00) in the event presently unforeseen circumstances require Engineer to provide additional services or spend additional time on items not contemplated by this Agreement. Each specific service the Engineer provides under this Agreement, and the maximum amount the City will pay the Engineer for each, is set forth in Exhibit A.
- b. The Engineer shall submit an invoice every month if it has provided the City with Services during the preceding month. The invoices will include charges for the Services actually performed during the associated billing period. The invoices shall include, at a minimum, the following information: (i) a clear description of the tasks performed; (ii) identification of the project with which all charges are associated; (iii) the contracted dollar amount for the Services, if applicable; (iv) the Services completed to date for the associated project; and (v) the Services that remain to be completed for the associated project. Each invoice shall be accompanied by a monthly summary that provides the following information: (i) all current projects; (ii) the estimated dollar amount of the total project costs for each project; (iii) the amount the City has paid to date on each project; and (iv) the amount the City will likely pay to complete each project shown on that month's invoice.
- c. In connection with obtaining payment under this Agreement, Engineer agrees to familiarize itself with, and agrees to be bound by, the City's claim procedure, including but not limited to deadlines for submitting claims for approval and payment. The Engineer assumes responsibility for the late filing of a claim.
- d. In the event the Engineer seeks payment or compensation for work, materials or services not included in this Agreement and the exhibits hereto, the Engineer must seek prior written authorization from the City before such expenditure is incurred. If the Engineer fails to obtain prior written authorization, the Engineer shall not be entitled to payment for the unauthorized work, materials or services.

6. ENGINEER'S RESPONSIBILITIES, REPRESENTATIONS AND WARRANTIES.

The Engineer represents and warrants as follows:

- a. It and its employees possess all of the necessary qualifications, experience, knowledge, tools and equipment to undertake the performance of the Services.
 - b. It is familiar with and is satisfied as to all federal, state and local laws and regulations that may affect costs, progress, performance and furnishing of the Services.
 - c. It has reviewed and has entered into this Agreement based solely upon its own knowledge, inspection and judgment, and not upon any representations or warranties made by the City or its officers, employees or agents.
 - d. In connection with the Services, it will exercise the standard of care that is ordinarily used by members of the Engineer's profession practicing under similar conditions at the same time and in the same locality.
7. OWNERSHIP OF DOCUMENTS. All data, information, work in progress, documents, reports, and intellectual property developed in connection with any work under this Agreement, both in hard-copy form and as may be embodied on computer diskettes or similar information recording and storage media, is deemed the City's property and, upon request, shall be delivered to the City. Following the City's acceptance of materials described in this paragraph, the City shall indemnify and hold Engineer harmless for any changes or revisions to the plans and related documents the Engineer prepares under this Agreement that are made without Engineer's knowledge and written consent.
8. TERMINATION OF THIS AGREEMENT.
- a. If the City fails to substantially perform in accordance with the terms of this Agreement, the Engineer shall deliver to the City a written notice specifying the nature of the City's failure to substantially perform. The City shall have a period of ten (10) days after receiving the written notice from the Engineer to cure the failure to perform. If the City fails to cure its failure to perform within the 10-day cure period, the Engineer shall provide the City with a written notice to terminate this Agreement. The Engineer may only terminate this Agreement if it is not at fault for the City's failure to perform. Failure of the City to make payment as provided in this Agreement shall be considered nonperformance and cause for termination, unless the Engineer is at fault for the City's nonpayment.

- b. The City may terminate this Agreement upon not less than thirty (30) days prior written notice to Engineer. If the City terminates this Agreement for a reason other than fault of the Engineer, the Engineer shall receive compensation for the work/services performed prior to termination, together with reasonable expenses incurred up to the date of termination.
9. LIMITATION OF LIABILITY. To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and consultants, to City and anyone claiming by, through, or under City for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Services or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of Engineer or Engineer's officers, directors, members, partners, agents, employees, or consultants shall not exceed the total compensation received by Engineer under this Agreement. Similarly, to the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of the City and the City's officers, directors, members, partners, agents, employees, and consultants, to Engineer and anyone claiming by, through, or under Engineer for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Services or the Agreement from any cause or causes, including but not limited to the negligence, strict liability, breach of contract, indemnity obligations, or warranty express or implied of City or City's officers, directors, members, partners, agents, employees, or consultants shall not exceed the total compensation received by Engineer under this Agreement.
10. INDEMNIFICATION AND HOLD HARMLESS. To the fullest extent permitted by law, City shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Services, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property, including the loss of use resulting therefrom, but only to the extent caused solely by any negligent act or omission of City or City's officers, directors, members, partners, agents, employees, consultants, or others retained by or under contract to the City with respect to this Agreement or to the Services. Similarly, to the fullest extent permitted by law, Engineer shall indemnify and hold harmless City and its officers, directors, members, partners, agents, employees, and consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and

charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Services, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property, including the loss of use resulting therefrom, but only to the extent caused solely by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, consultants, or others retained by or under contract to the Engineer with respect to this Agreement or to the Services.

11. INSURANCE. In addition to any other insurance which Engineer may choose to carry, the Engineer shall, at its sole expense, maintain in effect during the performance of this Agreement all of the following insurance: (a) workers' compensation as required by state law; (b) comprehensive commercial general liability insurance, including personal injury liability, automobile, blanket contractual liability and broad-form property damage liability coverage with a single limit of \$1,000,000 each occurrence, \$2,000,000 general aggregate and \$5,000,000 excess/umbrella liability; (c) professional liability with a limit of \$1,000,000 per claim and \$1,500,000 aggregate made against Engineer for errors or omissions in the performance of this Agreement. Engineer's certificates of insurance are attached hereto and incorporated herein as **Exhibit B**. Any certificates of insurance shall require at least ten (10) days written notice to the City prior to any cancellation, termination, or non-renewal of coverage.
12. COMPLIANCE WITH LAWS. The Engineer agrees it will comply with all federal, state and local laws, rules and regulations.
13. SURVIVAL. All express representations, indemnifications, or limitations of liability made in or given in this Agreement shall survive completion of the Services or the termination of this Agreement for any reason.
14. FORCE MAJEURE. The Parties shall not hold each other responsible for damages or delay in the performance of this Agreement caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.
15. NOTICES. All notices or communications required to be given under this Agreement shall be in writing and shall be deemed to have been duly given by personal delivery or upon deposit into the United States Postal Service, postage prepaid, for mailing by certified mail, return receipt required, and addressed as follows:

City: City of Livingston
Attn: Shannon Holmes
330 Bennett Street
Livingston, Montana 59047

Engineer: TD&H Engineering
Attn: Keith Waring, P.E.
234 East Babcock Street, #3
Bozeman, Montana 59715

Any change of address shall be made by giving written notice thereof to the other party, providing the new address.

16. MODIFICATION AND WAIVER. No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or of any effect unless made in writing, signed by the party or parties to be bound and specifying with particularity the nature and extent of such amendment, modification or waiver. Any waiver by any party of any default of the other party shall not effect or impair any right arising from any subsequent default. Nothing herein shall limit the remedies or rights of the parties hereunder and pursuant to this Agreement.
17. SEVERABILITY. Each provision of this Agreement is intended to be severable. If any provision of this Agreement is illegal or invalid for any reason whatsoever, such illegality or invalidity of said provision shall not affect the validity of the remainder of this Agreement.
18. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the Parties and supersedes all prior agreements and understandings between the Parties.
19. INTERPRETATION. All captions, headings, or titles in the paragraphs or sections of this Agreement are inserted for convenience or reference only and shall not constitute a part of this Agreement or act as a limitation of the scope of the particular paragraph or section to which they apply. As used herein, where appropriate, the singular shall include the plural and vice versa and the masculine, feminine or neuter expressions shall be interchangeable.
20. COUNTERPARTS. This Agreement may be executed in multiple counterparts, each of which shall be one and the same Agreement and shall become effective when one or

more counterparts have been signed by each of the parties and delivered to the other party.

21. PARTIES IN INTEREST AND ASSIGNMENT. This Agreement shall be binding upon, and the benefits and obligations provided for herein shall inure to and bind, the Parties and their respective successors and assigns, provided that this section shall not be deemed to permit any transfer or assignment otherwise prohibited by this Agreement. This Agreement is for the exclusive benefit of the Parties and it does not create a contractual relationship with or exist for the benefit of an third party, including contractors, subcontractors or their sureties. This Agreement shall not be assigned, or any right or obligation hereunder, in whole or in part, to another without first having prior written consent of the other party. No assignment or transfer of any interest under this Agreement shall be deemed to release the Engineer or the City from any liability or obligation under this Agreement, or to cause any such liability or obligation to be reduced to a secondary liability or obligation.
22. VENUE. The parties stipulate and agree that the Montana Sixth Judicial District Court, Park County, has proper venue and jurisdiction to resolve all causes of action which may accrue under this Agreement.
23. GOVERNING LAW. This Agreement shall be governed by the law of the State of Montana without respect to its conflicts of law principles.
24. LIAISON. The designated liaison with the City is Shannon Holmes, who can be reached at (406) 222-5667. The Engineer's liaison is Keith Waring, who can be reached at (406) 586-0277.
25. DISPUTES. It is mutually agreed that the performance or breach of this Agreement and its interpretation shall be governed by the laws of the state of Montana, without regard to its conflicts of law principles.
26. COMPUTING TIME. For the purpose of calculating time under this Agreement, the following computation shall be used -- If the period is stated in days or a longer unit of time, exclude the day of the event that triggers the period, count every day, including intermediate Saturdays, Sundays, and legal holidays, and include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in Livingston, Montana, the day and year first aforementioned herein.

CITY OF LIVINGSTON

**THOMAS, DEAN & HOSKINS, INC.,
a Montana corporation**

Michael J. Kardoes

Name: _____
Its: _____

[**Exhibit A**]

[**Rate Schedule**]

[**Exhibit B**]

[**Certificates of Insurance**]

Item Attachment Documents:

- E. RESOLUTION NO. 4881-A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO SIGN A GENERAL SERVICES AGREEMENT AND SECTION 00500 AGREEMENT WITH WESTERN MUNICIPAL CONSTRUCTION FOR CONSTRUCTION SERVICES FOR THE 2019 PARK STREET WATER MAIN REPLACEMENT, AND TO EXECUTE THE AGREEMENT TO INCLUDE THE USE OF CONTINGENCY FUNDS AS DEEMED NECESSARY.**

RESOLUTION NO. 4881

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO SIGN A GENERAL SERVICES AGREEMENT AND SECTION 00500 AGREEMENT WITH WESTERN MUNICIPAL CONSTRUCTION FOR CONSTRUCTION SERVICES FOR THE 2019 PARK STREET WATER MAIN REPLACEMENT, AND TO EXECUTE THE AGREEMENT TO INCLUDE THE USE OF CONTINGENCY FUNDS AS DEEMED NECESSARY.

WHEREAS, as a preventative measure a portion of the water main in Park Street from 10th Street to 6th Street was disconnected from service due to multiple water breaks that occurred during the early winter of 2019, rendering 8 blocks between 7th and 8th streets un-looped from the City’s water distribution system; and

WHEREAS, TD& H Engineering is contracted to and authorized to provide construction administration and engineering services to the City of Livingston. TD&H submitted an engineer’s recommendation awarding the lowest bid to Western Municipal Construction, Inc. which document is attached to and incorporated herein as “Exhibit A”; and

WHEREAS, the parties desire to define their respective rights, establish roles, duties and obligations and define other terms and conditions as recited within the General Services Agreement, which document is attached hereto and incorporated herein as “Exhibit B”; and

WHEREAS, Western Municipal Construction, Inc., has submitted their Section 00500 Agreement Form which defines the scope of the work they are contracted to provide, establishes a timeline and payment agreement and defines other terms and conditions, which document is attached hereto and incorporated herein as “Exhibit C”; and

WHEREAS, Western Municipal Construction, Inc., has submitted the required evidence of current Commercial Liability Insurance coverage, which document is attached hereto and incorporated herein as “Exhibit D”.

WHEREAS, the City recommends approval of the General Services Agreement and Section 00500 Agreement forms with Western Municipal Construction for the Park Street Water Main Replacement and authorizing the City Manager to execute the agreement and the use of contingency funds as deemed necessary.

NOW, THEREFORE, BE IT RESOLVED, by the City Commission of the City of Livingston, Montana, as follows:

The General Services agreement and Section 00500 agreements between the City of Livingston and Western Municipal Construction, Inc. are hereby approved. The City Manager is authorized to sign said agreements and execute on behalf of the City of Livingston, Montana.

PASSED AND ADOPTED by the City Commission of the City of Livingston, Montana, September 3, 2019.

DOREL HOGLUND- Chair

FAITH KINNICK
Recording Secretary

JAY PORTEEN
City Attorney



Livingston City Commission
LEGISLATIVE ACTION SUMMARY
 Ordinance/Resolution No:

Requested by: Michael J. Kardoes, City Manager

Date of First Consideration/Status: 03 September 2019

Purpose of Legislation: Authorize the City Manager to sign a General Services Agreement with Western Municipal Construction for construction for the Park Street Water Main Replacement, and authorize the City Manager to execute the Agreement to include the use of contingency funds as deemed necessary.

Statutory Authority/Reference: Budget Authority/Formal Contract

Background: The water main in Park Street from 10th Street to 6th Street was installed in the 1950's with cast iron pipe that was not wrapped to prevent corrosion. The water main burst from corrosion three times in eight days over the winter in 2019 and was taken out of service to prevent additional breaks. As a result of taking this water main out of service, the distribution system between 10th Street and 6th Street are disconnected and there are 8 blocks of water main in 7th and 8th street that are not looped. The City opened bids for the project on August 9th 2019. Western Municipal Construction was the low bidder. The City Administration recommends approving the attached GSA.

Staff Recommendation: Approve the General Services Agreement

Fiscal Impact:

Cost Proposal:	\$439,242
Contingency:	\$43,924
Total Authorized Cost:	\$483,166

Funding Source:

Water:	\$483,166
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Regulatory Impact (local): N/A

Attachments:

General Services Agreement
 Engineers Recommendation for Award
 Park Street Water Memo

August 26, 2019

Shannon Holmes, Public Works Director
City of Livingston
330 North Bennett Street
Livingston, MT 59047

**RE: CITY OF LIVINGSTON 2019 PARK STREET WATER
ENGINEER RECOMMENDATION**

Dear Shannon,

TD&H has tabulated the bids from contractors for the Park Street Water Improvements Project. After an active and successful bidding period, overall two contractors submitted bids on the pipe bursting project. All contractors submitted bids to the City of Livingston on August 9, 2019. The tabulated bids are detailed and attached including the engineer's estimate. TD&H is comfortable with the apparent low bidder, Western Municipal Construction, based on current downtown CIP work.

The low bid for the work came in as follows:

<u>Engineer's Estimate</u>	<u>Low Bid (Western)</u>
\$472,189.00	\$439,242.00

Western Municipal has confirmed that they are comfortable with their numbers to complete a successful project this fall, weather permitting.

At this time, TD&H recommends that the City of Livingston enter into negotiations with Western Municipal Construction for Park Street Water Improvements. TD&H has verified that Western has included the following in their bid: Montana Davis Bacon prevailing wages, 1% GRT Tax, and a performance and payment bond.

Once we have approval to enter into negotiations for the downtown work, TD&H will prepare a contract, set up a preconstruction meeting, and oversee the construction of the project.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matt McGee".

Matt McGee, PE
Project Manager
TD&H ENGINEERING

Attachments: 2019 Park Street Water Improvements Bid Tabulation

G:\Livingston\Park Street\City of Livingston Recommendation to Award CIP.doc

**City of Livingston Livingston 2019 Park Street Water
Bid Tabulation 8/9/2019**



ITEM NO.	DESCRIPTION	EST. QUANTITY	UNIT	Engineer's Estimate		Western Municipal		COP	
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
101	Mobilization (5% Max.)	1	LS	22,000.00	\$ 22,000.00	21,500.00	\$ 21,500.00	17,600.00	\$ 17,600.00
102	Temporary Utility Pole Support	1	LS	7,000.00	\$ 7,000.00	1,000.00	\$ 1,000.00	2,100.00	\$ 2,100.00
103	Temporary Water Service	1	LS	7,000.00	\$ 7,000.00	8,000.00	\$ 8,000.00	21,000.00	\$ 21,000.00
104	Locate and Protect Public and Private Utilities	1	LS	10,000.00	\$ 10,000.00	5,000.00	\$ 5,000.00	7,900.00	\$ 7,900.00
105	Clean Up (3% Min.)	1	LS	14,000.00	\$ 14,000.00	13,180.00	\$ 13,180.00	14,000.00	\$ 14,000.00
106	Traffic Control	1	LS	20,000.00	\$ 20,000.00	12,000.00	\$ 12,000.00	7,200.00	\$ 7,200.00
107	Flowable Fill	65	LF	250.00	\$ 16,250.00	405.00	\$ 26,325.00	910.00	\$ 59,150.00
108	Remove and Replace Asphalt Pavement, Utility Trenches	63	SY	90.00	\$ 5,670.00	149.00	\$ 9,387.00	300.00	\$ 18,900.00
109	Remove and Replace Concrete Curb and Gutter	60	LF	55.00	\$ 3,300.00	98.00	\$ 5,880.00	560.00	\$ 33,600.00
110	10" Water Main	1563	LF	200.00	\$ 312,600.00	140.00	\$ 218,820.00	114.00	\$ 178,182.00
111	8" C900 DR18 PVC Water Main	10	LF	70.00	\$ 700.00	250.00	\$ 2,500.00	180.00	\$ 1,800.00
112	6" C900 DR18 PVC Water Main	5	LF	65.00	\$ 325.00	200.00	\$ 1,000.00	460.00	\$ 2,300.00
113	10" Gate Valve and Box	4	EA	3,000.00	\$ 12,000.00	4,500.00	\$ 18,000.00	3,700.00	\$ 14,800.00
114	8" Gate Valve and Box	2	EA	2,000.00	\$ 4,000.00	2,250.00	\$ 4,500.00	3,100.00	\$ 6,200.00
115	6" Gate Valve and Box	1	EA	1,600.00	\$ 1,600.00	1,850.00	\$ 1,850.00	2,500.00	\$ 2,500.00
116	Ductile Iron Fittings	418	LB	8.00	\$ 3,344.00	50.00	\$ 20,900.00	33.00	\$ 13,794.00
117	Water Services - 3/4"	2	EA	1,200.00	\$ 2,400.00	1,950.00	\$ 3,900.00	2,900.00	\$ 5,800.00
118	Water Services - 1"	4	EA	1,250.00	\$ 5,000.00	2,000.00	\$ 8,000.00	3,000.00	\$ 12,000.00
119	Connect to Existing Water Main	5	EA	4,000.00	\$ 20,000.00	8,500.00	\$ 42,500.00	2,400.00	\$ 12,000.00
120	Topsoil, Seed and Fertilizing	1	LS	5,000.00	\$ 5,000.00	15,000.00	\$ 15,000.00	16,000.00	\$ 16,000.00
				TOTAL \$	472,189.00	TOTAL \$	439,242.00	TOTAL \$	446,826.00

GENERAL SERVICE AGREEMENT

THIS GENERAL SERVICE AGREEMENT (this "Agreement") is made and entered into as of the ____ day of _____, 2019, by and between **THE CITY OF LIVINGSTON, MONTANA**, a municipal corporation and political subdivision of the state of Montana with its principal office located at 414 East Callender Street, Livingston, MT 59047 (hereinafter referred to as the "City"), and **Western Municipal Construction Inc.**, a limited liability company with its principal place of business located at 5855 Elysian Road Billings, MT 59101 (hereinafter referred to as the "Contractor"; and together with the City, the "Parties").

RECITALS:

- A. The Contractor is engaged in the business of providing construction and building services, independent of the City, and has the manpower, knowledge, expertise, skills, means, tools, licenses, if applicable, and equipment necessary to perform tasks required in this project for the City.
- B. The City has contracted with the Contractor for services in the past.
- C. The Parties desire to define their respective rights, duties and obligations with respect to their relationship and, as a result, the Parties desire to proceed under the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions contained herein, the Parties agree as follows:

1. INCORPORATION OF RECITALS. The above Recitals are true and correct and are fully incorporated into this Agreement as if fully set forth in this Paragraph 1.
2. NON-DISCRIMINATION. Pursuant to Mont. Code Ann. § 49-3-207, in the performance of this Agreement, the Contractor agrees that all hiring will be on the basis of merit and qualifications and that the Contractor will not be discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.
3. SCOPE OF WORK/SERVICES. Contractor shall complete all work as specified or indicated in the construction plans and specifications herein. The Project for which the

work shall be completed may be generally described as the “City of Livingston Park Street Water Improvements”.

4. CONTRACT DOCUMENTS. In addition to this Agreement, the contract documents shall consist of the Project Manual and all attachments and exhibits thereto, the Instructions to Bidder, bid, all issued addenda, drawings, the specifications manual, bonds, and insurance certifications as required by the Instructions to Bidder and documents identified therein (the foregoing documents are collectively referred to in this Agreement as the “Contract Documents.”)

5. NATURE OF RELATIONSHIP.
 - a. The Contractor states that it is engaged in an established business or profession which is in no way affiliated with or connected to the City, except by this Agreement and that it uses independent judgment in the performance of services provided hereby free from control or direction of others. The Contractor shall perform the Project as an independent contractor. The Parties agree that the City is only interested in the end result of said project, not in the method of performance, and as such, the Contractor has been and will continue to be free from the control or direction of the City in the performance of this Agreement. The Contractor shall not be deemed by virtue of this Agreement nor the performance thereof to have entered into any partnership, joint venture, employer/employee or any other legal relationship with the City besides that of an independent contractor.

 - b. The Contractor agrees to comply with all applicable laws, rules and regulations adopted or promulgated by any governmental agency or regulatory body, both State and Federal, and furthermore agrees to assume full responsibility for the payment of all contributions of all federal and state income or other payroll tax or assessment, social security, worker's compensation insurance, unemployment insurance, self-employment tax or any other required deduction or contribution for himself or for any employees engaged by the Contractor in performance of this Agreement.

 - c. **The contractor agrees to follow the Montana Preference law for materials and labor as set forth in 18-1-102 and 18-2-403 MCA. For projects valued in excess of \$25,000.00, the contractor agrees to post the job site with the standard prevailing wage information, to pay his employees the standard prevailing wage as established by the Montana commissioner of Labor and/or the federal government and to maintain records thereof for three years.**

- d. The Contractor hereby states that it is either covered by Worker's Compensation and Unemployment Insurance or has obtained an exemption from the Montana Department of Labor and Industry pursuant to Mont. Code Ann. §§ 39-71-401(3) and 39-51-204(2), as is evidenced by the certificates of insurance or exemption documents attached hereto and incorporated herein as Exhibit A. Any certificates of insurance shall require at least ten (10) days written notice to the City prior to any cancellation, termination, or non-renewal of coverage.
- e. The Contractor, its officers, agents and/or employees shall not have the authority to make representations on behalf of the City, and neither shall the aforementioned persons have the authority to legally bind or otherwise obligate the City to any third person or entity.

6. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES. The Contractor represents and warrants as follows:

- a. It and its employees possess all of the necessary qualifications, experience, knowledge, tools and equipment to undertake the performance of the Services as set forth in this Agreement.
- b. It has inspected the job site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the work.
- c. It is familiar with and is satisfied as to all federal, state and local laws and regulations that may affect costs, progress, performance and furnishing the work.
- d. It has reviewed this Agreement and all exhibits hereto and has entered into this Agreement based solely upon its own knowledge, inspection and judgment, and not upon any representations or warranties made by the City or its officers, employees or agents.
- e. It will complete the Services in a workmanlike manner according to industry standards and practices.
- f. It will not cause or permit any liens to be filed against City-owned property.

7. ADDITIONAL CONTRACTOR RESPONSIBILITIES. The Contractor shall:
- a. Give employment preference to bona fide Montana residents in the performance of the work.
 - b. Pay the travel allowance in effect and applicable to the district in which the work is being performed.
 - c. Pay the standard prevailing rate of wages, including fringe benefits, in effect and applicable to the district in which the work is being performed as determined by the Montana Department of Labor and Industry. Information about such wages and fringe benefits must be posted at the job site.
 - d. Retain records regarding its payment of the standard prevailing rate of wages, including fringe benefits, for a period of three (3) years after the Contractor's completion of work on the Project.
8. CITY'S RESPONSIBILITIES. The City shall:
- a. Provide all of the information regarding any requirements under this Agreement in a timely fashion.
 - b. Provide access to City property and easements with respect to the performance of this Agreement
9. PAYMENT.
- a. Subject to additions or deductions by change order, the Contractor shall perform his obligations under this agreement for the contract price **Four hundred thirty-nine thousand, two hundred forty-two dollars (\$439,242.00)** as set forth in Section 00300 Bid Form. Pay estimates submitted by Contractor must first be approved by the City or its designee prior to payment. All bills shall be submitted fourteen (14) days before the regularly scheduled meeting of the City Commission to the Assistant Public Works Director at 330 Bennett Street, Livingston, Montana.
 - b. In connection with obtaining payment under this Agreement, Contractor agrees to familiarize itself with, and agrees to be bound by, the City's claim procedure, including but not limited to deadlines for submitting claims for approval and payment. The Contractor assumes responsibility for the late filing of a claim.

- c. In the event the Contractor seeks payment or compensation for work, materials or services not included in this Agreement and the exhibits hereto, the Contractor must seek prior written authorization from the City before such expenditure is incurred. If the Contractor fails to obtain prior written authorization, the Contractor shall not be entitled to payment for the unauthorized work, materials or services.

10. TERMINATION.

- a. If the City fails to substantially perform in accordance with the terms of this Agreement, the Contractor shall deliver to the City a written notice specifying the nature of the City's failure to substantially perform. The City shall have a period of ten (10) days after receiving the written notice from the Contractor to cure the failure to perform. If the City fails to cure its failure to perform within the 10-day cure period, the Contractor shall provide the City with a written notice to terminate this Agreement. The Contractor may only terminate this Agreement if it is not at fault for the City's failure to perform. Failure of the City to make payment as provided in this Agreement shall be considered nonperformance and cause for termination, unless the Contractor is at fault for the City's nonpayment.
- b. The City may terminate this Agreement upon not less than ten (10) days prior written notice to Contractor. If the City terminates this Agreement for a reason other than fault of the Contractor, the Contractor shall receive compensation for the work/services performed prior to termination, together with reasonable expenses incurred up to the date of termination.

11. INDEMNIFICATION AND HOLD HARMLESS. To the fullest extent permitted by law, the Contractor shall indemnify the City, its officers, employees, agents and representatives against any and all claims, actions, costs, fees (including but not limited to attorney fees and all defense costs), losses, liabilities or damage of whatever kind or nature arising from or related to Contractor's performance of this Agreement and Contractor's work (or the work of any subcontractor or supplier to Contractor) under this Agreement. In the event a claim should be brought or an action filed against the City with respect of the subject of this Agreement, Contractor agrees that the City may, at its election, employ attorneys of its own selection to appear and defend the claim or action on behalf of the City, at the expense of the Contractor. City, at its option, shall have the sole authority for the direction of the defense and shall be the sole judge of the acceptability of any compromise or settlement of any claims or actions against the City.

12. INSURANCE AND BONDING. During the term of this Agreement, Contractor shall be responsible for maintaining, at its sole expense, insurance coverage and bonding. The Contractor shall provide the City with certificates of insurance demonstrating such insurance coverage and bonding and the certificates of insurance shall require at least ten (10) days written notice to the City prior to any cancellation, termination, or non-renewal of coverage. The certificates of insurance shall also name the City as an additional insured. The Contractor shall:
- a. Maintain a comprehensive public liability insurance policy, including automobile coverage, insuring against loss and for damages for personal injury or death and/or property loss, damage or destruction arising out of or in connection with the performance of this Agreement by the Contractor, its officers, agents and employees with the minimum liability limit of \$3,000,000.00 per claim and \$1,000,000.00 for each occurrence, as set forth in sections 5 of the bidding documents.
 - b. Maintain workmen's compensation and unemployment insurance, as well as other insurances as may be required by law for employers, or an exemption from the state of Montana.
 - c. Make, execute, and deliver to the City a good a sufficient bond with a surety company licensed in Montana, as surety, conditioned that Contractor shall (i) faithfully perform all of the provisions of this Agreement, (ii) pay all laborers, mechanics, subcontractors, and material suppliers, and (iii) pay all persons who supply the Contractor or subcontractors with provisions, provender, material, or supplies for performing the work.
13. NOTICES. All notices or communications required to be given under this Agreement shall be in writing and shall be deemed to have been duly given by personal delivery or upon deposit into the United States Postal Service, postage prepaid, for mailing by certified mail, return receipt required and addressed, to the address set forth in this Agreement. Any change of address shall be made by giving written notice thereof to the other party, providing the new address.
14. MODIFICATION AND WAIVER. No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or of any effect unless made in writing, signed by the party or parties to be bound and specifying with particularity the

nature and extent of such amendment, modification or waiver. Any waiver by any party of any default of the other party shall not effect or impair any right arising from any subsequent default. Nothing herein shall limit the remedies or rights of the parties hereunder and pursuant to this Agreement.

15. SEVERABILITY. Each provision of this Agreement is intended to be severable. If any provision of this Agreement is illegal or invalid for any reason whatsoever, such illegality or invalidity of said provision shall not affect the validity of the remainder of this Agreement.
16. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the Parties in respect to the Project and supersedes all prior agreements and understandings between the Parties with respect to the Project.
17. TIME IS OF THE ESSENCE. Time is of the essence in the performance of this Agreement.
18. CAPTIONS, HEADINGS, AND TITLES. All captions, headings, or titles in the paragraphs or sections of this Agreement are inserted for convenience or reference only and shall not constitute a part of this Agreement or act as a limitation of the scope of the particular paragraph or section to which they apply. As used herein, where appropriate, the singular shall include the plural and vice versa and the masculine, feminine or neuter expressions shall be interchangeable.
19. COUNTERPARTS. This Agreement may be executed in multiple counterparts, each of which shall be one and the same Agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.
20. PARTIES IN INTEREST AND ASSIGNMENT. This Agreement shall be binding upon, and the benefits and obligations provided for herein shall inure to and bind, the Parties and their respective successors and assigns, provided that this section shall not be deemed to permit any transfer or assignment otherwise prohibited by this Agreement. This Agreement is for the exclusive benefit of the Parties and it does not create a contractual relationship with or exist for the benefit of a third party, including contractors, subcontractors or their sureties. This Agreement shall not be assigned, or any right or obligation hereunder, in whole or in part, to another without first having prior written consent of the other party. No assignment or transfer of any interest under this

Agreement shall be deemed to release the contractor from any liability or obligation under this Agreement, or to cause any such liability or obligation to be reduced to a secondary liability or obligation.

21. APPLICABLE LAW AND VENUE. This Agreement and the rights and obligations of the Parties shall be governed by and interpreted in accordance with the laws of the State of Montana. The parties stipulate and agree that the Montana Sixth Judicial District Court, Park County, has proper venue and jurisdiction to resolve all causes of action which may accrue in the performance of this Agreement.
22. DISPUTES. It is mutually agreed that the performance or breach of this Agreement and its interpretation shall be governed by the laws of the State of Montana, without regard to its conflicts of law principles.
23. LIAISON. The designated liaison with the City is Shannon Holmes or Matt Whitman, both of whom can be reached at (406) 222-5667. The Contractor's liaison is Kirk Hogan, who can be reached at (406) 600-4040
24. GOVERNING LAW. It is mutually agreed that the performance or breach of this Agreement and its interpretation shall be governed by the laws of the State of Montana, without regard to its conflicts of law principles.
25. COMPUTING TIME. For the purpose of calculating time under this Agreement, the following computation shall be used: If the period is stated in days or a longer unit of time, exclude the day of the event that triggers the period, count every day, including intermediate Saturdays, Sundays, and legal holidays, and include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in Livingston, Montana, the day and year first aforementioned herein.

City of Livingston

Western Municipal Construction, Inc, a Montana Corporation
(description, "a montana...")

City Manager

J. Clune
Name: Jock Clune
Its: President

[Exhibit A]

[Certificates of Insurance or Exemptions]

**SECTION 00500
AGREEMENT FORM**

This Agreement is dated as of the _____ day of _____ in the year 2019, by and between City of Livingston, hereinafter called "OWNER" and Western Municipal Construction Inc., hereinafter called "CONTRACTOR". OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: Water main replacement, Street and Sidewalk improvements for the City of Livingston.

Article 2. THE PROJECT.

2.01 The Project for which the Work under the Contract Documents may be whole or only a part is generally described as follows: contract includes the construction of water mains (remove and replace), fittings, valves, water service connections to the new water main, bedding material, backfill, dewatering (if necessary), compaction, testing, sidewalk removal and replacement, concrete curb and gutter, asphalt removal and replacement, and all other work related to construction of a complete and operable water and street system. All work shall be done in strict accordance with the requirements of the contract documents.

Article 3. ENGINEER.

3.01 The Project has been designed by: TD&H Engineering, 234 E Babcock, Suite 3, Bozeman, MT 59715, who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 4. CONTRACT TIME.

4.01 Time of the Essence

A. All the time limits for milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Days to achieve Substantial Completion.

A. The Work will be substantially complete according to the schedules listed below after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions.

Park Street Water Improvements

60 consecutive calendar days

4.03 Liquidated Damages

A. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in

paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER five hundred dollars (\$500.00) in unspecified liquidated damages and all direct specified damages for each day that expires after the time specified in paragraph 4.02 for Substantial Completion until the Work is substantially complete in accordance with Section 01005 Permits and Liquidated Damages.

Article 5. CONTRACT PRICE:

5.01 Owner shall pay CONTRACTOR for completion of the work in accordance with the Contract Documents an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the quantity of that item that is constructed and accepted. Unit prices are those listed in the Unit Price Schedule of the Bid Form attached as Exhibit A to this Agreement. Estimated quantities used for bidding purposes are not guaranteed, payment will be for actual quantities as determined by ENGINEER in accordance with Article 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03 of the General Conditions.

Article 6. PAYMENT PROCEDURES:

6.01 Submittal and Processing of Payments:

A. CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the Contract Documents.

6.02 Progress Payments; Retainage:

A. OWNER shall make progress payments in accordance with Article 14 of the General Conditions on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, once each month during construction as provided below. All progress payments will be on the basis of the progress of the Work measured by the number of units of each bid item completed times the bid unit price in the Unit Price Schedule of the Bid Form for that item.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the sum of the unit price items less the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER may determine or OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions.

a. The OWNER shall retain five percent (5%) of the amount of each payment until final completion and acceptance of all Work covered by the Contract Documents.

b. Retainage will be five percent (5%) of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to OWNER as provided in paragraph 14.02 of the General Conditions).

c. Gross Receipts Tax (1%) of total progress payment will be withheld and paid to the

State of Montana in accordance with State Law.

2. Upon Substantial completion and at the OWNER's discretion, the amount of retainage may be further reduced if requested by the CONTRACTOR.

6.03 Final Payment. Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.

Article 7. INTEREST:

7.01 All monies not paid when due as provided in Article 14 of the General Conditions shall bear interest at the maximum rate allowed by law at the place of the Project.

Article 8. CONTRACTOR'S REPRESENTATION:

8.01 In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

A. CONTRACTOR has examined and carefully studied the Contract Documents (including all Addenda listed in paragraph 9 and the other related data identified in the Bidding Documents).

B. CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

C. CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.

D. CONTRACTOR has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in the Special Provisions as provided in paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Special Provisions as provided in paragraph 4.06 of the General Conditions. CONTRACTOR acknowledges that such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that OWNER and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site.

E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by the CONTRACTOR, and safety precautions and programs incident thereto.

F. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

G. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the site that relates to the Work as indicated in the Contract Documents.

H. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

I. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 9. CONTRACT DOCUMENTS:

9.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (Pages 1 to 8, inclusive);
2. The General Services Agreement (Pages 1 to 10, inclusive);
3. Performance Bond (pages 1 to 2, inclusive);
4. Payment Bond (page 1 to 2, inclusive);
5. Other Bonds (pages 1 to , inclusive);
 - a. (pages to , inclusive);
 - b. (pages to , inclusive);
 - c. (pages to , inclusive);
6. General Conditions (pages 1 to 62, inclusive);
7. Supplementary Conditions (pages 1 to 12, inclusive);
8. Specifications as listed in the table of contents of the Project Manual;
9. Drawings contain the following:
 - Park Street Water Improvement drawings consisting of cover sheet and sheets numbered C1.1 through C5.1 (6 sheets) bearing "City of Livingston Park Street Water Improvements" title

10. Addenda (number 1, inclusive);

11. Exhibits to this Agreement (enumerated as follows):

- a. Notice of Award (page 1, inclusive);
- b. Notice to Proceed (page 1, inclusive);
- c. CONTRACTOR's Bid (pages 1 to 7, inclusive);

12. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

- a. Written Amendments;
- b. Work Change Directives;
- c. Change Order(s).

B. The documents listed in paragraph 9.01.A. are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified or supplemented as provided in paragraphs 3.04 of the General Conditions.

Article 10. MISCELLANEOUS:

10.01 Terms.

A. Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

10.02 Assignment of Contract.

A. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the part sought to be bound; and specifically, but without limitation, moneys that may come due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns.

A. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

10.04 Severability.

A. Any provision of part of the Contract Documents held to be void or unenforceable under the Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed 6 copies of Agreement. Three counterparts have been delivered to OWNER, two to CONTRACTOR and one to ENGINEER.

All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf.

This Agreement will be effective on _____, _____ (which is the effective date of the Agreement). This Agreement shall not be effective unless and until concurred in by AGENCY's designated representative.

OWNER _____

BY _____
(CORPORATE SEAL)

Attest _____

Address for giving notices

Phone No. _____

FAX No. _____

(If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of OWNER-CONTRACTOR

Agreement.

CONTRACTOR Western Municipal
Construction, Inc.

BY [Signature]
(CORPORATE SEAL) Jock clause, President

Attest [Signature] Kathy L. Causey Secretary
[Signature] Kathy L. Cause

Address for giving notices
5855 Elysian Road
Billings, MT 59101

Phone No. (406) 254-2106

FAX No. (406) 245-9736

Contractor Registration No. 13329

Agent for service of process:
Jeremy Bishop
5855 Elysian Road, Billings MT 59101

(IF CONTRACTOR is a corporation or a partnership, attach evidence of authority to sign.)

Designated Representative _____ Designated Representative _____

Name: Kirk Hogan

Name: Justin Biehl

Title: Project Manager

Title: Project Manager

Address: 2066 Stadium Drive
Ste. 103, Bozeman, MT 59715

Address: 5855 Elysian Road
Billings, MT 59101

Phone No.: (406) 600-4040

Phone No.: (406) 254-2106

FAX No.: _____

FAX No.: (406) 245-9736

AGENCY Concurrence: As lender or insurer of funds to defray the costs of this Contract, and without liability for any payments thereunder, the AGENCY hereby concurs in the form, content and execution of this Agreement.

By: _____
(AGENCY Official's Signature)

Title: _____

Date: _____

END OF SECTION 00500

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MONTANA CONTRACTORS' COMMERCIAL GENERAL LIABILITY BROADENED ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Endorsement - Table of Contents:

<u>Coverage:</u>	<u>Begins on Page:</u>
1. Employee Benefit Liability Coverage	2
2. Unintentional Failure to Disclose Hazards	8
3. Damage to Premises Rented to You.....	8
4. Supplementary Payments	9
5. Medical Payments.....	10
6. Voluntary Property Damage (Coverage a.) and Care, Custody or Control Liability Coverage (Coverage b.).....	10
7. 180 Day Coverage for Newly Formed or Acquired Organizations	10
8. Waiver of Subrogation	10
9. Automatic Additional Insured - Specified Relationships:	11
• Managers or Lessors of Premises;	
• Lessor of Leased Equipment;	
• Vendors;	
• State or Political Subdivisions - Permits Relating to Premises;	
• State or Political Subdivisions - Permits; and	
• Contractors' Operations	
10. Broadened Contractual Liability - Work Within 50' of Railroad Property	16
11. Property Damage to Borrowed Equipment	16
12. Employees as Insureds - Specified Health Care Services:	16
• Nurses;	
• Emergency Medical Technicians; and	
• Paramedics	
13. Broadened Notice of Occurrence.....	16

B. Limits of Insurance:

The Commercial General Liability Limits of Insurance apply to the insurance provided by this endorsement, except as provided below:

1. Employee Benefit Liability Coverage

Each Employee Limit: \$ 1,000,000
 Aggregate Limit: \$ 3,000,000
 Deductible: \$ 1,000

3. Damage to Premises Rented to You

The lesser of:

- a. The Each Occurrence Limit shown in the Declarations; or
- b. \$500,000 unless otherwise stated \$ _____

4. Supplementary Payments

- a. Bail bonds: \$ 1,000
- b. Loss of earnings: \$ 350

5. Medical Payments

Medical Expense Limit: \$ 10,000

6. Voluntary Property Damage (Coverage a.) and Care, Custody or Control Liability Coverage (Coverage b.)

Limits of Insurance (Each Occurrence)

Coverage a. \$1,000

Coverage b. \$5,000 unless otherwise stated \$ _____

Deductibles (Each Occurrence)

Coverage a. \$250

Coverage b. \$250 unless otherwise stated \$ _____

COVERAGE	PREMIUM BASIS (a) Area (b) Payroll (c) Gross Sales (d) Units (e) Other	RATE (For Limits in Excess of \$5,000)	ADVANCE PREMIUM (For Limits in Excess of \$5,000)
b. Care, Custody or Control			\$
TOTAL ANNUAL PREMIUM			\$

11. Property Damage to Borrowed Equipment

Each Occurrence Limit: \$ 10,000

Deductible: \$ 250

C. Coverages:

1. Employee Benefit Liability Coverage

a. The following is added to **SECTION I - COVERAGES: Employee Benefit Liability Coverage.**

(1) Insuring Agreement

(a) We will pay those sums that the insured becomes legally obligated to pay as damages caused by any act, error or omission of the insured, or of any other person for whose acts the insured is legally liable, to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any claim or "suit" that may result. But:

1) The amount we will pay for damages is limited as described in **SECTION III - LIMITS OF INSURANCE**; and

2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

(b) This insurance applies to damages only if the act, error or omission, is negligently committed in the "administration" of your "employee benefit program"; and

1) Occurs during the policy period; or

2) Occurred prior to the effective date of this endorsement provided:

a) You did not have knowledge of a claim or "suit" on or before the effective date of this endorsement,

You will be deemed to have

knowledge of a claim or "suit" when any "authorized representative";

- i) Reports all, or any part, of the act, error or omission to us or any other insurer;
- ii) Receives a written or verbal demand or claim for damages because of the act, error or omission; and

- b) There is no other applicable insurance.

(2) Exclusions

This insurance does not apply to:

(a) Bodily Injury, Property Damage or Personal and Advertising Injury

"Bodily injury", "property damage" or "personal and advertising injury".

(b) Dishonest, Fraudulent, Criminal or Malicious Act

Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.

(c) Failure to Perform a Contract

Damages arising out of failure of performance of contract by any insurer.

(d) Insufficiency of Funds

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefit program".

(e) Inadequacy of Performance of Investment / Advice Given With Respect to Participation

Any claim based upon:

- 1) Failure of any investment to perform;
- 2) Errors in providing information on past performance of investment vehicles; or
- 3) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the "employee benefit program".

(f) Workers' Compensation and Similar Laws

Any claim arising out of your failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

(g) ERISA

Damages for which any insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974, as now or hereafter amended, or by any similar federal, state or local laws.

(h) Available Benefits

Any claim for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

(i) Taxes, Fines or Penalties

Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

(j) Employment-Related Practices

Any liability arising out of any:

- (1) Refusal to employ;

- (2) Termination of employment;
- (3) Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, acts or omissions; or
- (4) Consequential liability as a result of (1), (2) or (3) above.

This exclusion applies whether the insured may be held liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

(3) Supplementary Payments

SECTION I - COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B also apply to this Coverage.

b. Who is an Insured

As respects Employee Benefit Liability Coverage, **SECTION II - WHO IS AN INSURED** is deleted in its entirety and replaced by the following:

- (1) If you are designated in the Declarations as:
 - (a) An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - (b) A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds but only with respect to the conduct of your business.
 - (c) A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - (d) An organization other than a partnership, joint venture

or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

- (e) A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
- (2) Each of the following is also an insured:
 - (a) Each of your "employees" who is or was authorized to administer your "employee benefit program".
 - (b) Any persons, organizations or "employees" having proper temporary authorization to administer your "employee benefit program" if you die, but only until your legal representative is appointed.
 - (c) Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
- (3) Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if no other similar insurance applies to that organization. However, coverage under this provision:
 - (a) Is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and
 - (b) Does not apply to any act, error or omission that was committed before you acquired or formed the organization.

c. Limits of Insurance

As respects Employee Benefit Liability Coverage, **SECTION III - LIMITS**

OF INSURANCE is deleted in its entirety and replaced by the following:

- (1) The Limits of Insurance shown in Section **B. Limits of Insurance, 1. Employee Benefit Liability Coverage** and the rules below fix the most we will pay regardless of the number of:
 - (a) Insureds;
 - (b) Claims made or "suits" brought;
 - (c) Persons or organizations making claims or bringing "suits";
 - (d) Acts, errors or omissions; or
 - (e) Benefits included in your "employee benefit program".
- (2) The Aggregate Limit shown in Section **B. Limits of Insurance, 1. Employee Benefit Liability Coverage** of this endorsement is the most we will pay for all damages because of acts, errors or omissions negligently committed in the "administration" of your "employee benefit program".
- (3) Subject to the limit described in (2) above, the Each Employee Limit shown in Section **B. Limits of Insurance, 1. Employee Benefit Liability Coverage** of this endorsement is the most we will pay for all damages sustained by any one "employee", including damages sustained by such "employee's" dependents and beneficiaries, as a result of:
 - (a) An act, error or omission; or
 - (b) A series of related acts, errors or omissions, regardless of the amount of time that lapses between such acts, errors or omissions,

negligently committed in the "administration" of your "employee benefit program".

However, the amount paid under this endorsement shall not exceed, and will be subject to the limits and restrictions that apply to the payment of benefits in any plan included in the "employee benefit program".

(4) Deductible Amount

- (a) Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the deductible amount stated in the Declarations as applicable to Each Employee. The limits of insurance shall not be reduced by the amount of this deductible.
- (b) The deductible amount stated in the Declarations applies to all damages sustained by any one "employee", including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.
- (c) The terms of this insurance, including those with respect to:
 - 1) Our right and duty to defend the insured against any "suits" seeking those damages; and
 - 2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, or claim,

apply irrespective of the application of the deductible amount.
- (d) We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.

d. Additional Conditions

As respects **Employee Benefit Liability Coverage, SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

- (1) Item **2. Duties in the Event of Occurrence, Offense, Claim or Suit** is deleted in its entirety and replaced by the following:

2. Duties in the Event of an Act, Error or Omission, or Claim or Suit

- a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a claim. To the extent possible, notice should include:

- (1) What the act, error or omission was and when it occurred; and
- (2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.

- b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

- c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of

any right against any person or organization which may be liable to the insured because of an act, error or omission to which this insurance may also apply.

- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent.

- (2) Item 5. Other Insurance is deleted in its entirety and replaced by the following:

5. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when c. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in b. below.

b. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is

based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

c. No Coverage

This insurance shall not cover any loss for which the insured is entitled to recovery under any other insurance in force previous to the effective date of this Coverage Part.

e. Additional Definitions

As respects **Employee Benefit Liability Coverage, SECTION V - DEFINITIONS** is amended as follows:

(1) The following definitions are added:

1. "Administration" means:

- a. Providing information to "employees", including their dependents and beneficiaries, with respect to eligibility for or scope of "employee benefit programs";
- b. Interpreting the "employee benefit programs";
- c. Handling records in connection with the "employee benefit programs"; or
- d. Effecting, continuing or terminating any "employee's" participation in any benefit included in the "employee benefit program".

However, "administration" does not include:

- a. Handling payroll deductions; or
- b. The failure to effect or maintain any insurance or adequate limits of coverage of insurance, including but not limited to unemployment insurance, social security benefits, workers' compensation and disability benefits.

2. "Cafeteria plans" means a plan authorized by applicable law to allow "employees" to elect to pay for certain benefits with pre-tax dollars.

3. "Employee benefit programs" means a program providing some or all of the following benefits to "employees", whether provided through a "cafeteria plan" or otherwise:

- a. Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;
- b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible under the plan for such benefits;
- c. Unemployment insurance, social security benefits, workers' compensation and disability benefits; and
- d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies.

(2) The following definitions are deleted in their entirety and replaced by the following:

21. "Suit" means a civil proceeding in which money damages because of an act, error or omission to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent;
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent; or
- c. An appeal of a civil proceeding.

8. "Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

2. Unintentional Failure to Disclose Hazards

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 7. Representations is hereby amended by the addition of the following:

Based on our dependence upon your representations as to existing hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we will not reject coverage under this Coverage Part based solely on such failure.

3. Damage to Premises Rented to You

a. The last Subparagraph of Paragraph 2. **SECTION I - COVERAGES, COVERAGE A. - BODILY INJURY AND PROPERTY DAMAGE, 2. LIABILITY Exclusions** is hereby deleted and replaced by the following:

Exclusions **c.** through **q.** do not apply to damage by fire, explosion, lightning, smoke or soot to premises while rented to you or temporarily occupied by you with permission of the owner.

b. The insurance provided under **SECTION I - COVERAGES, COVERAGE**

A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY applies to "property damage" arising out of water damage to premises that are both rented to and occupied by you.

(1) As respects Water Damage Legal Liability, as provided in Paragraph 3.b. above:

The exclusions under **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions**, other than **i. War** and the **Nuclear Energy Liability Exclusion**, are deleted and the following are added:

This insurance does not apply to:

(a) "Property damage":

- 1) Assumed in any contract; or
- 2) Loss caused by or resulting from any of the following:
 - a) Wear and tear;
 - b) Rust, corrosion, fungus, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
 - c) Smog;
 - d) Mechanical breakdown including rupture or bursting caused by centrifugal force;
 - e) Settling, cracking, shrinking or expansion; or
 - f) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals.

(b) Loss caused directly or indirectly by any of the following:

- 1) Earthquake, volcanic eruption, landslide or any other earth movement;
 - 2) Water that backs up or overflows from a sewer, drain or sump;
 - 3) Water under the ground surface pressing on, or flowing or seeping through:
 - a) Foundations, walls, floors or paved surfaces;
 - b) Basements, whether paved or not; or
 - c) Doors, windows or other openings.
- (c) Loss caused by or resulting from water that leaks or flows from plumbing, heating, air conditioning, or fire protection systems caused by or resulting from freezing, unless:
- 1) You did your best to maintain heat in the building or structure; or
 - 2) You drained the equipment and shut off the water supply if the heat was not maintained.
- (d) Loss to or damage to:
- 1) Plumbing, heating, air conditioning, fire protection systems, or other equipment or appliances; or
 - 2) The interior of any building or structure, or to personal property in the building or structure caused by or resulting from rain, snow, sleet or ice, whether driven by wind or not.
- c. Limit of Insurance**

The Damage to Premises Rented to You Limit as shown in the Declarations is amended as follows:

- (2) Paragraph 6. of **SECTION III - LIMITS OF INSURANCE** is hereby deleted and replaced by the following:

6. Subject to 5. above, the Damage to Premises Rented to You Limit is the most we will pay under **COVERAGE A, BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, for damages because of "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of any one "occurrence" to which this insurance applies.

- (3) The amount we will pay is limited as described in Section **B, Limits of Insurance, 3, Damage to Premises Rented to You** of this endorsement.

4. Supplementary Payments

Under **SECTION I - COVERAGE, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**:

- a. Paragraph 2. is replaced by the following:

Up to the limit shown in Section **B, Limits of Insurance, 4.a.** Bail Bonds of this endorsement for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

- b. Paragraph 4. is replaced by the following:

All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to the limit shown in Section **B, Limits of Insurance, 4.b.** Loss of Earnings of this endorsement per day because of time off from work.

5. Medical Payments

The Medical Expense Limit of Any One Person as stated in the Declarations is amended to the limit shown in Section **B, Limits of Insurance, 5, Medical Payments** of this endorsement.

6. Voluntary Property Damage and Care, Custody or Control Liability Coverage

a. Voluntary Property Damage Coverage

We will pay for "property damage" to property of others arising out of operations incidental to the insured's business when:

- (1) Damage is caused by the insured; or
- (2) Damage occurs while in the insured's possession.

With your consent, we will make these payments regardless of fault.

b. Care, Custody or Control Liability Coverage

SECTION I - COVERAGES, COVERAGE A, BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, j. Damage to Property, Subparagraphs (3), (4) and (5) do not apply to "property damage" to the property of others described therein.

With respect to the insurance provided by this section of the endorsement, the following additional provisions apply:

- a. The Limits of Insurance shown in the Declarations are replaced by the limits designated in Section **B, Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control Liability Coverage** of this endorsement with respect to coverage provided by this endorsement. These limits are inclusive of and not in addition to the limits being replaced. The Limits of Insurance shown in Section **B, Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control Liability Coverage** of this endorsement fix the most we will pay in any one "occurrence" regardless of the number of:

- (1) Insureds;
- (2) Claims made or "suits" brought; or
- (3) Persons or organizations making claims or bringing "suits".

b. Deductible Clause

- (1) Our obligation to pay damages on your behalf applies only to the amount of damages for each "occurrence" which are in excess of the deductible amount

stated in Section **B, Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control Liability Coverage** of this endorsement. The limits of insurance will not be reduced by the application of such deductible amount.

- (2) Condition **2, Duties in the Event of Occurrence, Offense, Claim or Suit**, applies to each claim or "suit" irrespective of the amount.
- (3) We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

7. 180 Day Coverage for Newly Formed or Acquired Organizations

SECTION II - WHO IS AN INSURED is amended as follows:

Subparagraph **a.** of Paragraph **4.** is hereby deleted and replaced by the following:

- a. Insurance under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

8. Waiver of Subrogation

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 9. Transfer of Rights of Recovery Against Others to Us is hereby amended by the addition of the following:

We waive any right of recovery we may have because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a written contract requiring such waiver with that person or organization and included in the "products-completed operations hazard". However, our rights may only be waived prior to the "occurrence" giving rise to the injury or damage for which we make payment under this Coverage Part. The insured must do nothing after a loss to impair our rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce those rights.

9. Automatic Additional Insured - Specified Relationships

- a. The following is hereby added to **SECTION II - WHO IS AN INSURED:**

(1) Any person or organization described in Paragraph 9.a.(2) below (hereinafter referred to as additional insured) whom you are required to add as an additional insured under this Coverage Part by reason of:

- (a) A written contract or agreement; or
- (b) An oral agreement or contract where a certificate of insurance showing that person or organization as an additional insured has been issued,

is an insured, provided:

(a) The written or oral contract or agreement is:

- 1) Currently in effect or becomes effective during the policy period; and
- 2) Executed prior to an "occurrence" or offense to which this insurance would apply; and

(b) They are not specifically named as an additional insured under any other provision of, or endorsement added to, this Coverage Part.

(2) Only the following persons or organizations are additional insureds under this endorsement, and insurance coverage provided to such additional insureds is limited as provided herein:

(a) The manager or lessor of a premises leased to you with whom you have agreed per Paragraph 9.a.(1) above to provide insurance, but only with respect to liability arising out of the ownership, maintenance or use of that part of a premises leased to you, subject to the following additional exclusions:

This insurance does not apply to:

- 1) Any "occurrence" which takes place after you cease to be a tenant in that premises,
- 2) Structural alterations, new construction or

demolition operations performed by or on behalf of such additional insured.

(b) Any person or organization from which you lease equipment with whom you have agreed per Paragraph 9.a.(1) above to provide insurance. Such person(s) or organization(s) are insureds, but only to the extent that the liability for "bodily injury", "property damage" or "personal and advertising injury" is caused by your negligence, acts or omissions in the maintenance, operation or use of equipment leased to you by such person(s) or organization(s). However, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

(c) Any person or organization (referred to below as vendor) with whom you have agreed per Paragraph 9.a.(1) above to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1) The insurance afforded the vendor does not apply to:

a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

- b) Any express warranty unauthorized by you; employees or anyone else acting on its behalf.
 - c) Any physical or chemical change in the product made intentionally by the vendor;
 - d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
 - h) "Bodily injury" or "property damage" arising out of the negligence, acts or omissions of the vendor, its
- 2) This insurance does not apply to any insured person or organization:
- a) From whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products; or
 - b) When liability included within the "products-completed operations hazard" has been excluded under this Coverage Part with respect to such products.
- (d) Any state or political subdivision with which you have agreed per Paragraph **9.a.(1)** above to provide insurance, subject to the following additional provision:
- This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent or control and to which this insurance applies:
- 1) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - 2) The construction, erection, or removal of elevators; or
 - 3) The ownership, maintenance, or use of any elevators covered by this insurance.

- (e) Any state or political subdivision with which you have agreed per Paragraph **9.a.(1)** above to provide insurance, subject to the following provisions:
- 1) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.
 - 2) This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or political subdivision.
- (f) For "your work" performed in Montana, any person or organization with which you have agreed per Paragraph **9.a.(1)** above to provide insurance, but only to the extent that the liability is caused by "your work" performed for that additional insured and only to the extent that such liability is caused by your acts or omissions or the acts or omissions of those acting on your behalf. A person or organization's status as an insured under this provision of this endorsement continues for only the period of time required by the written contract or agreement, but in no event beyond the expiration date of this Coverage Part. If there is no written contract or agreement, or if no period of time is required by the written contract or agreement, a person or organization's status as an insured under this endorsement ends when your operations for that insured are completed.
- (g) For "your work" performed in the "coverage territory" but not in Montana, any person or organization with which you have agreed per Paragraph **9.a.(1)** above to provide insurance, but only with respect to liability arising out of "your work" performed for that additional insured by you or on your behalf. A person or organization's status as an insured under this provision of this endorsement continues for only the period of time required by the written contract or agreement, but in no event beyond the expiration date of this Coverage Part. If there is no written contract or agreement, or if no period of time is required by the written contract or agreement, a person or organization's status as an insured under this endorsement ends when your operations for that insured are completed.
- (3) Any insurance provided to an additional insured designated under Paragraph **9.a.(2)**:
- (a) Subparagraphs (e), (f) and (g) do not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard";
 - (b) Subparagraphs (a), (d), (e) and (g) do not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the sole negligence or willful misconduct of the additional insured or its "employees"; or
 - (c) Subparagraph (f) and (g) do not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of:
 - 1) The rendering of, or failure to render, any professional services by you or on your behalf, but only with respect to either or both of the following operations:
 - a) Providing engineering, architectural or surveying services to others; and
 - b) Providing, or hiring independent professionals to provide, engineering,

architectural or surveying services in connection with construction work you perform.

- 2) Subject to Paragraph 3) below, professional services include:

- a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; and
- b) Supervisory or inspection activities performed as part of any related architectural or engineering activities.

- 3) Professional services do not include services within construction means, methods, techniques, sequences and procedures employed by you in connection with construction work you perform.

- (d) Subparagraphs (f) and (g) do not apply to "bodily injury" or "property damage" arising out of "your work" for which a consolidated (wrap-up) insurance program has been provided by the prime contractor / project manager or owner of the construction project in which you are involved.

- b. Only with regard to insurance provided to an additional insured designated under Paragraph 9.a.(2) Subparagraphs (f) and (g) above, **SECTION III - LIMITS OF INSURANCE** is amended to include:

The limits applicable to the additional insured are those specified in the written contract or agreement or in the Declarations of this Coverage Part, whichever are less. If no limits are specified in the written contract or agreement, or if there is no written contract or agreement, the limits applicable to the additional insured are those specified in the Declarations of

this Coverage Part. The limits of insurance are inclusive of and not in addition to the limits of insurance shown in the Declarations.

- c. **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** is hereby amended as follows:

- (1) Condition 5. **Other Insurance** is amended to include:

- (a) Where required by a written contract or agreement, this insurance is primary and / or noncontributory as respects any other insurance policy issued to the additional insured, and such other insurance policy shall be excess and / or noncontributing, whichever applies, with this insurance.

- (b) Any insurance provided by this endorsement shall be primary to other insurance available to the additional insured except:

- 1) As otherwise provided in **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 5. Other Insurance, b. Excess Insurance**; or

- 2) For any other valid and collectible insurance available to the additional insured as an additional insured by attachment of an endorsement to another insurance policy that is written on an excess basis. In such case, the coverage provided under this endorsement shall also be excess.

- (2) Condition 11. **Conformance to Specific Written Contract or Agreement** is hereby added:

11. Conformance to Specific Written Contract or Agreement

- a. With respect to additional insureds described in Paragraph 9.a.(2)(f) above only:

If a written contract or agreement between you and the additional insured specifies that

coverage for the additional insured:

- (1) Be provided by the Insurance Services Office additional insured form number **CG 32 87**, **CG 21 78** or **CG 32 90**; or
- (2) Include coverage for completed operations; or
- (3) Include coverage for "your work";

and where the limits or coverage provided to the additional insured is more restrictive than was specifically required in that written contract or agreement, the terms of Paragraphs **9.a.(3)(a)** or **9.b.** above, or any combination thereof, shall be interpreted as providing the limits or coverage required by the terms of the written contract or agreement, but only to the extent that such limits or coverage is included within the terms of the Coverage Part to which this endorsement is attached.

- b. With respect to additional insureds described in Paragraph **9.a.(2)(g)** above only:

If a written contract or agreement between you and the additional insured specifies that coverage for the additional insured:

- a. Be provided by the Insurance Services Office additional insured form number **CG 20 10** or **CG 20 37** (where edition specified); or
- b. Include coverage for completed operations; or
- c. Include coverage for "your work";

and where the limits or coverage provided to the additional insured is more restrictive than was specifically required in that written contract or agreement, the terms of Paragraphs **9.a.(3)(a)**, **9.a.(3)(b)** or **9.b.** above, or any combination thereof, shall be interpreted as providing the limits or coverage required by the terms of the written contract or agreement, but only to the extent that such limits or coverage is included within the terms of the Coverage Part to which this endorsement is attached. If, however, the written contract or agreement specifies the Insurance Services Office additional insured form number **CG 20 10** but does not specify which edition, or specifies an edition that does not exist, Paragraphs **9.a.3.b.** and **9.b.** of this endorsement shall not apply and Paragraph **9.a.(3)(a)** of this endorsement shall apply.

10. Broadened Contractual Liability - Work Within 50' of Railroad Property

It is hereby agreed that Paragraph **f.(1)** of Definition **12.** "Insured contract" (**SECTION V - DEFINITIONS**) is deleted.

11. Property Damage to Borrowed Equipment

- a. The following is hereby added to Exclusion **j.** **Damage to Property** of Paragraph **2.**, **Exclusions of SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

Paragraphs **(3)** and **(4)** of this exclusion do not apply to tools or equipment loaned to you, provided they are not being used to perform operations at the time of loss.

- b. With respect to the insurance provided by this section of the endorsement, the following additional provisions apply:

(1) The Limits of insurance shown in the Declarations are replaced by the limits designated in Section **B. Limits of Insurance, 11.** of this endorsement with respect to coverage provided by this endorsement. These limits are inclusive of and not in addition to the limits being replaced. The Limits of Insurance shown in Section **B. Limits of Insurance, 11.** of this endorsement fix the most we will pay in any one "occurrence" regardless of the number of:

- (a) Insureds;
- (b) Claims made or "suits" brought; or
- (c) Persons or organizations making claims or bring "suits".

(2) **Deductible Clause**

- (a) Our obligation to pay damages on your behalf applies only to the amount of damages for each "occurrence" which are in excess of the Deductible amount stated in Section **B. Limits of Insurance, 11.** of this endorsement. The limits of insurance will not be reduced by the application of such Deductible amount.
- (b) Condition **2. Duties in the Event of Occurrence, Offense, Claim or Suit**, applies to each claim or "suit" irrespective of the amount.
- (c) We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly

reimburse us for such part of the deductible amount as has been paid by us.

12. Employees as Insureds - Specified Health Care Services

It is hereby agreed that Paragraph **2.a.(1)(d)** of **SECTION II - WHO IS AN INSURED**, does not apply to your "employees" who provide professional health care services on your behalf as duly licensed:

- a. Nurses;
- b. Emergency Medical Technicians; or
- c. Paramedics,

in the jurisdiction where an "occurrence" or offense to which this insurance applies takes place.

13. Broadened Notice of Occurrence

Paragraph **a.** of Condition **2. Duties in the Event of Occurrence, Offense, Claim or Suit (SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS)** is hereby deleted and replaced by the following:

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

This requirement applies only when the "occurrence" or offense is known to an "authorized representative".

ADDITIONAL INSURED BY CONTRACT

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM**

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective:	Policy Number:
Named Insured:	
Countersigned by:	

(Authorized Representative)

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

SECTION II - LIABILITY COVERAGE, A. Coverage, I. Who is an Insured is amended to include as an insured any person or organization with which you have agreed in a valid written contract to provide insurance as is afforded by this policy.

This provision is limited to the scope of the valid written contract.

This provision does not apply unless the valid written contract has been executed prior to the "bodily injury" or "property damage".