



Livingston City Commission Agenda

June 07, 2016

6:30 PM

City – County Complex, Community Room

1. Call to Order

2. Roll Call

3. Moment of Silence

4. Pledge of Allegiance

5. Consent Items

- A. Approve Minutes from 5.17.16 City Commission Meeting Page 6
- B. Approve Bills and Claims 2nd Half of May 2016 Page 11
- C. Ratify Claims Page 21

6. Proclamations

- A. PROCLAMATION -- DECLARING JUNE 27 TO JULY 4, 2016 TO BE "RODEO DAYS" IN THE CITY OF LIVINGSTON, MONTANA Page 28

7. Scheduled Public Comment

- A. SCHEDULED PUBLIC COMMENT -- JANET PRESCOTT WITH AN UPDATE ON HIGHWAY AND WAYFINDING SIGNAGE

8. Public Hearings

9. Ordinances

10. Resolutions

- A. RESOLUTION NO. 4654 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH VISTA, LLC ("VISTA") REQUIRING VISTA TO CONTRIBUTE TO THE CONSTRUCTION OF A PUBLIC LIFT STATION ON OR NEAR VISTA'S PROPERTY IN LIVINGSTON, MONTANA. Page 30

B. RESOLUTION NO. 4658 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CHAIRMAN TO SIGN PERPETUAL RIGHT-OF-WAY EASEMENT WITH VISTA, LLC FOR THE PURPOSES OF CONSTRUCTION, MAINTENANCE, OPERATION, SERVICE, REPAIR, AND REPLACEMENT OF CITY STREETS, SANITARY SEWERS, AND WATER LINES. Page 36

C. RESOLUTION NO. 4659 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CHAIRMAN TO SIGN PERPETUAL RIGHT-OF-WAY EASEMENT WITH LIVINGSTON HOLDINGS, LLC FOR THE PURPOSES OF CONSTRUCTION, MAINTENANCE, OPERATION, SERVICE, REPAIR, AND REPLACEMENT OF SANITARY SEWERS AND WATER LINES. Page 45

D. RESOLUTION NO. 4660 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A CONSTRUCTION AND MAINTENANCE AGREEMENT WITH MONTANA RAIL LINK, INC. ("MRL") FOR A PUBLIC ROADWAY CROSSING NEAR TRAVERTINE LANE IN LIVINGSTON, MONTANA. Page 56

E. RESOLUTION NO. 4661 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN AN EASEMENT AGREEMENT WITH BNSF RAILWAY COMPANY ("BNSF") FOR THE CONSTRUCTION AND MAINTENANCE OF A PUBLIC ROADWAY THAT WILL RUN OVER AND THROUGH BNSF'S RIGHT-OF-WAY NEAR TRAVERTINE LANE IN LIVINGSTON, MONTANA. Page 74

F. RESOLUTION NO. 4665 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH VISTA, LLC ("VISTA") REGARDING COSTS FOR THE CONSTRUCTION OF AN AT-GRADE CROSSING NEAR TRAVERTINE LANE IN LIVINGSTON, MONTANA. Page 89

G. RESOLUTION NO. 4657 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A SUB-RECIPIENT AGREEMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT REVOLVING FUND WITH GALLATIN DEVELOPMENT CORPORATION, D/B/A PROSPERA BUSINESS NETWORK. Page 94

H. RESOLUTION NO. 4662 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A GRANT FUNDING AGREEMENT WITH NORTHWESTERN CORPORATION FOR THE CITY-COUNTY LIBRARY SOLAR PROJECT. Page 107

I. RESOLUTION NO. 4663 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A GENERAL SERVICES AGREEMENT WITH ONSITE ENERGY, INC. FOR THE CITY-COUNTY LIBRARY SOLAR PROJECT. Page 117

J. RESOLUTION NO. 4664 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A GENERAL SERVICES AGREEMENT WITH ACE ROOFING, LLC FOR THE CITY-COUNTY LIBRARY RE-ROOFING PROJECT. Page 130

11. Action Items

A. DISCUSS/APPROVE/DENY -- AUTHORIZING ADMINISTRATION TO SEEK OUT INFORMATION ON FUNDING AND LOANS FOR RELOCATION OF THE LIVINGSTON-PARK COUNTY DISPATCH CENTER

B. DISCUSS/APPROVE/DENY -- MORATORIUM ON GLASS RECYCLING Page 165

C. DISCUSS/APPROVE/DENY -- REQUEST TO ALLOW CAMPING AT MAYOR'S LANDING FROM 12 P.M. ON JULY 7, 2016 UNTIL 12 P.M. ON JULY 8, 2016 Page 167

D. DISCUSS/APPROVE/DENY -- REQUEST FOR ADDITIONAL FUNDING FROM THE NORTHERN ROCKY MOUNTAIN ECONOMIC DEVELOPMENT DISTRICT (ROB GILMORE) Page 169

12. City Manager Comment

13. City Commission Comments

14. Public Comments

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).

15. Adjournment

Calendar of Events

CALENDAR OF EVENTS

June 1, 2016 - 4:00 p.m. - City/County Joint Meeting - MSU Extension Office, 119 South 3rd Street

June 7, 2016 - 6:30 p.m. - City Commission Meeting - Community Room, City/County Complex

June 7, 2016 - PRIMARY ELECTION DAY

June 8, 2016 - 3:30 p.m. Historic Preservation Meeting - Community Room, City/County Complex

June 9, 2016 - 4:00 p.m. - City/County Compact Meeting - East Room, City/County Complex

June 14, 2016 - 3:30 p.m. - Historic Preservation Committee - Community Room, City/County Complex

June 15, 2016 - 8:30 a.m. - URA Board Meeting - East Room, City/County Complex

June 15, 2016 - 5:00 p.m. - Planning Board Meeting - East Room, City County/Complex

June 16, 2016 - 4 p.m. - 8 p.m. - Growth Policy Update Community Meeting, Shane Center

June 21, 2016 - 6:30 p.m. - City Commission Meeting - Community Room, City/County Complex

June 22, 2016 - 6:30 p.m. - Parks and Trails Committee - Community Room, City/County Complex

June 28, 2016 - Noon - Airport Board Meeting, Mission Field

July 2, 2016 - 3:00 p.m. - Livingston Chamber of Commerce Rodeo Days Parade, Downtown Livingston

July 4, 2016 - HOLIDAY - City Offices Closed

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.

Backup material for agenda item:

A. CONSENT - APPROVE MINUTES FROM 5.17.16 CITY COMMISSION MEETING

MINUTES

**Livingston City Commission
May 17, 2016
6:30 p.m.
City- County Complex, Community Room**

- 1. Call to Order**
- 2. Roll Call**
 - Bennett, Hoglund, Friedman, Schwarz and Sandberg were present.
- 3. Moment of Silence**
- 4. Pledge of allegiance**
- 5. Consent Items (00:03:15)**
 - A. CONSENT -- APPROVE MINUTES FROM 5.3.16 CITY COMMISSION MEETING**
 - B. CONSENT – APPROVE BILLS AND CLAIMS FOR 1st HALF OF MAY 2016**
 - C. CONSENT -- RATIFY CLAIM**
 - D. CONSENT - APPROVE JOE PARRIOT TO THE CITY PLANNING BOARD**
 - E. CONSENT - APPROVE VICKI BLAKEMEN TO THE CITY PLANNING BOARD**
 - F. CONSENT - APPROVE MARK REHDER TO THE CITY PLANNING BOARD**
 - G. ADDENDUM CONSENT – APPROVE URA FUNDING FOR THE FOLLOWING: 1) UP TO \$10,000 FOR SIDEWALK AND GUTTER REPAIR IN THE URA TIFF DISTRICT; AND 2) \$4,575 FOR POWER WASHING DOWNTOWN SIDEWALKS ON PARK STREET FROM B STREET TO 4TH STREET AND ONE MAIN STREET AND 2ND STREET FROM PARK STREET TO LEWIS STREET**
 - Friedman made a motion to move Consent Item G to Action Item H. Schwarz seconded.
 - Friedman made a motion to approve Consent Items A through F. Hoglund seconded.
 - All in favor, motion passed 5-0.

6. Proclamations

7. Scheduled Public Comment

A. SCHEDULED PUBLIC COMMENT -- LARRY TEETER FROM THE LIVINGSTON TENNIS ASSOCIATION (00:10:45)

- Carol Goosey made comments (00:12:12)

B. SCHEDULED PUBLIC COMMENT - PATRICIA GRABOW REGARDING THE 2016 NATIONAL PARKS CENTENNIAL CELEBRATION AND LIVINGSTON DOWNTOWN ECONOMIC ENHANCEMENT PROJECT (00:17:00)

8. Public Hearings

9. Ordinances

10. Resolutions

A. RESOLUTION NO. 4656 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A CUSTOMER SERVICE AGREEMENT WITH BILLING DOCUMENT SPECIALISTS FOR ONLINE BILL PAY SERVICES. (00:36:36)

- Friedman made a motion to pass Resolution No. 4956. Hoglund seconded.
 - All in favor, motion passed 5-0.

B. RESOLUTION NO. 4655 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN 911 DISPATCH SERVICE AGREEMENT WITH INDUSTRIAL COMMUNICATIONS & ELECTRONICS.

- Schwarz made a motion to pass Resolution No. 4955. Friedman seconded.
 - All in favor, motion passed 5-0.

11. Action Items

A. DISCUSS/APPROVE/DENY - REPAINTING THE WARMING HUT TO BE COMPLETED BY THE LIVINGSTON PARK AND RECREATION SUMMER CAMPS (00:48:01)

- Friedman made a motion to approve Action Item A. Sandberg seconded.
 - All in favor, motion passed 5-0.

B. DISCUSS/ APPROVE/ DENY - POWER WASHING AND REPAINTING OF THE B STREET UNDERPASS (00:53:32)

- Jeff Dickerson made comments (01:00:10)
- Jay Kiefer made comments (01:01:01)
- Leslie Feigel made comments (01:03:44)
- Friedman made a motion to approve Action Item B. Schwarz seconded.
 - All in favor, motion passed 5-0.

C. DISCUSS/APPROVE/DENY -- 2017-2021 CAPITAL IMPROVEMENT PLAN (CIP)

- **Copies for City Commissioners will be made available separately.**
- **Public copies available at the City Finance Office for a fee. (01:04:54)**

- Patricia Grabow made comments (01:09:33)
- Jay Kiefer made comments (01:22:58)
- Friedman made a motion to approve Action Item C. Hogle seconded.
 - Motion passed 4-1. Sandberg opposed.

D. DISCUSS/APPROVE/DENY - REQUESTED FEE REDUCTION FOR THE HOOT EVENT (01:30:42)

- Leslie Feigel made comments (01:30:55)
- Joann Gardner made comments (01:36:40)
- John Lowell made comments (01:36:40)
- Patricia Grabow made comments (01:50:00)
- Sandberg made a motion to approve paying 50% of the \$700.00 fee, up to \$350.00. Hogle seconded.
 - All in favor, motion passed 5-0.

E. DISCUSS/APPROVE/DENY - URBAN FOREST MANAGEMENT PLAN (01:53:38)

- Mike Gomez made comments (02:12:00)
- Hogle made a motion to approve Action Item E. Friedman seconded.
 - All in favor, motion passed 5-0.

F. DISCUSS/APPROVE/DENY - COMMISSION APPROACH TO ALLOCATING SKILLMAN TRUST FUNDS (02:15:36)

G. DISCUSS/APPROVE/DENY - LYSA REQUEST FOR FUNDING FOR NORTHSIDE PARK AND SOCCER FIELDS PROJECT (02:26:11)

- Jeff Dickerson made comments (02:26:16)

H. DISCUSS/APPROVE/DENY URA FUNDING FOR THE FOLLOWING: 1) UP TO \$10,000 FOR SIDEWALK AND GUTTER REPAIR IN THE URA TIFF DISTRICT; AND 2) \$4,575 FOR POWER WASHING DOWNTOWN SIDEWALKS ON PARK STREET FROM B STREET TO 4TH STREET AND ON MAIN STREET AND 2ND FROM PARK STREET TO LEWIS STREET (02:37:50)

- Hoglund made a motion to approve Action Item H. Friedman seconded.
 - All in favor, motion passed 5-0.

12. City Manager Comment (02:42:40)

13. City Commission Comments

- Sandberg (02:42:50)
- Schwarz (02:46:36)
- Hoglund (02:53:27)
- Bennett (02:52:11)

14. Public Comments

- Mike Gomez made comments (02:58:36)
- Patricia Grabow made comments (03:00:36)

15. Adjournment (03:04:37)

Backup material for agenda item:

B. Approve Bills and Claims 2nd Half of May 2016

06/01/16
10:36:33

CITY OF LIVINGSTON
Claim Approval by Fund, Account
For the Accounting Period: 6/16

Page: 1
Report ID: AP100Z

For doc #s from 28392 to 28508, Operating Cash

Fund	Department Name (Account)	Vendor #/Name	Description	Amount
1000 GENERAL	351036 TIME PAYMENTS	682 CENTRON SERVICES	Parking ticket colle	86.71
1000 GENERAL	410130 CITY COMMISSION	54 GATEWAY OFFICE SUPPLY	office supplies	15.24
1000 GENERAL	410130 CITY COMMISSION	146 LIVINGSTON ENTERPRISE	Notice of Work Sessi	55.00
1000 GENERAL	410130 CITY COMMISSION	146 LIVINGSTON ENTERPRISE	Vacancy- Tree Broad	93.50
1000 GENERAL	410130 CITY COMMISSION	146 LIVINGSTON ENTERPRISE	Notice Vault mtg	49.50
1000 GENERAL	410130 CITY COMMISSION	146 LIVINGSTON ENTERPRISE	Comm URA Joint mtg	9.00
1000 GENERAL	410130 CITY COMMISSION	146 LIVINGSTON ENTERPRISE	City commi. special	33.00
1000 GENERAL	410130 CITY COMMISSION	146 LIVINGSTON ENTERPRISE	Community lunch	86.40
1000 GENERAL	410130 CITY COMMISSION	146 LIVINGSTON ENTERPRISE	PN Economic developm	33.00
1000 GENERAL	410130 CITY COMMISSION	146 LIVINGSTON ENTERPRISE	Special mtg City Man	24.00
1000 GENERAL	410130 CITY COMMISSION	618 LIVINGSTON CHAMBER OF	Chamber membership d	250.00
1000 GENERAL	410450 ADMINISTRATIVE SERVICES -	3143 SAFETRAC	Drug Testing Service	419.00
1000 GENERAL	410450 ADMINISTRATIVE SERVICES -	3143 SAFETRAC	Commercial Driver Qu	336.00
1000 GENERAL	410450 ADMINISTRATIVE SERVICES -	3143 SAFETRAC	Commercial Driver Qu	336.00
1000 GENERAL	410450 ADMINISTRATIVE SERVICES -	3143 SAFETRAC	Drug testing service	83.80
1000 GENERAL	410450 ADMINISTRATIVE SERVICES -	3143 SAFETRAC	Commercial Driver Qu	761.80
1000 GENERAL	410450 ADMINISTRATIVE SERVICES -	3143 SAFETRAC	Commercial Driver Qu	415.50
1000 GENERAL	411030 PLANNER	162 CENTURYLINK	Planning dept.	76.80
1000 GENERAL	411030 PLANNER	879 VERIZON WIRELESS	Planning	13.39
1000 GENERAL	411030 PLANNER	3298 EXEC U CARE SERVICES,	Cleaning PW Building	80.00
1000 GENERAL	411030 PLANNER	102 INDUSTRIAL TOWEL	Mat Cleaning	8.56
1000 GENERAL	411030 PLANNER	3387 J & H, Inc.	Canon Copier	25.02
1000 GENERAL	411100 CITY ATTORNEY	3498 HARRELD, LISA	MLLT conference	326.74
1000 GENERAL	411100 CITY ATTORNEY	3611 ANTHRO RESEARCH, INC.	Expert witness prep,	8,818.08
1000 GENERAL	411100 CITY ATTORNEY	3611 ANTHRO RESEARCH, INC.	Expert witness prep	3,167.60
1000 GENERAL	411100 CITY ATTORNEY	2823 WEST PAYMENT CENTER -	April's information	275.56
1000 GENERAL	411230 FACILITY MAINTENANCE	131 CITY OF LIVINGSTON	37% City	84.95
1000 GENERAL	411230 FACILITY MAINTENANCE	131 CITY OF LIVINGSTON	Utility bill @110 So	50.70
1000 GENERAL	411230 FACILITY MAINTENANCE	131 CITY OF LIVINGSTON	Irrigation @110 Sout	50.70
1000 GENERAL	411230 FACILITY MAINTENANCE	102 INDUSTRIAL TOWEL	Rug maintenance	37.70
1000 GENERAL	411230 FACILITY MAINTENANCE	151 NORTHWESTERN ENERGY	110 S. B Street	122.24
1000 GENERAL	411230 FACILITY MAINTENANCE	151 NORTHWESTERN ENERGY	112 S. B Street	115.33
1000 GENERAL	411230 FACILITY MAINTENANCE	151 NORTHWESTERN ENERGY	37% Facility	8.26
1000 GENERAL	411230 FACILITY MAINTENANCE	151 NORTHWESTERN ENERGY	37% Facility	2,175.88
1000 GENERAL	411230 FACILITY MAINTENANCE	272 PARK COUNTY	37% Maintenance supp	16.48
1000 GENERAL	411230 FACILITY MAINTENANCE	102 INDUSTRIAL TOWEL	Rug Maintenance	37.70
1000 GENERAL	411230 FACILITY MAINTENANCE	3289 ALL WASHED UP , LLC	37% Window cleaning	259.00
1000 GENERAL	411230 FACILITY MAINTENANCE	3298 EXEC U CARE SERVICES,	May Office Cleaning	1,119.42
1000 GENERAL	411300 CENTRAL COMMUNICATIONS	162 CENTURYLINK	110 South B	0.00
1000 GENERAL	411300 CENTRAL COMMUNICATIONS	272 PARK COUNTY	City phones	137.51
1000 GENERAL	411300 CENTRAL COMMUNICATIONS	879 VERIZON WIRELESS	Central	67.66
1000 GENERAL	411300 CENTRAL COMMUNICATIONS	879 VERIZON WIRELESS	Central	68.61
1000 GENERAL	411300 CENTRAL COMMUNICATIONS	3440 CHARTER COMMUNICATIONS	PW Internet	888.63
1000 GENERAL	411700 CENTRAL STORES	2705 CITY OF LIVINGSTON	Office Supplies	37.96
1000 GENERAL	411700 CENTRAL STORES	2999 TEAR IT UP L.L.C.	130# Shredded paper	44.00
1000 GENERAL	411700 CENTRAL STORES	1839 MARATHON PRINTING	Receipt Books 2000	324.00
1000 GENERAL	411700 CENTRAL STORES	3353 STORY DISTRIBUTING	Diesel Fuel	510.70
1000 GENERAL	411700 CENTRAL STORES	3353 STORY DISTRIBUTING	Diesel Fuel	1,011.14
1000 GENERAL	411700 CENTRAL STORES	3610 NEOFUNDS BY NEOPOST	Postage	509.08
1000 GENERAL	420100 OPERATING ACCOUNT	3237 WHISTLER TOWING, LLC	Abandon vehicle tow	50.00
1000 GENERAL	420100 OPERATING ACCOUNT	3237 WHISTLER TOWING, LLC	Abandon vehicle tow	50.00
1000 GENERAL	420100 OPERATING ACCOUNT	3237 WHISTLER TOWING, LLC	Abandon vehicle towM	50.00

06/01/16
10:36:33

CITY OF LIVINGSTON
Claim Approval by Fund, Account
For the Accounting Period: 6/16

Page: 2
Report ID: AP100Z

For doc #s from 28392 to 28508, Operating Cash

Fund	Department Name (Account)	Vendor #/Name	Description	Amount
1000 GENERAL	420100 OPERATING ACCOUNT	3237 WHISTLER TOWING, LLC	Abandon vehicle tow	50.00
1000 GENERAL	420100 OPERATING ACCOUNT	3237 WHISTLER TOWING, LLC	Abandon vehicle tow	50.00
1000 GENERAL	420100 OPERATING ACCOUNT	3237 WHISTLER TOWING, LLC	Abandon vehicle tow	50.00
1000 GENERAL	420100 OPERATING ACCOUNT	999999 BROTHER MOBILE SOLUTIONS	Repair in-car printe	119.00
1000 GENERAL	420100 OPERATING ACCOUNT	3371 BALCO UNIFORM COMPANY,	Ballistic Vest- Kunn	914.73
1000 GENERAL	420100 OPERATING ACCOUNT	3371 BALCO UNIFORM COMPANY,	holster - Left hand	154.00
1000 GENERAL	420100 OPERATING ACCOUNT	2669 WATSON, GEORGE W., PHD	Employee evaluation	775.00
1000 GENERAL	420100 OPERATING ACCOUNT	22 ALL SERVICE TIRE &	Tire repair & rotati	73.00
1000 GENERAL	420100 OPERATING ACCOUNT	2705 CITY OF LIVINGSTON	Police mailing	9.45
1000 GENERAL	420100 OPERATING ACCOUNT	272 PARK COUNTY	Police phones	73.51
1000 GENERAL	420100 OPERATING ACCOUNT	879 VERIZON WIRELESS	Air Cards - April	413.50
1000 GENERAL	420100 OPERATING ACCOUNT	117 PARK COUNTY SHERIFF	MRDTF Contribution	12,500.00
1000 GENERAL	420400 OPERATING ACCOUNTS	26 LIVINGSTON ACE HARDWARE -	Respirators	49.98
1000 GENERAL	420400 OPERATING ACCOUNTS	3040 PRO RENTALS & SALES, INC.	Fuel	15.90
1000 GENERAL	420400 OPERATING ACCOUNTS	54 GATEWAY OFFICE SUPPLY	Office supplies	11.65
1000 GENERAL	420400 OPERATING ACCOUNTS	2595 TOWN & COUNTRY FOODS -	Water	4.98
1000 GENERAL	420400 OPERATING ACCOUNTS	58 MSU FIRE TRAINING SCHOOL	firefighter 1 & 2 Ce	190.00
1000 GENERAL	420400 OPERATING ACCOUNTS	2437 O'REILLY AUTOMOTIVE, INC	Ring pliers	19.99
1000 GENERAL	420400 OPERATING ACCOUNTS	2437 O'REILLY AUTOMOTIVE, INC	cleaning supplies	22.97
1000 GENERAL	420400 OPERATING ACCOUNTS	272 PARK COUNTY	Fire 50% phones	43.51
1000 GENERAL	420400 OPERATING ACCOUNTS	879 VERIZON WIRELESS	Fire	168.79
1000 GENERAL	420400 OPERATING ACCOUNTS	879 VERIZON WIRELESS	Fire	50.14
1000 GENERAL	420400 OPERATING ACCOUNTS	879 VERIZON WIRELESS	Fire	42.52
1000 GENERAL	420400 OPERATING ACCOUNTS	879 VERIZON WIRELESS	Ben Coffman -Fire Ch	69.47
1000 GENERAL	420400 OPERATING ACCOUNTS	879 VERIZON WIRELESS	Fire & Recuse	42.52
1000 GENERAL	420400 OPERATING ACCOUNTS	879 VERIZON WIRELESS	Fire & Recuse	42.52
1000 GENERAL	420400 OPERATING ACCOUNTS	879 VERIZON WIRELESS	Fire & Recuse	42.52
1000 GENERAL	420400 OPERATING ACCOUNTS	151 NORTHWESTERN ENERGY	330 Bennett Fire	51.07
1000 GENERAL	420403 BUILDING INSPECTION	162 CENTURYLINK	Building Dept	153.78
1000 GENERAL	420403 BUILDING INSPECTION	879 VERIZON WIRELESS	Code Enforcement	22.96
1000 GENERAL	420403 BUILDING INSPECTION	879 VERIZON WIRELESS	Building dept	13.24
1000 GENERAL	420403 BUILDING INSPECTION	879 VERIZON WIRELESS	Building dept	0.00
1000 GENERAL	430930 CEMETERY OPERATING	162 CENTURYLINK	Cemetery	0.00
1000 GENERAL	430930 CEMETERY OPERATING	1839 MARATHON PRINTING	Cemetery permits 50	25.00
1000 GENERAL	430930 CEMETERY OPERATING	26 LIVINGSTON ACE HARDWARE -	Supplies	78.39
1000 GENERAL	430930 CEMETERY OPERATING	26 LIVINGSTON ACE HARDWARE -	Supplies	740.82
1000 GENERAL	430930 CEMETERY OPERATING	23 CARQUEST AUTO PARTS	Supplies	11.68
1000 GENERAL	430930 CEMETERY OPERATING	23 CARQUEST AUTO PARTS	Supplies	8.73
1000 GENERAL	430950 ROAMING OPERATING	131 CITY OF LIVINGSTON	Park's garbage	389.22
1000 GENERAL	430950 ROAMING OPERATING	162 CENTURYLINK	Park Dept.	101.09
1000 GENERAL	430950 ROAMING OPERATING	781 2M COMPANY, INC.	Supplies	1,433.38
1000 GENERAL	430950 ROAMING OPERATING	781 2M COMPANY, INC.	Supplies	269.51
1000 GENERAL	430950 ROAMING OPERATING	781 2M COMPANY, INC.	Supplies	67.02
1000 GENERAL	430950 ROAMING OPERATING	781 2M COMPANY, INC.	Supplies	196.46
1000 GENERAL	430950 ROAMING OPERATING	781 2M COMPANY, INC.	Supplies	67.46
1000 GENERAL	430950 ROAMING OPERATING	781 2M COMPANY, INC.	Supplies	162.57
1000 GENERAL	430950 ROAMING OPERATING	781 2M COMPANY, INC.	Supplies	166.82
1000 GENERAL	430950 ROAMING OPERATING	781 2M COMPANY, INC.	Supplies	45.92
1000 GENERAL	430950 ROAMING OPERATING	781 2M COMPANY, INC.	Supplies	48.58
1000 GENERAL	430950 ROAMING OPERATING	2 A-1 MUFFLER, INC.	Repairs	574.00
1000 GENERAL	430950 ROAMING OPERATING	879 VERIZON WIRELESS	Cemtery	13.26
1000 GENERAL	430950 ROAMING OPERATING	879 VERIZON WIRELESS	Roaming crew - Jones	22.96

06/01/16
10:36:33

CITY OF LIVINGSTON
Claim Approval by Fund, Account
For the Accounting Period: 6/16

Page: 3
Report ID: AP100Z

For doc #s from 28392 to 28508, Operating Cash

Fund	Department Name (Account)	Vendor #/Name	Description	Amount
1000 GENERAL	430950 ROAMING OPERATING	879 VERIZON WIRELESS	Parks	22.98
1000 GENERAL	430950 ROAMING OPERATING	3286 PARK HIGH CAFETERIA	PW Day food	73.69
1000 GENERAL	430950 ROAMING OPERATING	151 NORTHWESTERN ENERGY	15 Fleshman Creek	20.79
1000 GENERAL	430950 ROAMING OPERATING	151 NORTHWESTERN ENERGY	Arcs & Posts	283.16
1000 GENERAL	430950 ROAMING OPERATING	151 NORTHWESTERN ENERGY	G St Park	104.19
1000 GENERAL	430950 ROAMING OPERATING	151 NORTHWESTERN ENERGY	227 River - Concessi	160.12
1000 GENERAL	430950 ROAMING OPERATING	151 NORTHWESTERN ENERGY	616 River Drive	54.95
1000 GENERAL	430950 ROAMING OPERATING	151 NORTHWESTERN ENERGY	227 River Softball	9.40
1000 GENERAL	430950 ROAMING OPERATING	151 NORTHWESTERN ENERGY	806 N 13th - Soccer	57.22
1000 GENERAL	430950 ROAMING OPERATING	151 NORTHWESTERN ENERGY	Weimer Park	36.67
1000 GENERAL	430950 ROAMING OPERATING	151 NORTHWESTERN ENERGY	8th & Park Sprinkler	8.03
1000 GENERAL	430950 ROAMING OPERATING	151 NORTHWESTERN ENERGY	229 River Drive	7.81
1000 GENERAL	430950 ROAMING OPERATING	151 NORTHWESTERN ENERGY	229 River drive	11.88
1000 GENERAL	430950 ROAMING OPERATING	151 NORTHWESTERN ENERGY	229 River drive CC	157.44
1000 GENERAL	430950 ROAMING OPERATING	151 NORTHWESTERN ENERGY	Mike WEbb park	7.81
1000 GENERAL	430950 ROAMING OPERATING	151 NORTHWESTERN ENERGY	616 River	8.63
1000 GENERAL	440640 ANIMAL CONTROL SERVICES	879 VERIZON WIRELESS	Animal Control	64.44
1000 GENERAL	440640 ANIMAL CONTROL SERVICES	1439 STAFFORD ANIMAL SHELTER	Board, Vac & Euth	1,319.00
1000 GENERAL	440640 ANIMAL CONTROL SERVICES	1439 STAFFORD ANIMAL SHELTER	Board, Vac & Euth	1,635.00
1000 GENERAL	460430 PARKS OPERATING	26 LIVINGSTON ACE HARDWARE	- Supplies	32.97
1000 GENERAL	460430 PARKS OPERATING	26 LIVINGSTON ACE HARDWARE	- Supplies	9.18
1000 GENERAL	460442 CIVIC CENTER ADMIN	1747 CANON FINANCIAL SERVICES,	Canon lease	86.10
1000 GENERAL	460442 CIVIC CENTER ADMIN	151 NORTHWESTERN ENERGY	Civic Center	826.51
1000 GENERAL	460445 SWIMMING POOL AND SPLASH	26 LIVINGSTON ACE HARDWARE	- Paint - Pool house 1	352.49
1000 GENERAL	460445 SWIMMING POOL AND SPLASH	26 LIVINGSTON ACE HARDWARE	- Paint - Pool house 1	50.24
1000 GENERAL	460445 SWIMMING POOL AND SPLASH	999999 ENGBERS, BEN	Lifeguarding trainin	35.00
1000 GENERAL	460445 SWIMMING POOL AND SPLASH	781 2M COMPANY, INC.	Flange	81.89
1000 GENERAL	460445 SWIMMING POOL AND SPLASH	26 LIVINGSTON ACE HARDWARE	- Tape	9.99
1000 GENERAL	460445 SWIMMING POOL AND SPLASH	26 LIVINGSTON ACE HARDWARE	- Supplies	31.54
1000 GENERAL	460445 SWIMMING POOL AND SPLASH	3612 PITTSBURGH WATER COOLER	Valve Kit	62.25
1000 GENERAL	460445 SWIMMING POOL AND SPLASH	151 NORTHWESTERN ENERGY	Pool	170.47
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	162 CENTURYLINK	Civic Center	105.94
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	3387 J & H, Inc.	Canon Printer Lease-	166.76
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	250 INSTY-PRINTS	Laminating rec. dept	18.00
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	54 GATEWAY OFFICE SUPPLY	Binder mat'l- grant	27.61
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	54 GATEWAY OFFICE SUPPLY	Binder mat'l- grant	16.14
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	14 SHOPKO STORES, LLC	Ice Packs - BBall	35.97
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	3573 WESTPHAL, JENNIFER	Errands - rec dept.	21.60
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	3454 BURNS, CORRIE	Gymnastics Instructor	301.50
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	3609 GUENZLER, VICTORIA	Gymnastics instructo	153.00
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	3364 CITY OF LIVINGSTON	Stamps	9.40
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	3364 CITY OF LIVINGSTON	Water refills	4.90
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	146 LIVINGSTON ENTERPRISE	Parks & Rec summer r	43.20
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	146 LIVINGSTON ENTERPRISE	Parks & Rec summer r	43.20
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	879 VERIZON WIRELESS	Rec. dept	142.13
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	879 VERIZON WIRELESS	Rec. dept	0.00
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	879 VERIZON WIRELESS	ATS	37.65
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	879 VERIZON WIRELESS	ATS	60.41
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	879 VERIZON WIRELESS	ATS	40.44
1000 GENERAL	460449 ADMINISTRATIVE SERVICES	54 GATEWAY OFFICE SUPPLY	Binders, Tabs	39.40

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Fund	Department Name (Account)	Vendor #/Name	Description	Amount	
Total for Fund:				51,429.51	
2211	SOCCER FIELDS	411810 CAPITAL IMPROVEMENTS	122 DEPARTMENT OF REVENUE	!% for Spring	1,368.22
2211	SOCCER FIELDS	411810 CAPITAL IMPROVEMENTS	3599 SPRING CORPORATION	LYSA	135,453.99
Total for Fund:				136,822.21	
2300	COMMUNICATIONS/DISPATCH	420160 DISPATCH/COMMUNICATIONS	272 PARK COUNTY	Dispatch phone	38.16
2300	COMMUNICATIONS/DISPATCH	420160 DISPATCH/COMMUNICATIONS	879 VERIZON WIRELESS	Dispatch	29.58
Total for Fund:				67.74	
2310	TAX INCREMENT DISTRICT -	470300 ECONOMIC DEVELOPMENT	146 LIVINGSTON ENTERPRISE	URA Notice special m	21.00
2310	TAX INCREMENT DISTRICT -	470300 ECONOMIC DEVELOPMENT	146 LIVINGSTON ENTERPRISE	URA mtg	44.00
2310	TAX INCREMENT DISTRICT -	470300 ECONOMIC DEVELOPMENT	146 LIVINGSTON ENTERPRISE	Comm URA Joint mtg	9.00
2310	TAX INCREMENT DISTRICT -	470300 ECONOMIC DEVELOPMENT	146 LIVINGSTON ENTERPRISE	URA mtg	66.00
Total for Fund:				140.00	
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	I90 & 89S SL	7.55
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	97 View Vista SL	7.67
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	600 W Park SL	71.17
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	412 W Callender SL	76.75
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	C & D on Lewis SL	28.62
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	1100 W Geyser School	9.73
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	900 W Geyser School	11.39
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	132 S B SL	149.34
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	E & Alley SL	48.61
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	18 W Park SL	85.75
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	F & G on Callender S	44.38
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	D & E on Callender S	62.66
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	M&N on Callender SL	64.73
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	School Flasher Park	8.47
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	N 7 & MT & Chin SL	51.60
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	N 2 & MT & Chin SL	75.68
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	Glenn Addn SL	110.14
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	105 W Park SL	39.93
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	320 N Main SL	15.12
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	114 W Summitt SL	28.36
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	202 S 2 SL	24.29
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	Livingston SL	4,352.95
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	400 N M SL	12.35
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	608 W Chin SL	72.67
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	710 W Callender SL	64.70
2400	LIGHT MAINTENANCE	420100 OPERATING ACCOUNT	151 NORTHWESTERN ENERGY	320 Alpenglowl SL	31.71
Total for Fund:				5,556.32	
2500	STREET MAINTENANCE	430220 FACILITIES/CITY SHOP	131 CITY OF LIVINGSTON	Street shop	49.80
2500	STREET MAINTENANCE	430220 FACILITIES/CITY SHOP	162 CENTURYLINK	City shop 50%	29.34
2500	STREET MAINTENANCE	430220 FACILITIES/CITY SHOP	879 VERIZON WIRELESS	Street	13.22

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2500	STREET MAINTENANCE	430220 FACILITIES/CITY SHOP	879 VERIZON WIRELESS	Street	66.14
2500	STREET MAINTENANCE	430220 FACILITIES/CITY SHOP	151 NORTHWESTERN ENERGY	406 Bennett 50%	236.49
2500	STREET MAINTENANCE	430240 STREET DEPARTMENT	22 ALL SERVICE TIRE &	Fix Flat	15.00
2500	STREET MAINTENANCE	430240 STREET DEPARTMENT	3293 BLACKFOOT COMMUNICATIONS	Internet	50.50
2500	STREET MAINTENANCE	430240 STREET DEPARTMENT	23 CARQUEST AUTO PARTS	Supplies	18.68
2500	STREET MAINTENANCE	430240 STREET DEPARTMENT	23 CARQUEST AUTO PARTS	Thermometer	44.61
2500	STREET MAINTENANCE	430240 STREET DEPARTMENT	3298 EXEC U CARE SERVICES,	Cleaning PW Building	80.00
2500	STREET MAINTENANCE	430240 STREET DEPARTMENT	102 INDUSTRIAL TOWEL	Mat Cleaning	8.55
2500	STREET MAINTENANCE	430240 STREET DEPARTMENT	3387 J & H, Inc.	Canon Copier	25.00
2500	STREET MAINTENANCE	430240 STREET DEPARTMENT	2863 KIMBALL MIDWEST	Supplies	76.11
2500	STREET MAINTENANCE	430240 STREET DEPARTMENT	3286 PARK HIGH CAFETERIA	PW Day food	73.69
2500	STREET MAINTENANCE	430240 STREET DEPARTMENT	3040 PRO RENTALS & SALES, INC.	Bobcat	31.95
2500	STREET MAINTENANCE	430240 STREET DEPARTMENT	3608 REECE DISTRIBUTING	Safety Supplies	138.02
2500	STREET MAINTENANCE	430240 STREET DEPARTMENT	3043 STAHLY ENGINEERING, INC	02L15 Res#4443	4,556.11
2500	STREET MAINTENANCE	430240 STREET DEPARTMENT	3390 TD&H ENGINEERING, INC	Proj B15-107 2016 CI	1,828.97
Total for Fund:				7,342.18	
2820	GAS TAX	430240 STREET DEPARTMENT	679 BAINTER BACKHOE & CAT	RoadMix	1,150.36
2820	GAS TAX	430240 STREET DEPARTMENT	2904 FISHER SAND AND GRAVEL	Roadmix	921.16
2820	GAS TAX	430240 STREET DEPARTMENT	2904 FISHER SAND AND GRAVEL	Roadmix & Rock	1,248.12
Total for Fund:				3,319.64	
3003	2000 FIRE TRUCK GOB	490100 GEN OBLIGATION BONDS	845 US BANK	2000 Fire Truck GO B	30,000.00
3003	2000 FIRE TRUCK GOB	490100 GEN OBLIGATION BONDS	845 US BANK	2000 Fire Truck GO B	1,600.00
Total for Fund:				31,600.00	
3200	WEST END TAX INCREMENT	490200 REVENUE BONDS	1496 US BANK - SPA LOCKBOX	WTIF-Sewer	8,000.00
3200	WEST END TAX INCREMENT	490200 REVENUE BONDS	1496 US BANK - SPA LOCKBOX	WTIF-Sewer	3,675.00
3200	WEST END TAX INCREMENT	490200 REVENUE BONDS	1496 US BANK - SPA LOCKBOX	WTIF- Water	18,000.00
3200	WEST END TAX INCREMENT	490200 REVENUE BONDS	1496 US BANK - SPA LOCKBOX	WTIF- Water	7,443.75
Total for Fund:				37,118.75	
3550	SID 179	490300 SPEC IMPROVEMENT BONDS	1496 US BANK - SPA LOCKBOX	SID 179- Sewer	4,000.00
3550	SID 179	490300 SPEC IMPROVEMENT BONDS	1496 US BANK - SPA LOCKBOX	SID 179- Sewer	1,650.00
3550	SID 179	490300 SPEC IMPROVEMENT BONDS	1496 US BANK - SPA LOCKBOX	SID - 179 Water	8,000.00
3550	SID 179	490300 SPEC IMPROVEMENT BONDS	1496 US BANK - SPA LOCKBOX	SID - 179 Water	3,243.75
Total for Fund:				16,893.75	
5210	WATER OPERATING	430510 WATER ADMINISTRATION	3286 PARK HIGH CAFETERIA	PW Day food	73.69
5210	WATER OPERATING	430515 WATER SERVICES	38 MONT DEPT OF	Shannon	30.00
5210	WATER OPERATING	430515 WATER SERVICES	38 MONT DEPT OF	Hal	30.00
5210	WATER OPERATING	430515 WATER SERVICES	38 MONT DEPT OF	Jim M	30.00
5210	WATER OPERATING	430515 WATER SERVICES	38 MONT DEPT OF	Tom	30.00
5210	WATER OPERATING	430515 WATER SERVICES	26 LIVINGSTON ACE HARDWARE	- Sprayer	44.99
5210	WATER OPERATING	430515 WATER SERVICES	26 LIVINGSTON ACE HARDWARE	- Hole Saws	22.98
5210	WATER OPERATING	430515 WATER SERVICES	26 LIVINGSTON ACE HARDWARE	- Supplies	9.36
5210	WATER OPERATING	430515 WATER SERVICES	26 LIVINGSTON ACE HARDWARE	- Supplies	2.50

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5210 WATER OPERATING	430515 WATER SERVICES	26 LIVINGSTON ACE HARDWARE	- Oil Absorb	12.99
5210 WATER OPERATING	430515 WATER SERVICES	26 LIVINGSTON ACE HARDWARE	- Adhesive	2.99
5210 WATER OPERATING	430515 WATER SERVICES	22 ALL SERVICE TIRE &	Fix Flat	15.00
5210 WATER OPERATING	430515 WATER SERVICES	879 VERIZON WIRELESS	Water Cell	22.98
5210 WATER OPERATING	430515 WATER SERVICES	879 VERIZON WIRELESS	Water Cell	13.36
5210 WATER OPERATING	430515 WATER SERVICES	879 VERIZON WIRELESS	Water Cell	11.44
5210 WATER OPERATING	430515 WATER SERVICES	879 VERIZON WIRELESS	Water Cell 1/2	25.91
5210 WATER OPERATING	430515 WATER SERVICES	879 VERIZON WIRELESS	Water 1/2	27.56
5210 WATER OPERATING	430515 WATER SERVICES	879 VERIZON WIRELESS	Water 1/2	0.00
5210 WATER OPERATING	430515 WATER SERVICES	879 VERIZON WIRELESS	Water 1/2	50.48
5210 WATER OPERATING	430515 WATER SERVICES	879 VERIZON WIRELESS	Public works eng	58.55
5210 WATER OPERATING	430515 WATER SERVICES	879 VERIZON WIRELESS	Cain	72.52
5210 WATER OPERATING	430515 WATER SERVICES	23 CARQUEST AUTO PARTS	Battery	127.99
5210 WATER OPERATING	430515 WATER SERVICES	92 DANA KEPNER COMPANY	Connectors	21.63
5210 WATER OPERATING	430515 WATER SERVICES	54 GATEWAY OFFICE SUPPLY	Tape & UPS	28.54
5210 WATER OPERATING	430515 WATER SERVICES	54 GATEWAY OFFICE SUPPLY	UPS	12.26
5210 WATER OPERATING	430515 WATER SERVICES	54 GATEWAY OFFICE SUPPLY	UPS	12.29
5210 WATER OPERATING	430515 WATER SERVICES	3387 J & H, Inc.	Canon Copier	25.00
5210 WATER OPERATING	430515 WATER SERVICES	3608 REECE DISTRIBUTING	Safety Supplies	138.03
5210 WATER OPERATING	430515 WATER SERVICES	3043 STAHLY ENGINEERING, INC	02H15 Res #PRV	847.50
5210 WATER OPERATING	430515 WATER SERVICES	1 TECH ELECTRIC, INC	Repair of Wire	130.00
5210 WATER OPERATING	430515 WATER SERVICES	151 NORTHWESTERN ENERGY	40 Water Tower	50.88
5210 WATER OPERATING	430515 WATER SERVICES	151 NORTHWESTERN ENERGY	B st well	860.03
5210 WATER OPERATING	430515 WATER SERVICES	151 NORTHWESTERN ENERGY	200 E Res	56.28
5210 WATER OPERATING	430515 WATER SERVICES	151 NORTHWESTERN ENERGY	200 E Res NS	565.88
5210 WATER OPERATING	430515 WATER SERVICES	151 NORTHWESTERN ENERGY	601 Robin well	2,194.17
5210 WATER OPERATING	430515 WATER SERVICES	151 NORTHWESTERN ENERGY	4 Billman well	2,306.09
5210 WATER OPERATING	430515 WATER SERVICES	151 NORTHWESTERN ENERGY	229 River CC pump	65.67
5210 WATER OPERATING	430515 WATER SERVICES	151 NORTHWESTERN ENERGY	56 Water Tower	439.27
5210 WATER OPERATING	430515 WATER SERVICES	151 NORTHWESTERN ENERGY	D & Geyser well	1,704.92
5210 WATER OPERATING	430515 WATER SERVICES	151 NORTHWESTERN ENERGY	Werner pump	66.24
5210 WATER OPERATING	430520 FACILITIES/CAPITAL OUTLAY	131 CITY OF LIVINGSTON	Utiltiy shop/water	119.92
5210 WATER OPERATING	430520 FACILITIES/CAPITAL OUTLAY	162 CENTURYLINK	Utility Billing	76.05
5210 WATER OPERATING	430520 FACILITIES/CAPITAL OUTLAY	3298 EXEC U CARE SERVICES,	Cleaning PW Building	80.00
5210 WATER OPERATING	430520 FACILITIES/CAPITAL OUTLAY	102 INDUSTRIAL TOWEL	Mat Cleaning	8.56
5210 WATER OPERATING	430520 FACILITIES/CAPITAL OUTLAY	3043 STAHLY ENGINEERING, INC	02L15 Res#4443	3,338.07
5210 WATER OPERATING	430520 FACILITIES/CAPITAL OUTLAY	3390 TD&H ENGINEERING, INC	Proj B15-107 2016 CI	4,470.81
5210 WATER OPERATING	430520 FACILITIES/CAPITAL OUTLAY	151 NORTHWESTERN ENERGY	330 Bennett 1/3	180.29
5210 WATER OPERATING	430570 CUSTOMER ACCTG/COLLECTION	146 LIVINGSTON ENTERPRISE	Yearly subscription	43.00
5210 WATER OPERATING	430570 CUSTOMER ACCTG/COLLECTION	295 BLACK MOUNTAIN SOFTWARE,	In house training UB	250.00
5210 WATER OPERATING	430570 CUSTOMER ACCTG/COLLECTION	3610 NEOFUNDS BY NEOPOST	Postage	509.08
5210 WATER OPERATING	490500 DEBT SERVICE PAYMENTS	845 US BANK	Water Revenue- Refun	65,000.00
5210 WATER OPERATING	490500 DEBT SERVICE PAYMENTS	845 US BANK	Water Revenue- Refun	2,570.00
Total for Fund:				86,885.75
5310 SEWER OPERATING	430620 FACILITIES	131 CITY OF LIVINGSTON	Utiltiy shop/water	126.06
5310 SEWER OPERATING	430620 FACILITIES	162 CENTURYLINK	Utility Billing	76.05
5310 SEWER OPERATING	430620 FACILITIES	162 CENTURYLINK	City shop12%	7.04
5310 SEWER OPERATING	430620 FACILITIES	879 VERIZON WIRELESS	Water Cell	24.46
5310 SEWER OPERATING	430620 FACILITIES	879 VERIZON WIRELESS	Sewer Cell 1/2	25.91
5310 SEWER OPERATING	430620 FACILITIES	879 VERIZON WIRELESS	Sewer Cell	22.98

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5310 SEWER OPERATING	430620 FACILITIES	879 VERIZON WIRELESS	Sewer Cell	11.46
5310 SEWER OPERATING	430620 FACILITIES	879 VERIZON WIRELESS	Sewer 1/2	27.56
5310 SEWER OPERATING	430620 FACILITIES	879 VERIZON WIRELESS	Sewer 1/2	0.00
5310 SEWER OPERATING	430620 FACILITIES	879 VERIZON WIRELESS	Sewer 1/2	50.48
5310 SEWER OPERATING	430620 FACILITIES	879 VERIZON WIRELESS	WWTP	44.55
5310 SEWER OPERATING	430620 FACILITIES	879 VERIZON WIRELESS	WWTP - pager	22.96
5310 SEWER OPERATING	430620 FACILITIES	3298 EXEC U CARE SERVICES,	Cleaning PW Building	80.00
5310 SEWER OPERATING	430620 FACILITIES	102 INDUSTRIAL TOWEL	Mat Cleaning	8.55
5310 SEWER OPERATING	430620 FACILITIES	3286 PARK HIGH CAFETERIA	PW Day food	73.69
5310 SEWER OPERATING	430620 FACILITIES	151 NORTHWESTERN ENERGY	330 Bennett 1/3	180.29
5310 SEWER OPERATING	430625 SEWER SERVICES	26 LIVINGSTON ACE HARDWARE -	Bolts & Fasteners	10.78
5310 SEWER OPERATING	430625 SEWER SERVICES	2904 FISHER SAND AND GRAVEL	Concrete	486.00
5310 SEWER OPERATING	430625 SEWER SERVICES	3387 J & H, Inc.	Canon Copier	25.00
5310 SEWER OPERATING	430625 SEWER SERVICES	292 UPS STORE #2420, THE	Camera Shipping	13.50
5310 SEWER OPERATING	430625 SEWER SERVICES	151 NORTHWESTERN ENERGY	800 W Camb PS	29.17
5310 SEWER OPERATING	430625 SEWER SERVICES	151 NORTHWESTERN ENERGY	3 Rogers LS	25.61
5310 SEWER OPERATING	430625 SEWER SERVICES	151 NORTHWESTERN ENERGY	200 E Res Gauge	12.35
5310 SEWER OPERATING	430625 SEWER SERVICES	151 NORTHWESTERN ENERGY	900 River dr PS	72.14
5310 SEWER OPERATING	430625 SEWER SERVICES	151 NORTHWESTERN ENERGY	1011 River dr PS	24.65
5310 SEWER OPERATING	430625 SEWER SERVICES	151 NORTHWESTERN ENERGY	Monroe LS	310.77
5310 SEWER OPERATING	430625 SEWER SERVICES	151 NORTHWESTERN ENERGY	9th & 10th LS	39.70
5310 SEWER OPERATING	430625 SEWER SERVICES	151 NORTHWESTERN ENERGY	2800 E Park LS	224.06
5310 SEWER OPERATING	430625 SEWER SERVICES	151 NORTHWESTERN ENERGY	320 Alpenglow LS	48.27
5310 SEWER OPERATING	430630 COLLECTION AND	3043 STAHLY ENGINEERING, INC	02L15 Res#4443	2,932.07
5310 SEWER OPERATING	430630 COLLECTION AND	3390 TD&H ENGINEERING, INC	Proj B15-107 2016 CI	1,828.97
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	131 CITY OF LIVINGSTON	Sewer plant	384.25
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	162 CENTURYLINK	Sewer Dept.	169.60
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	38 MONT DEPT OF	Dan	40.00
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	38 MONT DEPT OF	Duane	40.00
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	38 MONT DEPT OF	Joella	40.00
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	38 MONT DEPT OF	Shannon	40.00
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	26 LIVINGSTON ACE HARDWARE -	Credit for return	-49.99
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	26 LIVINGSTON ACE HARDWARE -	Auger	9.99
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	26 LIVINGSTON ACE HARDWARE -	Supplies	62.77
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	26 LIVINGSTON ACE HARDWARE -	Cap	7.99
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	3293 BLACKFOOT COMMUNICATIONS	Internet	50.49
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	424 ENERGY LABORATORIES, INC.	B16042316	102.00
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	424 ENERGY LABORATORIES, INC.	B16050456	102.00
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	424 ENERGY LABORATORIES, INC.	B16050541	864.00
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	424 ENERGY LABORATORIES, INC.	B16051089	102.00
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	470 HAWKINS, INC	Supplies	8,131.24
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	102 INDUSTRIAL TOWEL	Mat Cleaning WWTP	23.90
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	1390 KEN'S EQUIPMENT REPAIR,	Roll off Repairs	132.30
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	2830 LEHRKIND'S COCA-COLA	Water	25.05
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	2830 LEHRKIND'S COCA-COLA	Water	33.70
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	1 TECH ELECTRIC, INC	Vent T-Stat	202.72
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	151 NORTHWESTERN ENERGY	316 Bennett WWTP	5,881.31
5310 SEWER OPERATING	430640 SEWER TREATMENT PLANT	3605 ADVANCED ENGINEERING &	Project: P05613-2015	11,207.92
5310 SEWER OPERATING	430670 CUSTOMER ACCTG/COLLECTION	146 LIVINGSTON ENTERPRISE	Yearly subscription	43.00
5310 SEWER OPERATING	430670 CUSTOMER ACCTG/COLLECTION	295 BLACK MOUNTAIN SOFTWARE,	In house training UB	250.00
5310 SEWER OPERATING	430670 CUSTOMER ACCTG/COLLECTION	3610 NEOFUNDS BY NEOPOST	Postage	509.08
5310 SEWER OPERATING	490500 DEBT SERVICE PAYMENTS	1496 US BANK - SPA LOCKBOX	WWTP ARRA-B	8,000.00

06/01/16
10:36:33

CITY OF LIVINGSTON
Claim Approval by Fund, Account
For the Accounting Period: 6/16

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For doc #s from 28392 to 28508, Operating Cash

Fund	Department Name (Account)	Vendor #/Name	Description	Amount
5310 SEWER OPERATING	490500 DEBT SERVICE PAYMENTS	1496 US BANK - SPA LOCKBOX	WWTP ARRA-B	2,301.25
5310 SEWER OPERATING	490500 DEBT SERVICE PAYMENTS	845 US BANK	Sewer Revenue - Refu	115,000.00
5310 SEWER OPERATING	490500 DEBT SERVICE PAYMENTS	845 US BANK	Sewer Revenue - Refu	17,082.50
Total for Fund:				177,654.15
5410 SOLID WASTE	100000 CASH/INVESTMENTS	146 LIVINGSTON ENTERPRISE	Yearly subscription	43.00
5410 SOLID WASTE	430820 FACILITIES	131 CITY OF LIVINGSTON	Street shop	49.81
5410 SOLID WASTE	430820 FACILITIES	131 CITY OF LIVINGSTON	Utiltiy shop/water	52.93
5410 SOLID WASTE	430820 FACILITIES	162 CENTURYLINK	Utility Billing	76.05
5410 SOLID WASTE	430820 FACILITIES	162 CENTURYLINK	Scale house	99.64
5410 SOLID WASTE	430820 FACILITIES	162 CENTURYLINK	City shop38%	22.29
5410 SOLID WASTE	430820 FACILITIES	879 VERIZON WIRELESS	Solid Waste truck	0.00
5410 SOLID WASTE	430820 FACILITIES	879 VERIZON WIRELESS	Solid Waste truck	13.22
5410 SOLID WASTE	430820 FACILITIES	879 VERIZON WIRELESS	Transfer Station	24.30
5410 SOLID WASTE	430820 FACILITIES	879 VERIZON WIRELESS	Scale House	23.25
5410 SOLID WASTE	430820 FACILITIES	879 VERIZON WIRELESS	Transfer station - V	49.18
5410 SOLID WASTE	430820 FACILITIES	3298 EXEC U CARE SERVICES,	Cleaning PW Building	80.00
5410 SOLID WASTE	430820 FACILITIES	102 INDUSTRIAL TOWEL	Mat Cleaning	8.55
5410 SOLID WASTE	430820 FACILITIES	3387 J & H, Inc.	Canon Copier	25.00
5410 SOLID WASTE	430820 FACILITIES	3286 PARK HIGH CAFETERIA	PW Day food	73.69
5410 SOLID WASTE	430820 FACILITIES	151 NORTHWESTERN ENERGY	406 Bennett 50%	236.49
5410 SOLID WASTE	430820 FACILITIES	151 NORTHWESTERN ENERGY	408 Bennett Scale	47.50
5410 SOLID WASTE	430820 FACILITIES	151 NORTHWESTERN ENERGY	408 Bennett TS	625.09
5410 SOLID WASTE	430820 FACILITIES	151 NORTHWESTERN ENERGY	330 Bennett 1/3	180.29
5410 SOLID WASTE	430820 FACILITIES	151 NORTHWESTERN ENERGY	330 Bennett Compacto	45.09
5410 SOLID WASTE	430830 COLLECTION/MAINTENANCE	26 LIVINGSTON ACE HARDWARE -	Supplies	32.97
5410 SOLID WASTE	430830 COLLECTION/MAINTENANCE	3223 BERG'S OVERHEAD DOOR LLC	Down pmt on Garage d	3,886.00
5410 SOLID WASTE	430830 COLLECTION/MAINTENANCE	54 GATEWAY OFFICE SUPPLY	Supplies	8.94
5410 SOLID WASTE	430830 COLLECTION/MAINTENANCE	2830 LEHRKIND'S COCA-COLA	Water	15.50
5410 SOLID WASTE	430830 COLLECTION/MAINTENANCE	1718 SOLID WASTE SYSTEMS, INC.	Parts	1,472.18
5410 SOLID WASTE	430830 COLLECTION/MAINTENANCE	18 TIRE-RAMA LIVINGSTON	Tire	387.95
5410 SOLID WASTE	430840 DISPOSAL	2919 FOUR CORNERS RECYCLING,	Commodity Credit	-1,227.94
5410 SOLID WASTE	430840 DISPOSAL	2919 FOUR CORNERS RECYCLING,	Plastic	133.20
5410 SOLID WASTE	430840 DISPOSAL	2919 FOUR CORNERS RECYCLING,	Box Rent	400.00
5410 SOLID WASTE	430840 DISPOSAL	2919 FOUR CORNERS RECYCLING,	Pulls	2,310.00
5410 SOLID WASTE	430870 CUSTOMER ACCTG/COLLECTION	295 BLACK MOUNTAIN SOFTWARE,	In house training UB	250.00
5410 SOLID WASTE	430870 CUSTOMER ACCTG/COLLECTION	3293 BLACKFOOT COMMUNICATIONS	Internet	50.49
5410 SOLID WASTE	430870 CUSTOMER ACCTG/COLLECTION	3610 NEOFUNDS BY NEOPOST	Postage	509.08
Total for Fund:				10,003.74
5510 AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	3069 BILLINGS CLINIC TRAINING	CPR instructor rene	274.60
5510 AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	1846 BUDGET AUTO GLASS	Replace windshield M	265.00
5510 AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	26 LIVINGSTON ACE HARDWARE -	Station supplies	27.98
5510 AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	23 CARQUEST AUTO PARTS	Cleaning supplies	14.54
5510 AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2437 O'REILLY AUTOMOTIVE, INC	Oil	18.38
5510 AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2735 B & B APPLIANCE, LLC	Used station washer	285.00
5510 AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2437 O'REILLY AUTOMOTIVE, INC	Anitfreeze	12.99
5510 AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	55 LIVINGSTON HEALTH	Patient supplies	27.74
5510 AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	55 LIVINGSTON HEALTH	Patient supplies	42.05
5510 AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	55 LIVINGSTON HEALTH	Patient supplies	210.81

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CITY OF LIVINGSTON
Claim Approval by Fund, Account
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For doc #s from 28392 to 28508, Operating Cash

Fund	Department Name (Account)	Vendor #/Name	Description	Amount	
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2662 BOUND TREE MEDICAL, LLC	Patient supplies	77.90
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2662 BOUND TREE MEDICAL, LLC	Patient supplies	11.69
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2662 BOUND TREE MEDICAL, LLC	Patient supplies	65.58
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2662 BOUND TREE MEDICAL, LLC	Patient supplies	511.45
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	55 LIVINGSTON HEALTH	Patient supplies	193.90
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	55 LIVINGSTON HEALTH	Patient supplies	9.36
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	102 INDUSTRIAL TOWEL	Uniforms	53.50
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	3455 INDUSTRIAL COMM & ELEC OF	Repair antenna	446.00
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	23 CARQUEST AUTO PARTS	Defrost fluid	34.80
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	22 ALL SERVICE TIRE &	M3 Tires	314.00
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	272 PARK COUNTY	Amb 50% phones	43.51
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2662 BOUND TREE MEDICAL, LLC	Patient supplies	577.24
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2662 BOUND TREE MEDICAL, LLC	Patient supplies	127.74
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2595 TOWN & COUNTRY FOODS -	Supplies - class	12.37
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2595 TOWN & COUNTRY FOODS -	Supplies - class	4.86
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2595 TOWN & COUNTRY FOODS -	Supplies - class	15.84
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2595 TOWN & COUNTRY FOODS -	Supplies - class	12.36
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2595 TOWN & COUNTRY FOODS -	Supplies - class	23.70
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2595 TOWN & COUNTRY FOODS -	Supplies - class	13.30
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2595 TOWN & COUNTRY FOODS -	Supplies - class	7.96
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	2595 TOWN & COUNTRY FOODS -	Supplies - class	17.26
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	879 VERIZON WIRELESS	EMS	107.46
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	879 VERIZON WIRELESS	EMS	13.22
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	879 VERIZON WIRELESS	EMS	46.95
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	879 VERIZON WIRELESS	EMS	13.22
5510	AMBULANCE SERVICES	420730 AMBULANCE OPERATING ACCT	879 VERIZON WIRELESS	Medic 2	33.48
				Total for Fund:	3,967.74
7910	PAYROLL FUND	212970 FLEX PLAN BENEFITS PAY	958 HARRINGTON, KEVIN	Flex account - Acct	897.96
7910	PAYROLL FUND	212970 FLEX PLAN BENEFITS PAY	2376 KYNETT, JESSIKA	Flex account	226.01
7910	PAYROLL FUND	212970 FLEX PLAN BENEFITS PAY	3458 JONES, WILLIAM	Flex account	143.96
				Total for Fund:	1,267.93
				Total:	570,069.41

Backup material for agenda item:

C. Ratify Claims

05/17/16
10:02:33

CITY OF LIVINGSTON
Claim Details by Fund, Account
For the Accounting Period: 5/16

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For check #s from 81393 to 81395, Operating Cash

Fund	Department Name (Account)	Vendor #/Name	Description	Amount
1000 GENERAL	351036 TIME PAYMENTS	999999 WILLIAMS, JENNIE ANN	Refund on Overpayment	200.00
1000 GENERAL	411230 FACILITY MAINTENANCE	3446 CTA BUILDING, LLP	May Business Office	1,775.00
		Total for Fund:		1,975.00
2211 SOCCER FIELDS	411810 CAPITAL IMPROVEMENTS	3599 SPRING CORPORATION	LYSA Field House	160,470.93
		Total for Fund:		160,470.93
		Total:		162,445.93

Fund/Account	Amount
1000 GENERAL	
101000	\$1,975.00
2211 SOCCER FIELDS	
101000	\$160,470.93
Total:	\$162,445.93

05/17/16
10:04:59

CITY OF LIVINGSTON
Claim Details by Fund, Account
For the Accounting Period: 2/16

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For check #s from 80800 to 80801, Operating Cash

Fund	Department Name (Account)	Vendor #/Name	Description	Amount
1000 GENERAL	351036 TIME PAYMENTS	532 PARK COUNTY JUSTICE OF	Hardesty, J TK15-0050	30.00
1000 GENERAL	430950 ROAMING OPERATING	999999 DNRC WATER RESOURCES	Lagoon Water Rights	200.00
			Total for Fund:	230.00
			Total:	230.00

Fund/Account	Amount
1000 GENERAL 101000	\$230.00
Total:	\$230.00

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CITY OF LIVINGSTON
Claim Details by Fund, Account
For the Accounting Period: 3/16

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For check #s from 81072 to 81072, Operating Cash

Fund	Department Name (Account)	Vendor #/Name	Description	Amount
5410 SOLID WASTE	510700 STATE MANDATED	2346 MONTANA DEPT OF	Transfer Station Per	480.00
			Total for Fund:	480.00
			Total:	480.00

Fund/Account	Amount
5410 SOLID WASTE 101000	\$480.00
Total:	\$480.00

Backup material for agenda item:

- A. PROCLAMATION -- DECLARING JUNE 27 TO JULY 4, 2016 TO BE "RODEO DAYS" IN THE CITY OF LIVINGSTON, MONTANA**

Interim City Manager

Lisa L. Lowy

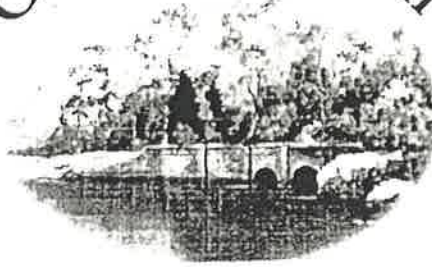
*414 East Callender Street
Livingston, Montana 59047
(406) 222-2005 phone*

(406) 222-6823 fax

citymanager@livingstonmontana.org

www.livingstonmontana.org

City of Livingston



Chairman

James Bennett

29

Vice Chairman

Dorel Hoglund

Commissioners

Mel Friedman

Sarah Sandberg

Quentin Schwarz

Incorporated 1889

WHEREAS, the Livingston Area Chamber of Commerce is hosting Rodeo Days, in conjunction with the Livingston Round-Up Association; and,

WHEREAS, the Livingston Round-up is an annual event enjoyed by the greater Livingston community; and

WHEREAS, the theme for this year's Round-up Parade is "2016 National Park Service Centennial Celebration"; and

WHEREAS, the "Network Alive Business After Hours", occurs on Thursday June 30, the Thursday evening preceding the rodeo, from 5:30 p.m. until 7:00 p.m. at the Park County Fairgrounds.

NOW, THEREFORE, I James Bennett, Chairman of the Livingston City Commission, hereby proclaim:

June 27 - July 4, 2016 as

Rodeo Days In the

City of Livingston

Dated this 7th Day of June, 2016

James Bennett, Chairman, Livingston City Commission

Lisa Harreld, Recording Secretary

LIVINGSTON
Montana

GO BEYOND YELLOWSTONE

Backup material for agenda item:

- A. RESOLUTION NO. 4654 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH VISTA, LLC ("VISTA") REQUIRING VISTA TO CONTRIBUTE TO THE CONSTRUCTION OF A PUBLIC LIFT STATION ON OR NEAR VISTA'S PROPERTY IN LIVINGSTON, MONTANA.**

Livingston City Commission
LEGISLATIVE ACTION SUMMARY
Resolution No. 4654

Requested by: Planning Department

Date of First Consideration/Status: June 7, 2016

Purpose of Legislation: Resolution No. 4654 requests the City Commission’s authorization for the City Manager to enter into an Agreement (the “Agreement”) with Vista, LLC (“Vista”) that requires Vista to contribute to the construction of a public lift station that will serve Vista’s property near Travertine Lane at some time in the future.

Background: Vista, LLC owns the following real property:

Lot 41A and Lot 42A of the Amended Plat of Lot 41 and Lot 42 of Amended Subdivision Plat No. 111, located in the Northeast Quarter (NE ¼) of Section 26, Township 2 South, Range 9 East, Principal Montana Meridian (the “Property”).

The Property was annexed into the corporate limits of the City of Livingston on March 10, 2015 by way of Resolution No. 4533. Vista intends to obtain all entitlements and services necessary to use the Property for commercial purposes, including but not limited to water and sewer service. Vista has designed extensions to the City’s water and sewer systems to serve the Property. City policy requires that utility extensions terminate at the far side of a property so that further extension can serve more distant properties. Vista’s designed water extension will serve future development. However, the sewer extension is designed to serve only the Property because a lift station would be required for the sewer service to cross Billman Creek. A lift station cannot be installed, and will not operate correctly if installed, until such time as more development takes place to produce sufficient sewer flows. Vista has agreed for itself and its successors in interest that because it is not installing a lift station at this time, it will be responsible for its pro-rata share of the costs of installation in the future, all as set forth in the Agreement.

Staff Recommendation: Staff recommends this resolution be approved.

Fiscal Impact: See attached.

Regulatory Impact (local): N/A

Attachments: Agreement

RESOLUTION NO. 4654

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH VISTA, LLC (“VISTA”) REQUIRING VISTA TO CONTRIBUTE TO THE CONSTRUCTION OF A PUBLIC LIFT STATION ON OR NEAR VISTA’S PROPERTY IN LIVINGSTON, MONTANA.

WHEREAS, Vista owns the following real property that is located within the corporate limits of the City of Livingston, Montana:

Lot 41A and Lot 42A of the Amended Plat of Lot 41 and Lot 42 of Amended Subdivision Plat No. 111, located in the Northeast Quarter (NE ¼) of Section 26, Township 2 South, Range 9 East, Principal Montana Meridian (the “Property”); and

WHEREAS, the Property was annexed into the corporate limits of the City of Livingston on March 10, 2015 by way of Resolution No. 4533; and

WHEREAS, Vista intends to obtain all entitlements and services necessary to use the Property for commercial purposes, including but not limited to water and sewer service; and

WHEREAS, Vista has designed extensions to the City’s water and sewer systems to serve the Property; and

WHEREAS, City policy requires that utility extensions terminate at the far side of a property so that further extension can serve more distant properties; and

WHEREAS, Vista’s designed water extension will serve future development but the sewer extension is designed to only serve the Property because a lift station would be required for the sewer service to cross Billman Creek; and

WHEREAS, a lift station cannot be installed, and will not operate correctly if installed, until such time as more development takes place to produce sufficient sewer flows; and

WHEREAS, Vista has agreed for itself and its successors in interest that because it is not installing a lift station at this time, it will be responsible for its pro-rata share of the costs of installation in the future, all as set forth in the Agreement attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the City Manager is ready and willing to sign the Agreement upon obtaining authorization from the Livingston City Commission.

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 Agreement with Vista, a copy of which document is attached hereto and incorporated herein as Exhibit A.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this _____ day of June, 2016.

JAMES BENNETT - Chairman

ATTEST:

APPROVED AS TO FORM:

LISA HARRELD
Recording Secretary

ERIK COATE
City Attorney

AGREEMENT

THIS AGREEMENT is made and entered into as of the latest date set forth by a signature below, 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, Montana, hereinafter referred to as the City, and Vista, LLC of 1276 North 15th, #103, Bozeman, Montana, hereinafter referred to as Developer.

Recitals.

- A. The Developer desires to develop a seven acre parcel described as Lots 41 and 42 of Subdivision Plat No. 111, located in Section 26, Township 2 South, Range 9 East, Park County, Montana, M.P.M.; and
- B. The City has annexed the subject property and has zoned the lots Highway Commercial (HC); and
- C. The Developer has designed extensions of the City's sewer and water systems to serve the subject property; and
- D. City policy requires that utility extensions terminate at the far side of a development so that further extension can serve more distant properties; and
- E. In the case of this project, while the water extension is designed to serve future development, the sewer extension will only serve the subject property; and
- F. Because the sewer extension needs to cross Billman Creek, in order to serve future development, a public lift station would need to be constructed; and
- G. In lieu of installing a public lift station for future development, the Developer is willing to enter into this agreement specifying his participation in funding the lift station at a point in the future when it becomes necessary.

Agreement

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

- I. Developer acknowledges that at such time as a public lift station is required (as determined by the City), Developer will be responsible for its pro-rata share of the cost of said lift station.

2. In exchange for the City granting its approval to construct the sewer extension as designed by the Developer, the Developer waives, for itself and any successor in interest to the subject property, all rights of protest against the formation of a special improvement district as a means to finance the construction of a public lift station to serve the general area of this development. In the event that a financing mechanism other than an SID is used to finance said public lift station, Developer waives, for itself and any successor(s) in interest, all rights of protest against that financing mechanism, provided that the mechanism is based upon an equitable distribution of cost relative to the capacity of the lift station and the volume of sewage produced by each assessed property.

3. Developer also agrees that upon completion of said lift station, the subject property will, at the sole expense of the then-owner of the subject property, tie its sewer system into the public lift station system. Once said connection is made, the City will accept all sewer mains constructed by developer and all of those mains will become part of the City's public system.

4. Upon complete execution of this agreement, the City of Livingston grants Developer permission to commence installation of water and sewer mains servicing their project on Lot 41 and 42 of Subdivision Plat No. 111.



Vista, LLC
Kevin Cook, Managing Member

5/24/16

Date

Lisa Lowy – Interim City Manager

Date

Backup material for agenda item:

- B. RESOLUTION NO. 4658 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CHAIRMAN TO SIGN PERPETUAL RIGHT-OF-WAY EASEMENT WITH VISTA, LLC FOR THE PURPOSES OF CONSTRUCTION, MAINTENANCE, OPERATION, SERVICE, REPAIR, AND REPLACEMENT OF CITY STREETS, SANITARY SEWERS, AND WATER LINES.**

Livingston City Commission
LEGISLATIVE ACTION SUMMARY
Resolution No. 4658

Requested by: Planning Department

Date of First Consideration/Status: June 7, 2016

Purpose of Legislation: Resolution No. 4658 requests the City Commission’s authorization for the Chairman to enter into a Perpetual Right-of-Way Easement Agreement (the “Agreement”) with Vista, LLC (“Vista”).

Background: Vista, owns the following real property:

Lot 41A and Lot 42A of the Amended Plat of Lot 41 and Lot 42 of Amended Subdivision Plat No. 111, located in the Northeast Quarter (NE ¼) of Section 26, Township 2 South, Range 9 East, Principal Montana Meridian (the “Property”).

The Property was annexed into the corporate limits of the City of Livingston on March 10, 2015 by way of Resolution No. 4533. Except in limited circumstances that do not apply to the Property, Montana Code Annotated § 7-2-4205 requires a municipality to provide services to lands when the municipality has annexed the lands. The Property is going to be used for future development and will require city streets as well as city water and sewer service. Because the Property is in need of city streets and water and sewer service, Vista will be required to grant the City easements over, under, and through the Property so the City can properly construct, maintain, operate, service, repair, and replace the improvements. The City of Livingston’s administration, Vista, and the engineers for both parties have agreed upon the terms and conditions of the proposed easements, all of which are contained in the Agreement.

Staff Recommendation: Staff recommends this resolution be approved.

Fiscal Impact: N/A

Regulatory Impact (local): N/A

Attachments: Agreement

RESOLUTION NO. 4658

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CHAIRMAN TO SIGN PERPETUAL RIGHT-OF-WAY EASEMENT WITH VISTA, LLC FOR THE PURPOSES OF CONSTRUCTION, MAINTENANCE, OPERATION, SERVICE, REPAIR, AND REPLACEMENT OF CITY STREETS, SANITARY SEWERS, AND WATER LINES.

WHEREAS, Vista, LLC (“Vista”) owns the following real property that is located within the corporate limits of the City of Livingston, Montana:

Lot 41A and Lot 42A of the Amended Plat of Lot 41 and Lot 42 of Amended Subdivision Plat No. 111, located in the Northeast Quarter (NE ¼) of Section 26, Township 2 South, Range 9 East, Principal Montana Meridian (the “Property”); and

WHEREAS, the Property was annexed into the corporate limits of the City of Livingston on March 10, 2015 by way of Resolution No. 4533; and

WHEREAS, except in limited circumstances that do not apply to the Property, Montana Code Annotated § 7-2-4205 requires a municipality to provide services to lands when the municipality has annexed the lands; and

WHEREAS, the Property is going to be used for future development and will require city streets as well as city water and sewer service; and

WHEREAS, because the Property is in need of city streets and water and sewer service, Vista will be required to grant the City easements over, under and through the Property so the City can properly construct, maintain, operate, service, repair, and replace the improvements; and

WHEREAS, the City of Livingston’s administration, Vista, and the engineers for both parties have agreed upon the terms and conditions of the proposed easements, all of which are contained in the Perpetual Right-of-Way Easement Agreement (the “Agreement”) attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the Chairman is ready and willing to enter into the Agreement upon receiving authorization from the Livingston City Commission.

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

**Resolution No. 4658
Authorizing Chairman to Enter Into Perpetual Right-of-Way Easement with Vista, LLC
Page 1**

The Chairman is hereby authorized to enter into the Agreement with Vista, a copy of which document is attached hereto and incorporated herein as Exhibit A.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this _____ day of June, 2016.

JAMES BENNETT - Chairman

ATTEST:

APPROVED AS TO FORM:

LISA HARRELD
Recording Secretary

ERIK COATE
City Attorney

Return to:
City Clerk
City of Livingston
414 E. Callender St.
Livingston, MT 59047

PERPETUAL RIGHT-OF-WAY EASEMENT

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, on this 25 day of May, 2016, the undersigned, **VISTA, LLC**, a Montana limited liability company of 4276 N. 15th Avenue, Suite 103, Bozeman, Montana, 59715 hereinafter called "Grantor," hereby grants and conveys unto the **CITY OF LIVINGSTON**, a municipal corporation and political subdivision of the State of Montana, of 414 E. Callender Street, Livingston, Montana, 59047 hereinafter called "Grantee," a perpetual non-exclusive easement and right-of-way over, across, under, and through the following described tract of real property in Park County, Montana:

Lot 41A and Lot 42A of the Amended Plat of Lot 41 and Lot 42 of Amended Subdivision Plat No. 111, located in the northeast one-quarter of section 26, Township 2 South, Range 9 East, Principal Meridian Montana, City of Livingston, Park County, Montana (Amended Plat No. _____) attached.

The perpetual easement(s) to Grantee is for the purpose of constructing, reconstructing, maintaining, operating, servicing, repairing, and replacing city streets, sanitary sewers and water lines over, across, under, and through the said real property as depicted on Exhibit A attached hereto and incorporated herein by this reference; together with the right of free ingress and egress at all times for the purpose of constructing, reconstructing, maintaining, operating, servicing, repairing, and replacing said sanitary sewers and appurtenances; and adding additional sanitary sewer lines.

Grantor shall continue to have the right to use and enjoy the above-described property, except as to the rights herein granted, subject to the following restrictions:

1. Grantor and their successors and/or assigns agree not to construct, nor cause to be constructed within the easement right-of-way, any type of building or structure such as, but not limited to, houses, garages, sheds, kennels, fences, or any other fixed objects of any kind, shape or form without Grantee's express consent. Notwithstanding the foregoing, Grantor is expressly permitted to: a) pave and use the easement right of way for any pedestrian and vehicular ingress and egress such as drive aisles, drive ways, sidewalk, cross walk, and parking areas; and, b) to install landscaping and landscaping facilities within the easement right-of-way, such as irrigation, berms, bushes, shrubs, hedges, grass, or any other facilities or plantings of a similar nature that will be operated and maintained by Grantor. Trees and other deep-rooted shrubs such as lilac shall not be planted within the easement right-of- way.

2. Grantor agrees that authorized representatives of the City of Livingston may freely travel within the easement right-of-way with their equipment in the performance of their duties.
3. Grantor agrees to obtain the permission of the Public Works Department or Grantee prior to placing or removing any fill dirt within the easement right-of-way and, in addition, in the event such permission is granted, the Grantor agrees to perform any work necessary to modify the existing sanitary sewers and appurtenances, which work may be required prior to placing or removing any fill dirt within the easement right-of-way; and all such work shall be done at the Grantor's expense and without expense to the City.
4. The Restrictions, Covenants, and Hold Harmless Agreements herein contained shall attach to and run with the land and shall bind the parties hereto and all persons claiming thereunder.

MISCELLANEOUS PROVISIONS

1. **Run with the Land; Binding Effect.** The easements shall be perpetual and shall run with the land for the benefit of Grantee and Grantee's successors and assigns and shall be binding upon the heirs, successors and assigns of the respective parties hereto.
2. **Indemnification.** Grantee shall defend, indemnify and hold harmless Grantor, its shareholders, officers, directors, agents, members and employees, and their respective heirs, personal and legal representatives, guardians, successors and assigns, from and against any and all claims, threats, liabilities, taxes, interest, fines, penalties, suits, actions, proceedings, demands, damages, losses, costs and expenses (including attorneys' and experts' fees and court costs) of every kind and nature arising out of, resulting from, or in connection with the easements granted herein.
3. **Entire Agreement; Merger of Previous Understanding.** This Agreement embodies and constitutes the entire understanding between the parties hereto with respect to the grant of easements herein, and all prior or contemporaneous negotiations, communications, conversations, understandings and agreements had between the parties hereto, oral or written, are merged in this Agreement.
4. **Signing Authority & Entity Approval.** If signing on behalf of a corporation or other entity, the undersigned persons represent that they do so under the authority duly granted them by the Members or Board of Directors of their respective entity and that the terms of this Agreement have been approved by the governing bodies of such respective entities.
5. **Modification.** This Agreement may not be amended, modified or changed except by a written instrument signed by Grantor and Grantee, or their heirs, successors or assigns.
6. **Construction.** The language in all parts of this Agreement shall be in all cases construed simply according to its fair meaning and not strictly for or against any of the parties hereto. Headings at the beginning of sections and subsections of this Agreement are solely for the

convenience of the parties and are not a part of this Agreement. When required by the context, the words "Grantor" and "Grantee" shall include the respective heirs, successors and assigns, if any, of them.

7. **Governing Law and Jurisdiction.** This Agreement shall be governed by and constructed in accordance with the laws of Montana. All lawsuits filed to interpret or enforce the terms and conditions of this Agreement must be filed in the 6th Judicial District, Park County, Montana.

8. **Recordation.** The parties agree that upon mutual execution, this Agreement shall be recorded in the office of the Clerk and Recorder of Park County, Montana.

9. **Severance.** Should any portion of this Agreement be declared invalid and unenforceable then such portion shall be deemed to be severed from this Agreement and shall not affect the remainder of this Agreement.

10. **Attorney Fees.** In the event it becomes necessary for a party to enforce any of the provisions of this Agreement through legal action, it is understood and agreed that the prevailing party shall recover said party's reasonable attorney's fee, together with all costs and expenses pertaining thereto.

IN WITNESS WHEREOF, the Grantor and Grantee have executed this Grant of Perpetual Right of Way Easement on the date written above.

GRANTOR

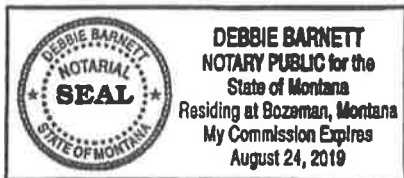
VISTA, LLC,
a Montana limited liability company, owner of
Tracts 41A & 32A of Amended Plat No. _____

By: [Signature]
Its: member

STATE OF MONTANA)
 : ss
County of Gallatin)

On this 25 day of May, 2016, before me, a Notary Public in and for the State of Montana, personally appeared Kevin Cook, known to me to be the person who signed the foregoing instrument as the managing member of VISTA, LLC, a Montana limited liability company, and who acknowledged to me that they executed the same.

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



[Signature]
Notary Public in and for the State of Montana
Printed name: Debbie Barnett
Residing at: _____
My commission expires: _____

GRANTEE

CITY OF LIVINGSTON

By: _____
Chair, City Commission

Attest: _____
City Clerk

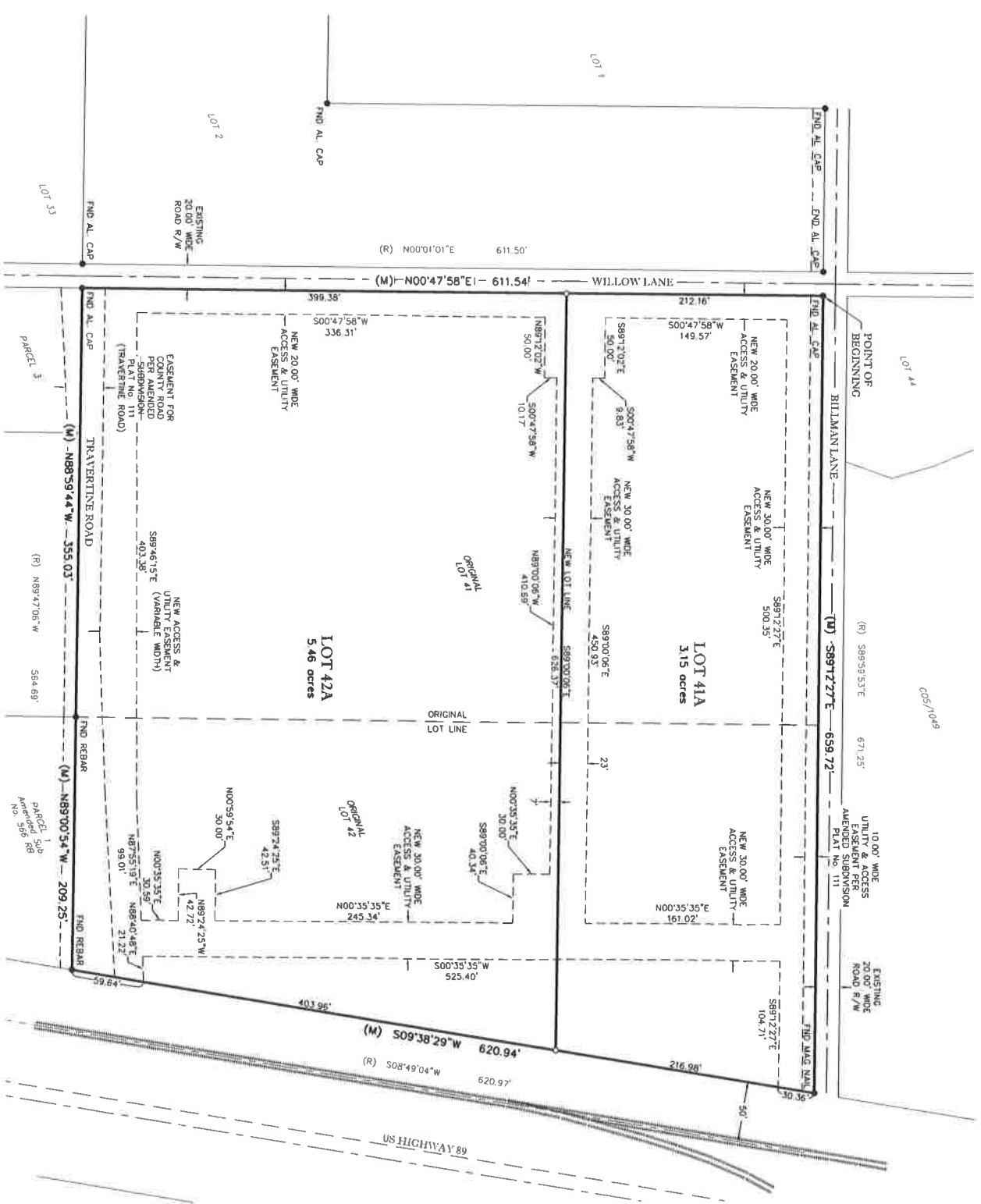
STATE OF MONTANA)
 : ss
County of Park)

On this _____ day of _____, 2016, before me, a Notary Public in and for the State of Montana, personally appeared _____ and _____, known to me to be the Chair of the City Commission and City Clerk, respectively, of the City of Livingston, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Livingston, Montana. Witness my hand and seal the day and year herein above written.

Notary Public in and for the State of Montana
Printed name: _____
Residing at: _____
My commission expires: _____

**AMENDED PLAT OF
LOT 41 AND LOT 42 OF AMENDED SUBDIVISION PLAT No. 111
LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 26,
TOWNSHIP 2 SOUTH, RANGE 9 EAST, PRINCIPAL MERIDIAN MONTANA,
CITY OF LIVINGSTON, PARK COUNTY, MONTANA**

OWNER: VADA, LLC
PURPOSE: TO REALIGN A COMMON BOUNDARY BETWEEN TWO EXISTING LOTS



Backup material for agenda item:

- C. RESOLUTION NO. 4659 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CHAIRMAN TO SIGN PERPETUAL RIGHT-OF-WAY EASEMENT WITH LIVINGSTON HOLDINGS, LLC FOR THE PURPOSES OF CONSTRUCTION, MAINTENANCE, OPERATION, SERVICE, REPAIR, AND REPLACEMENT OF SANITARY SEWERS AND WATER LINES.**

Livingston City Commission
LEGISLATIVE ACTION SUMMARY
Resolution No. 4659

Requested by: Planning Department

Date of First Consideration/Status: June 7, 2016

Purpose of Legislation: Resolution No. 4659 requests the City Commission’s authorization for the Chairman to enter into a Perpetual Right-of-Way Easement Agreement (the “Agreement”) with Livingston Holdings, LLC (“Town Pump”).

Background: Vista, LLC owns the following real property:

Lot 41A and Lot 42A of the Amended Plat of Lot 41 and Lot 42 of Amended Subdivision Plat No. 111, located in the Northeast Quarter (NE ¼) of Section 26, Township 2 South, Range 9 East, Principal Montana Meridian (the “Property”).

The Property was annexed into the corporate limits of the City of Livingston on March 10, 2015 by way of Resolution No. 4533. Except in limited circumstances that do not apply to the Property, Montana Code Annotated § 7-2-4205 requires a municipality to provide services to lands when the municipality has annexed the lands. The Property is going to be used for future development and will require city streets as well as city water and sewer service. In order to bring city water and sewer service to the Property, the necessary services will need to be run under and through lands neighboring the Property, which lands are owned by Town Pump. Town Pump will need to grant the City easements over, under, and through the Town Pump property so the City can properly construct, maintain, operate, service, repair, and replace the improvements. The City of Livingston’s administration, Town Pump, and engineers have agreed upon the terms and conditions of the proposed easements, all of which are contained in the Agreement.

Staff Recommendation: Staff recommends this resolution be approved.

Fiscal Impact: N/A

Regulatory Impact (local): N/A

Attachments: Agreement

RESOLUTION NO. 4659

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CHAIRMAN TO SIGN PERPETUAL RIGHT-OF-WAY EASEMENT WITH LIVINGSTON HOLDINGS, LLC FOR THE PURPOSES OF CONSTRUCTION, MAINTENANCE, OPERATION, SERVICE, REPAIR, AND REPLACEMENT OF SANITARY SEWERS AND WATER LINES.

WHEREAS, Vista, LLC owns the following real property that is located within the corporate limits of the City of Livingston, Montana:

Lot 41A and Lot 42A of the Amended Plat of Lot 41 and Lot 42 of Amended Subdivision Plat No. 111, located in the Northeast Quarter (NE ¼) of Section 26, Township 2 South, Range 9 East, Principal Montana Meridian (the “Property”); and

WHEREAS, the Property was annexed into the corporate limits of the City of Livingston on March 10, 2015 by way of Resolution No. 4533; and

WHEREAS, except in limited circumstances that do not apply to the Property, Montana Code Annotated § 7-2-4205 requires a municipality to provide services to lands when the municipality has annexed the lands; and

WHEREAS, the Property is going to be used for future development and will require city streets as well as city water and sewer service; and

WHEREAS, in order to bring city water and sewer service to the Property, the necessary services will need to be run under and through lands neighboring the Property, which lands are owned by Livingston Holdings, LLC (“Town Pump”); and

WHEREAS, Town Pump will need to grant the City easements over, under, and through the Town Pump Property so the City can properly construct, maintain, operate, service, repair, and replace the improvements; and

WHEREAS, the City of Livingston’s administration, Town Pump, and engineers have agreed upon the terms and conditions of the proposed easements, all of which are contained in the Perpetual Right-of-Way Easement Agreement (the “Agreement”) attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the Chairman is ready and willing to enter into the Agreement upon receiving

**Resolution No. 4659
Authorizing the Chairman to Enter Into Perpetual Right-of-Way Easement with Town Pump, Inc.
Page 1**

authorization from the Livingston City Commission.

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

The Chairman is hereby authorized to enter into the Agreement with Town Pump, a copy of which document is attached hereto and incorporated herein as Exhibit A.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this _____ day of June, 2016.

JAMES BENNETT - Chairman

ATTEST:

APPROVED AS TO FORM:

LISA HARRELD
Recording Secretary

ERIK COATE
City Attorney

Return to:
City Clerk
City of Livingston
414 E. Callender St.
Livingston, MT 59047

PERPETUAL RIGHT-OF-WAY EASEMENT

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, on this 13th day of May, 2016, the undersigned, **LIVINGSTON HOLDINGS LLC**, a Montana Limited Liability Company, of 600 S. Main Street, Butte, Montana 59701 hereinafter called "Grantor," hereby grants and conveys unto the **CITY OF LIVINGSTON**, a municipal corporation and political subdivision of the State of Montana, of 414 E. Callender Street, Livingston, Montana 59047 hereinafter called "Grantee," a perpetual non-exclusive easement and right-of-way, ten (10) feet in width, over, across, under, and through the tract of real property in Park County, Montana, legally described on **Exhibit "A"** attached hereto (the "Easement Corridor").

The perpetual easement to Grantee is for the purpose of constructing, reconstructing, maintaining, operating, servicing, repairing, and replacing city streets, sanitary sewers and water lines over, across, under, and through the Easement Corridor as depicted on Exhibit A attached hereto and incorporated herein by this reference; together with the right of ingress and egress for the purpose of constructing, reconstructing, maintaining, operating, servicing, repairing, and replacing said sanitary sewers and appurtenances; and adding additional sanitary sewer lines.

Grantor shall continue to have the right to use and enjoy the above-described property, except as to the rights herein granted, subject to the following restrictions:

1. Grantor and its successors agree not to construct, nor cause to be constructed within the easement right-of-way, any type of building or structure such as, but not limited to, houses, garages, sheds, kennels, fences, or any other fixed objects of any kind, shape or form without Grantee's express consent. Notwithstanding the foregoing, Grantor is expressly allowed to a) pave and use the easement right of way for any pedestrian and vehicular ingress and egress such as drive aisles, drive ways, sidewalk, cross walk, and parking areas, and b) to install landscaping and landscaping facilities within the easement right-of-way, such as irrigation, berms, bushes, shrubs, hedges, grass, or any other facilities or plantings of a similar nature that will be operated and maintained by Grantor. Trees and other deep-rooted shrubs such as lilac shall not be planted within the easement right-of- way.
2. Grantor agrees that authorized representatives of the City of Livingston can freely travel within the Easement Corridor with their equipment in the performance of their duties. Provided, however, in exercising its rights under this easement, Grantee shall undertake all actions necessary to minimize any disruption to Grantor's business operations.

3. Grantor agrees to obtain the permission of the Public Works Department or Grantee prior to removing any fill dirt within the Easement Corridor and, in addition, in the event such permission is granted, the Grantor agrees to perform any work necessary to modify the existing sanitary sewers and appurtenances, which work may be required prior to removing any fill dirt within the Easement Corridor; and all such work shall be done at the Grantor's expense and without expense to the City.
4. The Restrictions, Covenants, and Hold Harmless Agreements herein contained shall attach to and run with the land and shall bind the parties hereto and all persons claiming thereunder.
5. Grantee agrees, that when the easement rights are exercised, any impact to the surface conditions within the easement, including future installation of pavement and landscaping, shall be reclaimed by returning the property to its condition immediately preceding disruption, with the exception of re-planting trees within the easement right-of-way.
6. As consideration for this Easement, Grantee agrees (1) to construct a 6" stub-out of the sewer line for future use by Grantor at approximately station 3 + 50, as depicted on Willow Drive Sewer P&P attached as Exhibit "B" hereto, and (2) not to charge Grantor, its successors, or its affiliates a connection fee for future hook-up to the line.

MISCELLANEOUS PROVISIONS

1. **Run with the land; Binding Effect.** The easements shall be perpetual and shall run with the land for the benefit of Grantee and Grantee's successors and assigns and shall be binding upon the heirs, successors and assigns of the respective parties hereto.
2. **Indemnification.** Grantee shall defend, indemnify and hold harmless Grantor, its shareholders, officers, directors, agents, members and employees, and their respective heirs, personal and legal representatives, guardians, successors and assigns, from and against any and all claims, threats, liabilities, taxes, interest, fines, penalties, suits, actions, proceedings, demands, damages, losses, costs and expenses (including attorneys' and experts' fees and court costs) of every kind and nature arising out of, resulting from, or in connection with the easements granted herein.
3. **Entire Agreement; Merger of Previous Understanding.** This Agreement embodies and constitutes the entire understanding between the parties hereto with respect to the grant of easements herein, and all prior or contemporaneous negotiations, communications, conversations, understandings and agreements had between the parties hereto, oral or written, are merged in this Agreement.
4. **Signing Authority & Entity Approval.** If signing on behalf of a corporation or other entity, the undersigned persons represent that they do so under the authority duly granted them by the Members or Board of Directors of their respective entities and that the terms of this Agreement have been approved by the governing bodies of such respective entities.
5. **Modification.** This Agreement may not be amended, modified or changed except by written instrument signed by Grantor and Grantee, or their heirs, successors or assigns.

- 6. **Construction.** If language in all parts of this Agreement shall be in all cases construed simply according to its fair meaning and not strictly for or against any of the parties hereto. Headings and the beginning of sections and subsections of the Agreement are solely for the convenience of the parties and are not a part of this Agreement. When required by the context, the words "Grantor" and "Grantee" shall include the respective heirs, successors and assigns, if any, of them.
- 7. **Governing Law and Jurisdiction.** This Agreement shall be governed by and constructed in accordance with the laws of Montana. All lawsuits filed to interpret or enforce the terms and conditions of this Agreement must be filed in the 6th Judicial District, Park County, Montana.
- 8. **Recordation.** The parties agree that upon mutual execution, this Agreement shall be recorded in the office of the Clerk and Recorder of Park County, Montana.
- 9. **Severance.** Should any portion of this Agreement be declared invalid and unenforceable then such portion shall be deemed to be severed from this Agreement and shall not affect the remainder of this Agreement.
- 10. **Attorney Fees.** In the event it becomes necessary for a party to enforce any of the provisions of the Agreement through legal action, it is understood and agreed that the prevailing party shall recover said party's reasonable attorney's fee, together with all costs and expenses pertaining thereto.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Grant of Perpetual Right of Way Easement on the date written above.

GRANTOR: **LIVINGSTON HOLDINGS LLC,**
 a Montana limited liability company,
 Owner of Lot 44 of C.O.S. No. 1049

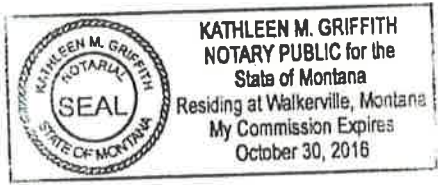
By: *Daniel J. Kenneally*
 Its: *Manager*

STATE OF MONTANA)
 : ss
 County of Silver Bow)

On this 17th day of May, 2016, before me, a Notary Public in and for the State of Montana, personally appeared Daniel J. Kenneally, known to me to be the person who signed the foregoing instrument as Manager of Livingston Holdings LLC, a Montana limited liability company, and who acknowledged to me that he executed the same.

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

Kathleen M. Griffith
Notary Public in and for the State of Montana
Printed name: Kathleen M. Griffith
Residing at: Walkerville
My commission expires: 10/30/2016



GRANTEE: CITY OF LIVINGSTON

By: _____
Chair, City Commission

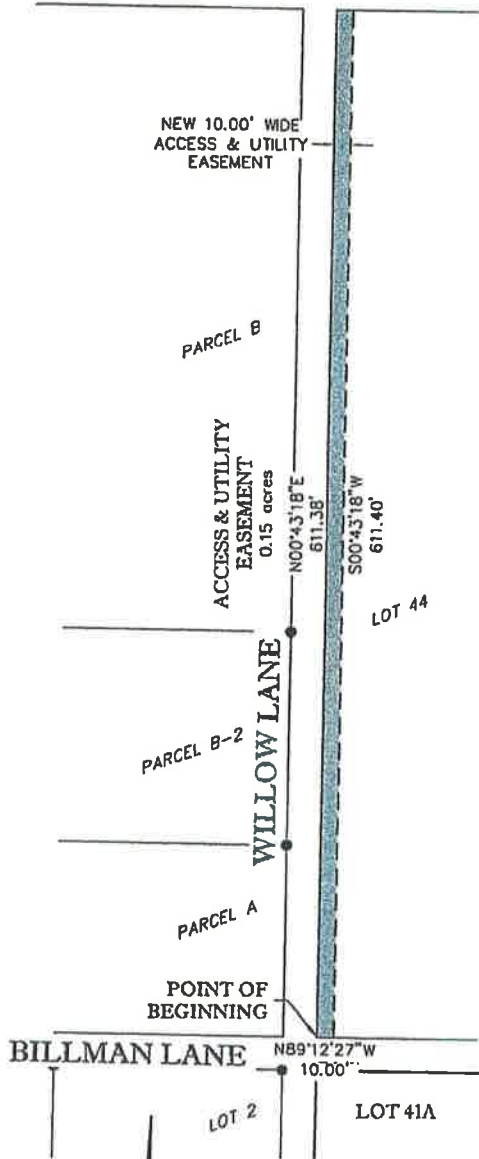
Attest: _____
City Clerk

STATE OF MONTANA)
 : ss
County of Park)

On this _____ day of _____, 2016, before me, a Notary Public in and for the State of Montana, personally appeared _____ and _____, known to me to be the Chair of the City Commission and City Clerk, respectively, of the City of Livingston, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Livingston, Montana. Witness my hand and seal the day and year herein above written.

Notary Public in and for the State of Montana
Printed name: _____
Residing at: _____
My commission expires: _____

EXHIBIT
ACCESS AND UTILITY EASEMENT
 BEING A PORTION OF LOT 44 OF CERTIFICATE OF SURVEY No. 1049,
 LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 23, AND
 THE NORTHEAST ONE-QUARTER OF SECTION 26,
 TOWNSHIP 2 SOUTH, RANGE 9 EAST, PRINCIPAL MERIDIAN MONTANA,
 CITY OF LIVINGSTON, PARK COUNTY, MONTANA



LEGAL DESCRIPTION

An Access and Utility Easement, being a portion of Lot 44 of Certificate of Survey No. 1049, located in the Southeast One-Quarter of Section 23 and the Northeast One-Quarter of Section 26, Township 2 South, Range 9 East, Principal Meridian, City of Livingston, Park County, Montana and be more particularly described as follows:

Beginning at a point being the Southwest Corner of said Lot 44, said point being on the east line of Willow Lane Right-of-Way;
 thence North 00°43'18" East along the east line of said Willow Lane Right-of-Way, a distance of 611.38 feet to the Northwest Corner of said Lot 44;
 thence South 89°18'13" East along the north line of said Lot 44, a distance of 10.00 feet;
 thence South 00°43'18" West a distance of 611.40 feet, to a point on the north line of Billman Lane Right-of-Way;
 thence North 89°12'27" West along the north line of said Billman Lane Right-of-Way, a distance of 10.00 feet to the point of beginning;

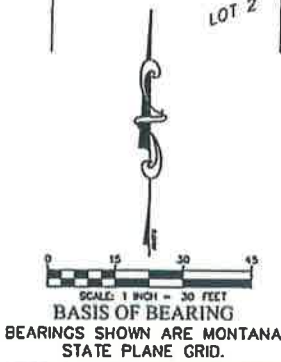
Said Access and Utility Easement being 0.14 acres along with and subject to any existing easements.

CERTIFICATE OF SURVEYOR

I, the undersigned, Gregory L. Finck, Professional Land Surveyor, do hereby certify that this easement was surveyed under my direct supervision as shown on the accompanying exhibit and as described.

DATED this _____ day of _____, 20____

Gregory L. Finck
 Montana Registration No. 13174LS



1/4	Sec.	T.	R.
☐	23	25	9E
☐	26	25	9E

50 DISCOVERY DRIVE
 BOZEMAN, MT 59716
 PHONE (406) 552-4411
 FAX (406) 552-4479
 www.alliedsurveying.com

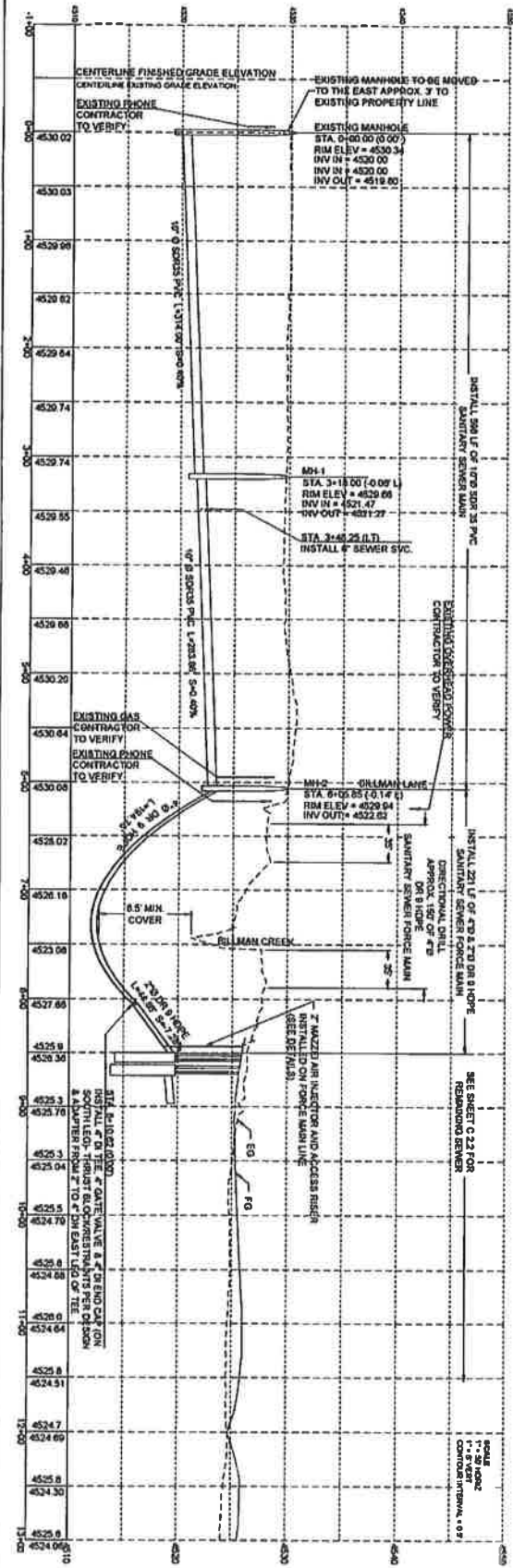
Civil Engineering
 Geotechnical Engineering
 Land Surveying



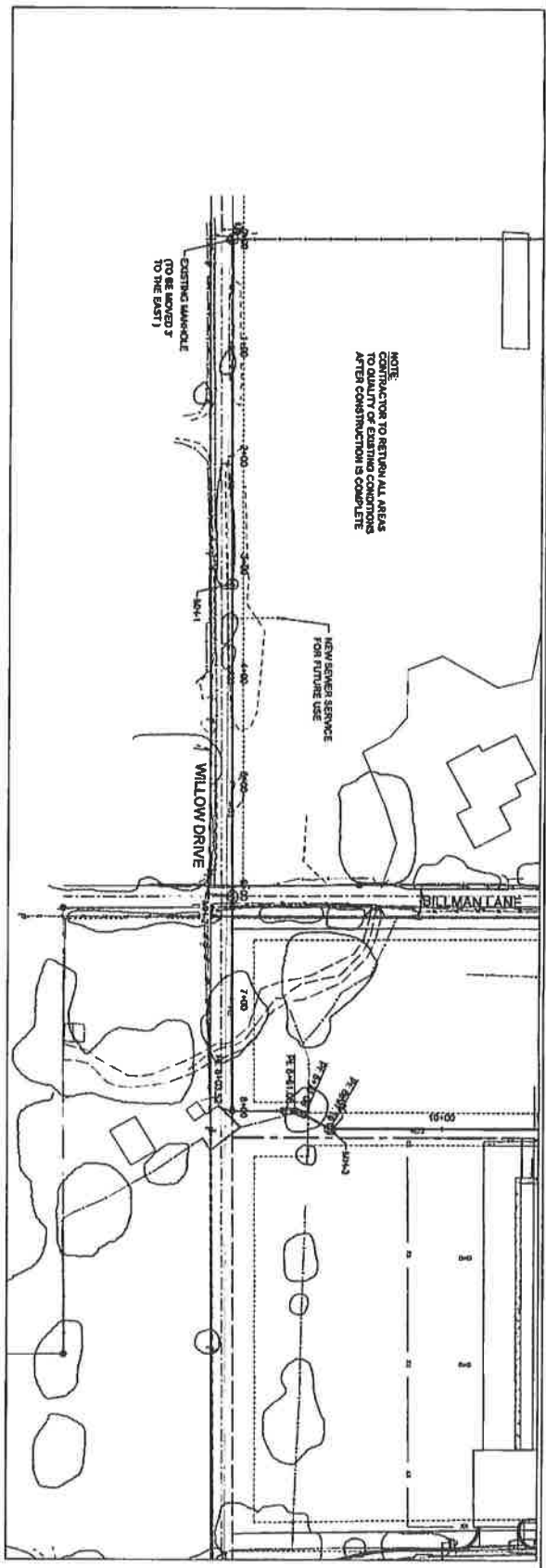
PROJECT SUPERVISOR: GLF	SH/RT
DRAWN BY: RWB	1 of 1
REVIEWED BY: GLF	PROJECT No. 13-100
DATE: 03/28/16	Survey\2-100.dwg

P:\2015\15-196 Livingston Commercial\CAD Survey\2-BND.dwg Mar 25, 2016 - 3:28pm

CAD FILE M1152354.dwg
 May 04, 2014, 1:05pm



WILLOW DRIVE SEWER P&P
 STA. 0+00 TO STA. 8+10.62



SHEET TITLE
 WILLOW DRIVE SEWER
 P&P
 DESIGN BY
 RCM
 SCALE
 AS SHOWN
 2.1

PROJECT NUMBER
 152354
 DATE
 MAY 4, 2014

REVISIONS
 NO. DATE
 1
 2/27/14
 2
 3/11/14
 3
 4/15/14
 4
 5/4/14

DESIGNED BY
 RCM
 CHECKED BY
 RCM
 DATE
 5/4/14

PROJECT NUMBER
 152354

DATE
 MAY 4, 2014

SCALE
 AS SHOWN

PROJECT NUMBER
 152354

DATE
 MAY 4, 2014

SCALE
 AS SHOWN

PROJECT NUMBER
 152354

DATE
 MAY 4, 2014

SCALE
 AS SHOWN

PROJECT NUMBER
 152354

DATE
 MAY 4, 2014

SCALE
 AS SHOWN

HYDRAPLAN
 200 N 7th Ave, Ste 1
 Bloomington, WI 53010
 Tel: (262) 332-2200
 Fax: (262) 332-2201
 www.hydraplan.com

LIST L.L.C.
 1274 N. 15th Ave
 Rockman, WI 53151

LIVINGSTON
 COMMERCIAL SITE
 INFRASTRUCTURE
 IMPROVEMENTS
 PARK COUNTY, WI

Backup material for agenda item:

- D. RESOLUTION NO. 4660 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A CONSTRUCTION AND MAINTENANCE AGREEMENT WITH MONTANA RAIL LINK, INC. ("MRL") FOR A PUBLIC ROADWAY CROSSING NEAR TRAVERTINE LANE IN LIVINGSTON, MONTANA.**

Livingston City Commission
LEGISLATIVE ACTION SUMMARY
Resolution No. 4660

Requested by: Planning Department

Date of First Consideration/Status: June 7, 2016

Purpose of Legislation: Resolution No. 4660 requests the City Commission’s authorization for the City Manager to enter into a Construction and Maintenance Agreement (the “Agreement”) with Montana Rail Link, Inc. (“MRL”) for a public roadway crossing near Travertine Lane.

Background: Vista, LLC owns the following real property:

Lot 41A and Lot 42A of the Amended Plat of Lot 41 and Lot 42 of Amended Subdivision Plat No. 111, located in the Northeast Quarter (NE ¼) of Section 26, Township 2 South, Range 9 East, Principal Montana Meridian (the “Property”).

The Property was annexed into the corporate limits of the City of Livingston on March 10, 2015 by way of Resolution No. 4533. Vista intends to obtain all entitlements and services necessary to use the Property for commercial purposes, including but not limited to the right for traffic to cross over and through lands owned and leased by third parties. For traffic to gain access to the Property, it will be required to cross over and through railroad right-of-way owned by BNSF, which right-of-way is currently leased to MRL. The roadway that will cross over and through the aforementioned right-of-way will be a public roadway owned and maintained by the City of Livingston and will require an at-grade crossing. MRL is requiring the City of Livingston to enter into a Construction and Maintenance Agreement that sets forth and describes the parties’ respective rights and duties concerning the proposed at-grade crossing.

Staff Recommendation: Staff recommends this resolution be approved.

Fiscal Impact: See attached.

Regulatory Impact (local): N/A

Attachments: Agreement

RESOLUTION NO. 4660

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A CONSTRUCTION AND MAINTENANCE AGREEMENT WITH MONTANA RAIL LINK, INC. (“MRL”) FOR A PUBLIC ROADWAY CROSSING NEAR TRAVERTINE LANE IN LIVINGSTON, MONTANA.

WHEREAS, Vista, LLC (“Vista”) owns the following real property that is located within the corporate limits of the City of Livingston, Montana:

Lot 41A and Lot 42A of the Amended Plat of Lot 41 and Lot 42 of Amended Subdivision Plat No. 111, located in the Northeast Quarter (NE ¼) of Section 26, Township 2 South, Range 9 East, Principal Montana Meridian (the “Property”);
and

WHEREAS, the Property was annexed into the corporate limits of the City of Livingston on March 10, 2015 by way of Resolution No. 4533; and

WHEREAS, Vista intends to obtain all entitlements and services necessary to use the Property for commercial purposes, including but not limited to the right for traffic to cross over and through lands owned and leased by third parties; and

WHEREAS, for traffic to gain access to the Property, it will be required to cross over and through railroad right-of-way owned by BNSF, which right-of-way is currently leased to MRL; and

WHEREAS, the roadway that will cross over and through the aforementioned right-of-way will be a public roadway owned and maintained by the City of Livingston and will require an at-grade crossing; and

WHEREAS, MRL is requiring the City of Livingston to enter into a Construction and Maintenance Agreement (the “Agreement”) that sets forth and describes the parties’ respective rights and duties concerning the proposed at-grade crossing, which Agreement is attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the City Manager is ready and willing to sign the Agreement upon obtaining authorization from the Livingston City Commission.

Resolution No. 4660

Authorizing City Manager to Sign Construction and Maintenance Agreement with MRL for Public Roadway Crossing Near Travertine Lane in Livingston, Montana

Page 1

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 Agreement with MRL, a copy of which document is attached hereto and incorporated herein as Exhibit A.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this _____ day of June, 2016.

JAMES BENNETT - Chairman

ATTEST:

APPROVED AS TO FORM:

LISA HARRELD
Recording Secretary

ERIK COATE
City Attorney

CITY OF LIVINGSTON FISCAL NOTE

Ordinance # _____
 Resolution # _____ 4660

Fiscal Analysis Assumptions

- The improvement of the railroad crossing is expected to cost \$73,985. These costs will be the responsibility of the developer of the property.
- The maintenance of the railroad crossing will be the responsibility of the City of Livingston. The impact for the maintenance is not anticipated to be material.

<input checked="" type="checkbox"/> Budgeted Expenditure	<input type="checkbox"/> Unbudgeted Expenditure:
	<input type="checkbox"/> Unanticipated Revenue
	<input type="checkbox"/> Reserves
	<input type="checkbox"/> Other Line Item Savings

<u>Costs by Object</u>	<u>FY 17</u>	<u>FY 18</u>	<u>FY 19</u>
Personnel			
Operating	\$ -	\$ -	\$ -
Capital			
Debt Service			
 Total Costs	 <u>\$ -</u>	 <u>\$ -</u>	 <u>\$ -</u>

<u>Funding Source</u>	<u>FY 17</u>	<u>FY 18</u>	<u>FY 19</u>
Fund Name Street Maintenance District	\$ -	\$ -	\$ -
Fund Name			
Fund Name			
 Total	 <u>\$ -</u>	 <u>\$ -</u>	 <u>\$ -</u>

Signature Jessie R. Hogg
 Date 6/1/2016

**CONSTRUCTION AND MAINTENANCE AGREEMENT
FOR A PUBLIC ROADWAY CROSSING NEAR LIVINGSTON, MONTANA
TRAVERTINE LANE (DOT# 090 637 M)**

RAILROAD 2ND SUB

RAILROAD MILEPOST 1.66 ON TIMBER SPUR

AGREEMENT, made this ____ day of _____, 2016, between the CITY OF LIVINGSTON, a political subdivision of the State of Montana, hereinafter referred to as "CITY", and MONTANA RAIL LINK, INC., a Montana Corporation, hereinafter referred to as "RAILROAD".

WHEREAS, the CITY is proposing to undertake a project, which includes construction and maintenance of a roadway on, along and across RAILROAD right-of-way located in Park County, Montana, as is more particularly shown on map marked as Exhibit "A" attached;

WHEREAS, the parties want this project to be constructed in accordance with plans and specifications to be prepared by CITY;

WHEREAS, the CITY will undertake the construction of said project and the RAILROAD will consent to the construction of said project upon the terms and conditions hereinafter stated and will receive no net benefit.

NOW, THEREFORE, in consideration of the premises herein contained, the parties agree:

I

The RAILROAD shall recommend to the BNSF Railway Company (BNSF) that BNSF grant to CITY, by separate instrument, an easement on its operating right-of-way, as shown on the attached Exhibit "A", for the construction, maintenance and operation of a roadway.

II

The CITY will construct or cause to construct, and thereafter own and maintain the roadway facility in compliance with plans and specifications developed by the CITY. Nothing provided in this agreement will be construed or deemed to be ratification or an adoption by the RAILROAD of either or both said plans and specifications as its own.

The CITY will present the attached Exhibit "C", contractor requirements for work on the right-of-way of the RAILROAD, to its contractor. The CITY's contractor will comply with all aspects of this attachment. There will be no equipment, manpower or work on the right-of-way of the RAILROAD prior to approval by the RAILROAD. **The CITY's contractor(s) will telephone the RAILROAD's Communication Network Control Center at (800) 338-4750** (a 24-hour number), and Utilities Underground Location Center **(800) 424-5555**, to determine if underground utilities or communication facilities are buried anywhere in the area.

Should it become necessary for the RAILROAD to obtain the services of a consultant engineer or a contractor after this agreement is completed, and due to any exigency of the

RAILROAD and the project, the CITY and the RAILROAD will mutually agree, in writing, as to the area of need and the RAILROAD's selection of a consultant or contractor.

III

The CITY and the RAILROAD will perform various items of work as follows:

PART A

WORK TO BE PERFORMED BY THE CITY OR ITS CONTRACTOR AT CITY EXPENSE:

1. Except as otherwise herein provided, furnish all plans, engineering, supervision, labor, material, supplies and equipment necessary for construction of the project, complete in all details.
2. Any work or modification which, under this contract, may be performed by the contractor will nevertheless be the obligation of the CITY, and the RAILROAD will be entitled to look to the CITY for full performance thereof.

PART B

WORK TO BE PERFORMED BY THE RAILROAD AT THE CITY'S EXPENSE:

1. Provide railroad flagging protection during construction as deemed necessary by the RAILROAD.
2. Prepare the supporting track structure and install a 57 ft long concrete crossing surface on Travertine Lane over the RAILROAD's industrial spur track
3. Install new railroad crossing warning signs (cross bucks)

IV

All work to be done by the CITY or its contractor on the RAILROAD's right-of-way, will be done in a manner satisfactory to the RAILROAD and will be performed so as not to unnecessarily interfere with the movement of trains or traffic upon the track. The CITY will require its contractor to take precautions to avoid damage to or interfere with the RAILROAD's track or trains and to notify the RAILROAD, as per Exhibit "C," whenever the contractor is about to perform work on, or adjacent to its track to enable the RAILROAD to furnish flagging and other necessary protective services and devices to ensure the safety of railway operations. The RAILROAD can furnish such flagging and protective services and devices that, in its judgment, are necessary to ensure the safety of railway operations, and the CITY will reimburse the RAILROAD for the cost thereof. Whenever safeguarding of the trains or traffic of the RAILROAD is mentioned in this agreement, it is intended to include all permitted users of the RAILROAD's track.

The CITY, its contractors and subcontractors shall plan, schedule, coordinate and conduct all work so as not to cause any delay to any train.

V

The CITY will reimburse the RAILROAD for the work it performs pursuant to this agreement. The RAILROAD may assign any receivables due under this Agreement, provided, however, such assignment will not relieve the assignor of any of its rights or obligations under this agreement.

The estimated cost of work, except flagging, to be performed under this agreement by the RAILROAD's forces at the expense of the CITY is shown on detailed estimate attached as Exhibit "B" and made a part of this agreement.

The RAILROAD has reviewed and inspected the materials in the field prior to signing this agreement. The salvage value of the materials, if any, to be retained by the RAILROAD is shown on the attached Exhibit "B." The RAILROAD will dispose of all scrap from the railroad's work covered in this agreement at CITY expense.

The RAILROAD may submit progress bills to the CITY during the progress of the work included in this agreement for the actual cost of services and expenses incurred by the RAILROAD. The CITY will reimburse the RAILROAD for the actual cost and expense incurred in connection with said work.

It is further agreed that the final and complete billing of all incurred costs will be made by the RAILROAD at the earliest practical date and that a final audit and review will be made by the CITY. Records are to be available to the CITY or their authorized representatives for audit during the contract period and for a period of three (3) years from the date of final payment.

VI

All contracts between the CITY and a contractor, for the construction provided for, or maintenance work on the roadway within the RAILROAD right-of-way, will require the contractor to indemnify, defend, and hold harmless the RAILROAD and any other railroad company occupying or using the RAILROAD's right-of-way, or line of RAILROAD, against all loss, liability and damage including attorney's fees arising from activities of the contractor, its forces or any of its subcontractors or agents, and will further provide that the contractor will carry insurance of the kind and amount with limits and endorsements hereinafter specified:

A. Commercial General Liability Insurance

Each Occurrence	Not less than \$2,000,000
Personal Injury & Advertising Injury	Not less than \$1,000,000
General Aggregate	Not less than \$2,000,000
Products – Completed OPS Aggregate	Not less than \$2,000,000

**RAILROAD must be listed as additional insured
Commercial General Liability policy shall be endorsed "Contractual
Liability – Railroads" ISO form CG 2417 or equivalent**

If the CITY, its contractor, subcontractors, or agents, in the performance of the work herein provided for or by the failure to do or perform anything for which it is responsible under the provisions hereof, shall damage or destroy any property of the RAILROAD, such damage or destruction shall be corrected by the CITY in the event its contractor or the insurance carriers fail to repair or restore the same.

VII

Upon completion of the work herein stated, the CITY will require its contractor to leave the RAILROAD right-of-way in a condition satisfactory to the RAILROAD. This determination shall be made by the RAILROAD’s Chief Engineer or his designee.

VIII

The CITY agrees that in removing snow from said roadway, that the CITY will perform such snow removal in a manner as not to deposit the snow or debris on the roadbed or tracks of the RAILROAD. Any snow or debris deposited on the roadbed or track sections by actions of the CITY will be removed by the RAILROAD with such costs of removal billed against the CITY. The RAILROAD agrees to notify the CITY of any ongoing problem in this area.

IX

The CITY will own and maintain the roadway and all appurtenances thereto. The CITY will be responsible for all future maintenance, repair, improvement, modification or replacement, as needed, based upon prevailing warrants, guidelines and conditions.

The CITY agrees that it will do nothing and permit nothing to be done in the maintenance of the roadway which will interfere with or endanger facilities of the RAILROAD.

The RAILROAD, at its own cost and expense, will maintain the concrete crossing surface and railroad crossing warning signs (cross bucks) in accordance with the laws and administrative rules of the State of Montana, provided, however, that the RAILROAD shall be entitled to receive any contribution toward the cost of such maintenance as may be now or hereafter be made available by reason of any law, ordinance, regulation, order, grant, or by any other means or sources.

X

In the event said roadway shall, at any time, cease to be used by the public or otherwise become vacated or abandoned, the rights and benefits of the CITY under this agreement shall immediately cease, and the CITY shall remove said roadway at its own cost and expense. To facilitate the CITY’s removal of the roadway, the RAILROAD will issue to the CITY, at no cost or expense, a permit to accomplish said removal. If after a reasonable time the CITY has not removed the facility, the RAILROAD, after providing the CITY a minimum of 60 days prior notification, may remove said facility at the expense of the CITY.

XI

All notices, billings, payments, and other required communications ("Notices") to the Parties shall be in writing, and shall be addressed respectively as follows:

If to **CITY**: CITY OF LIVINGSTON
Office of City Manager
414 East Callender Street
Livingston, MT 59047
Telephone (406) 823-6000

If to **RAILROAD**: MONTANA RAIL LINK INC.
Office of the Chief Engineer
P.O. Box 16390
Missoula, MT 59808-6390
Telephone (406) 523-1440

All notices shall be given (i) by personal delivery to the Parties, or (ii) by electronic communication, with a confirmation sent by mail, or (iii) by mail. All notices shall be effective and shall be deemed delivered (i) if by personal delivery on the date of delivery if delivered during normal business hours, and, if not delivered during normal business hours, on the next business day following delivery, (ii) if by electronic communication on the next business day following receipt of the electronic communication, or (iii) if solely by mail on the next business day after actual receipt. Any Party may change its address by notice to the other Parties.

XII

This agreement will be binding on the parties hereto, their successors and assigns.

MONTANA RAIL LINK, INC. (RAILROAD)

By: _____

Title: _____

CITY OF LIVINGSTON (CITY)

By: _____

Title: _____

**Exhibit C - Requirements for Contractors, Public Employees and Others
(hereinafter referred to as Contractor) when working on the Railroad's
Right of Way**

(Note – these requirements **do not** apply to railroad workers and/or contractors or firms working for the Railroad). Any railroad worker, contractor, or firm doing work for the Railroad shall comply with the terms and conditions of their contract.)

1.01 General

1.01.01 The Contractor shall plan, schedule and conduct all work activities so as not to interfere with the movement of any trains on Railroad Property.

1.01.02 The Contractor's right to enter the Railroad's Property is subject to the absolute right of the Railroad to cause the Contractor's work on the Railroad's Property to cease if, in the opinion of the Railroad, Contractor's activities create a hazard to the Railroad's Property, employees, and/or operations.

1.01.03 The Contractor is responsible for determining and complying with all Federal, State and Local Governmental laws and regulations, including, but not limited to, environmental, health and safety. The Contractor shall be responsible for and indemnify and save the Railroad harmless from all fines or penalties imposed or assessed by Federal, State and Local Governmental Agencies against the Railroad which arise out of Contractor's work.

1.01.04 For false work, above any tracks or any excavations located, whichever is greater, within twenty-five (25) feet of the nearest track or intersecting a slope from the plane of the top of rail on a 1 1/2 horizontal to 1 vertical slope beginning at eleven (11) feet from center line of the nearest track, both measured perpendicular to center line of track, the Contractor shall furnish to the Railroad five sets of working drawings showing details of construction affecting Railroad Property and tracks. The working drawings shall include the proposed method of installation and removal of false work, shoring or cribbing not included in the contract plans and two sets of structural calculations of any false work, shoring or cribbing. All calculations shall take into consideration railroad surcharge loading and shall be designed to meet American Railway Engineering and Maintenance-of-Way Association (previously known as American Railway Engineering Association) Coopers E-80 live loading standard. All plans and drawings must be approved by the Railroad. The Contractor shall be required to use lifting devices, such as cranes and/or winches, to place or to remove any false work over the Railroad's tracks. In no case shall the Contractor be relieved of responsibility for results obtained by the implementation of said approved plans.

1.01.05 Subject to the movement of the Railroad's trains, the Railroad will cooperate with the Contractor such that the work may be handled and performed in an efficient manner. The Contractor shall have no claim whatsoever for any type of damages in the event his work is delayed by the Railroad.

1.01.06 The Contractor shall take protective measures as are necessary to keep the Railroad's facilities, including track ballast, free of sand, debris, and other foreign objects and materials resulting from his operations. Any damage to Railroad facilities resulting from Contractor's operations will be repaired or replaced by the Railroad and the cost of such repairs or replacement shall be paid for by the Contractor.

1.01.07 The Contractor shall abide by the following clearances during construction,

25'-0" Horizontally from centerline of the nearest track.

23'-0" Vertically above top of rail

1.01.08 The Contractor shall not move any equipment or materials across the Railroad's track unless at a public road crossings, or approved temporary crossing and permission has been obtained from the Railroad.

1.01.09 Discharge, release or spill on Railroad Property of any hazardous substances in excess of a reportable quantity or any hazardous waste is prohibited and Contractor shall immediately notify the Railroad's Chief Dispatcher at 1(800) 338-4750, of any discharge, release or spills. Contractor shall not allow Railroad Property to become a treatment or storage facility as those terms are defined in the Resource Conservation and Recovery Act or any state analogue.

1.01.10 The Contractor, upon completion of the work covered by this contract, shall promptly remove from the Railroad's Property all of Contractor's tools, equipment, implements and other materials, whether brought upon said property by said Contractor or any subcontractor, employee or agent of Contractor or of any subcontractor, and shall cause the Railroad's Property to be left in a condition acceptable to the Railroad's representative.

1.02 Protection of Railroad Facilities and Railroad Flagger Services:

1.02.01 The Contractor must provide notification to the Railroad's local track supervisor a minimum of 48 hours prior to entry upon the Railroad's right of way. For this project the local supervisor is **Mr. Buck Tripp in Helena, MT who can be reached at 406-447-2353 or cell number 406-459-4400.**

1.02.02 For work within 25 feet of any track, employees and agents of the Contractor must attend a safety job briefing to be held by the local track supervisor or his representative. **With very few exceptions, all work within 25 feet of any track, must be performed under the direction and supervision of a Railroad flagman.** All costs associated with providing a Railroad flagman will be the responsibility of the Contractor. A safety job briefing must be held with the Railroad's representative whenever conditions, procedures or responsibilities change. At a minimum, one job briefing will be held each day before the start of work.

1.03 Contractor Safety Requirements

1.03.01 Any Contractor employee, its subcontractor's employee, agents or invites under suspicion of being under the influence of drugs or alcohol, or in the possession of same, will be removed from the Railroad's Property and subsequently released to the custody of a representative of the Contractor. Future access to the Railroad's Property by that employee will be denied.

1.03.02 All persons are prohibited from having pocketknives with blades in excess of three (3) inches, firearms or other deadly weapons in their possession while working on Railroad Property.

1.03.03 All personnel protective equipment used on Railroad Property shall meet applicable OSHA and ANSI specifications. Railroad personnel protective equipment requirements are; a) safety glasses with side shields, b) hard hats, c) safety shoes: hardened toe, above-the-ankle lace-up with a defined heel and d) high visibility retro-reflective orange vests as required by the Railroad's representative in charge of the project. Hearing protection, fall protection and respirators will be worn as required by State and Federal regulations.

1.03.04 The Contractor shall not pile or store any materials, machinery or equipment closer than 25'-0" to the centerline of the nearest Railroad track. At highway/rail at-grade crossings, materials, machinery or equipment shall not be stored or left temporarily which interferes with the sight distances of motorists approaching the crossing. Prior to beginning work, the Contractor will establish a storage area with concurrence of the Railroad's representative.

1.03.05 Machines or vehicles must not be left unattended with the engine running. Parked machines or equipment must be in gear with brakes set and, if equipped with blade, pan or bucket, they must be lowered to the ground. All machinery and equipment left unattended on Railroad Property must be left inoperable and secured against movement.

1.03.06 Workers must not create and leave any conditions at the work site that would interfere with water drainage. Any work performed over water shall meet all Federal, State and Local regulations.

1.04 Excavation

1.04.01 Before excavating, it must be ascertained by the Contractor if there are any underground pipe lines, electric wires, or cables, including fiber optic cable systems, that either cross or run parallel with the track and are located within the project's work area. Excavating on Railroad Property could result in damage to buried cables resulting in delay to Railroad traffic, including disruption of service to users resulting in business interruptions involving loss of revenue and profits. Before any excavation commences, the Contractor must contact the Railroad's Signal

Supervisor and Roadmaster. All underground and overhead wires must be considered HIGH VOLTAGE and dangerous until verified with the company having ownership of the line. It is also the Contractor's responsibility to notify any other companies that have underground utilities in the area and arrange for the location of all underground utilities before excavating.

1.04.02 The Contractor must cease all work and the Railroad must be notified immediately before continuing excavation in the area if unexpected obstructions are encountered. If the obstruction is a utility, and the owner of the utility can be identified, then the owner should also be notified immediately. If there is any doubt about the location of underground cables or lines of any kind, no work will be performed until the exact location has been determined. There will be no exceptions to these instructions.

1.04.03 All excavations shall be conducted in compliance with applicable OSHA regulations, and regardless of depth, shall be shored where there is any danger to tracks, structures or personnel.

1.04.04 Any excavations, holes or trenches on Railroad Property must be covered, guarded and/or protected when not being worked on. When leaving work site areas at night and over weekends, all areas must be secured and left in a condition that will ensure that Railroad employees and other personnel who may be working or passing through the area are protected from all hazards. All excavations must be back filled as soon as possible.

1.05 Hazardous Waste, Substances and Material Reporting

1.05.01 If Contractor discovers any hazardous waste, hazardous substance, petroleum or other deleterious material, including but not limited to any non-containerized commodity or material, on or adjacent to the railroad's Property, in or near any surface water, swamp, wetlands or waterways, while performing any work under this Agreement, Contractor shall immediately: (a) notify the Railroad's Chief Dispatcher at 1(800) 338-4750, of such discovery; (b) take safeguards necessary to protect its employees, subcontractors, agents and/or third parties; and (c) exercise due care with respect to the release, including the taking of any appropriate measure to minimize the impact of such release.

1.06 Insurance Requirements

1.06.01 For projects involving construction or demolition on the Railroad's Right of Way, the Contractor will provide proof of insurance which conforms to the current requirements of the Railroad as shown attached. Unless specifically notified that Railroad Protective Insurance is not required, the Contractor should assume Railroad Protective Insurance is required.

1.07 Personal Injury Reporting

1.07.01 The Railroad is required to report certain injuries as a part of compliance with Federal Railroad Administration (FRA) reporting requirements. Any personal injury sustained by an employee of the Contractor, subcontractor or Contractor's invites while on the Railroad's Property must be reported immediately (by phone mail if unable to contact in person) to the Railroad's representative in charge of the project. The Non-Employee Personal Injury Data Collection Form contained herein is to be completed and sent by Fax to the Railroad at 1(406) 523-1529 and to the Railroad's representative no later than the close of shift on the date of the injury.

NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

INFORMATION REQUIRED TO BE COLLECTED PURSUANT TO FEDERAL REGULATION. IT SHOULD BE USED FOR COMPLIANCE WITH FEDERAL REGULATIONS ONLY AND IS NOT INTENDED TO PRESUME ACCEPTANCE OF RESPONSIBILITY OR LIABILITY.

1. Accident City/St _____ 2. Date: _____ Time: _____
 County: _____ 3. Temperature: _____ 4. Weather _____
5. Social Security # _____
6. Name (last, first, mi) _____
7. Address: Street: _____ City: _____ St. _____ Zip: _____
8. Date of Birth: _____ and/or Age _____ Gender: _____
 (if available)
9. (a) Injury: _____ (b) Body Part: _____
 [i.e. (a) Laceration (b) Hand]
11. Description of Accident (to include location, action, result, etc.): _____
12. Treatment:
 First Aid Only
 Required Medical Treatment
 Other Medical Treatment
13. Dr. Name _____ 30. Date: _____
14. Dr. Address:
 Street: _____ City: _____ St: _____ Zip: _____
15. Hospital Name: _____
16. Hospital Address:
 Street: _____ City: _____ St: _____ Zip: _____
17. Diagnosis: _____

**FAX TO
 RAILROAD AT (406) 523-1529
 AND COPY TO
 RAILROAD REPRESENTATIVE**

EXHIBIT B**MONTANA RAIL LINK, INC.**

INSTALL CONCRETE CROSSING SURFACE AND RAILROAD CROSSING WARNING SIGNS

on Travertine Lane near Livingston, MT (DOT # 090 637 M)

MP 1.66 on 2nd Sub Timber Spur

2/7/2016

DETAILED ESTIMATE OF COST

ITEM	QTY	UNIT	UNIT COST	TOTAL
SUPERVISOR TIME				
ROADMASTER	4	HRS	77.75	\$311
SIGNAL SUPERVISOR	0	HRS	95	\$0
LABOR				
SECTION GANG				
DISTRIBUTE MATERIAL	8	HRS	228.25	\$1,826
INSTALL CROSSING SIGNS	6	HRS	228.25	\$1,370
PRODUCTION GANG				
BUILD PANEL	16	HRS	410.5	\$6,568
INSTALL PANEL	8	HRS	410.5	\$3,284
INSTALL CONCRETE SURFACE	8	HRS	410.5	\$3,284
CRANE OPERATOR				
LOCOMOTIVE CRANE	2	HRS	52.5	\$105
SURFACING				
SURFACE TURNOUTS	0	HRS	141.75	\$0
SURFACE TRACK	8	HRS	141.75	\$1,134
WELDERS				
WELDING	0	HRS	\$96	\$0
SIGNAL CREW				
ADJUST UNDERGROUND CABLE	0	HRS	57	\$0
MOVE SIGNAL MASTS	0	HRS	57	\$0
CLEANUP - CUTOVER	0	HRS	57	\$0
MOBILIZE	0	HRS	57	\$0
B&B CREW	0	HRS	188	\$0
OVERTIME AND MILEAGE	\$17,571		7.50%	\$1,318
PRODUCTION PER DIEM	36	UNITS	78	\$2,808
SURF. GANG PER DIEM	3	UNITS	78	\$234
WELD GANG PER DIEM	0	UNITS	78	\$0
SIGNAL GANG PER DIEM	0	UNITS	95	\$0
CRANE OPERATOR PER DIEM	0	UNITS	78	\$20
B&B PER DIEM	0	UNITS	78	\$0
EQUIPMENT RENTAL				
HY-RAIL PICKUP	4	HRS	36.25	\$145
BOOM TRUCK-SECTION	24	HRS	114.75	\$2,754
PETTIBONE - 2	25.6	HRS	238.00	\$6,093
HY-RAIL PICKUP - 2	32	HRS	72.50	\$2,320
CREW CAB PICKUP	10	HRS	25.25	\$253
B&B TRUCK	0	HRS	114.75	\$0
TAMPER	6	HRS	529.50	\$3,177
REGULATOR	6	HRS	238.75	\$1,433
LOCOMOTIVE CRANE	2	HRS	214.50	\$429
WELDER'S TRUCK	0	HRS	114.75	\$0
BOOM TRUCK - SIGNAL	0	HRS	114.75	\$0
BOOM TRUCK - B&B	0	HRS	114.75	\$0
SPIKER	0	HRS	343.75	\$0
FRONTEND LOADER	6	HRS	119.00	\$714
SIGNAL HY RAIL	0	HRS	36.25	\$0
WORK TRAIN W/CREW	0	HRS		\$0
JIMBO CRANE	2	HRS	214.50	\$429
SIGNAL HY RAIL	0	HRS	36.25	\$0
TIE CRANE	8	HRS	112.25	\$898
TIE INSERTER	8	HRS	155.50	\$1,244
SPIKER	8	HRS	343.75	\$2,750
MATERIAL				
#11 SWITCH TIES	0	SET	5239.00	\$0
# 9 SWITCH TIES	0	SET	4496.00	\$0
#11 TURNOUT - SH	0	EA	0.00	\$0
# 9 TURNOUT - 115#	0	EA	56500.00	\$0
RAIL - 136# CWR	0	LF	11.85	\$0
RAIL - 115# CWR	220	LF	11.63	\$2,559
ANGLE BARS SH	4	PR	3.00	\$12

ITEM	QTY	UNIT	COST	TOTAL
CROSS TIES	75	EA	47.00	\$3,525
CROSSING SIGNS	2	EA	325.00	\$650
ANCHORS SH	300	EA	1.68	\$504
BOLTS AND WASHERS	32	EA	2.10	\$67
TIE PLATES SH	150	EA	0.10	\$15
SPIKES	3	KG	109.00	\$327
INVENTORY MATERIAL ADDITIVE	@		5%	\$383
BALLAST	180	NT	9.00	\$1,620
CONCRETE CROSSING SURFACES	58	TF	185.00	\$10,730
CONCRETE XING END RAMPS	1	SET	500.00	\$500
FREIGHT ON CROSSING SURFACE	1	LS	4500.00	\$4,500
UNDERGROUND CABLE	0	LS	0.00	\$0
DRESS ROCK	0	LS	0.00	\$0
MISC. CHARGES				
CONTRACTOR W/EXCAVATORS (2)	8	HRS	400.00	\$3,200
	0	HRS	200.00	\$0
	0	EA	7500.00	\$0
TIE DISPOSAL	75	EA	3.50	\$263
	0	LS	0.00	\$0
CREDIT FOR SCRAP				
RAIL	0	NT	0.00	\$0
OTM (PLTS, ANCHORS, ETC)	0	NT	0.00	\$0
ACCOUNTING FEE	1	EA	231.75	\$232
COST TO CITY				\$73,985

SECTION CREW

1 FOREMAN	49.25	\$49.25
1 TRUCK DRIVER	46.25	\$46.25
1 MACHINE OPERATOR	46.25	\$46.25
2 LABORERS	43.25	\$86.50
5	TOTAL	\$228.25

CRANE OPERATOR

1 OPERATOR	52.5	\$52.50
	TOTAL	\$52.50

PRODUCTION CREW

1 FOREMAN	52.5	\$52.50
2 MACHINE OPERATOR 1	46.25	\$92.50
2 MACHINE OPERATOR 2	46.25	\$92.50
4 LABORERS	43.25	\$173.00
0 SPECIAL B	52.5	\$0.00
9	TOTAL	\$410.50

	HOURLY WAGE	HOURLY COST
1 FOREMAN	49.25	\$49.25
2 MACHINE OPERATORS	46.25	\$92.50
3	TOTAL	\$141.75

	HOURLY WAGE	HOURLY COST
1 FOREMAN	57	\$57.00
0 LABORERS	46.25	\$0.00
1	TOTAL	\$57.00

	HOURLY WAGE	HOURLY COST
1 FOREMAN	49.25	\$49.25
1 WELDER - CLASS B	46.25	\$46.25
1 WELDER - CLASS C	43.25	\$43.25
3	TOTAL	\$95.50

	HOURLY WAGE	HOURLY COST
1 FOREMAN	49.25	\$49.25
3 CARPENTERS	46.25	\$138.75
2 LABORERS	43.25	\$86.50
6	TOTAL	\$188.00

Backup material for agenda item:

- E. **RESOLUTION NO. 4661 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN AN EASEMENT AGREEMENT WITH BNSF RAILWAY COMPANY ("BNSF") FOR THE CONSTRUCTION AND MAINTENANCE OF A PUBLIC ROADWAY THAT WILL RUN OVER AND THROUGH BNSF'S RIGHT-OF-WAY NEAR TRAVERTINE LANE IN LIVINGSTON, MONTANA.**

Livingston City Commission
LEGISLATIVE ACTION SUMMARY
Resolution No. 4661

Requested by: Planning Department

Date of First Consideration/Status: June 7, 2016

Purpose of Legislation: Resolution No. 4661 requests the City Commission’s authorization for the City Manager to enter into an Easement Agreement (the “Agreement”) with BNSF Railway Company (“BNSF”) for a public roadway that will run over and through BNSF’s right-of-way near Travertine Lane.

Background: Vista, LLC owns the following real property:

Lot 41A and Lot 42A of the Amended Plat of Lot 41 and Lot 42 of Amended Subdivision Plat No. 111, located in the Northeast Quarter (NE ¼) of Section 26, Township 2 South, Range 9 East, Principal Montana Meridian (the “Property”).

The Property was annexed into the corporate limits of the City of Livingston on March 10, 2015 by way of Resolution No. 4533. Vista intends to obtain all entitlements and services necessary to use the Property for commercial purposes, including but not limited to the right for traffic to cross over and through lands owned by third parties. For traffic to gain access to the Property, it will be required to cross over and through railroad right-of-way owned by BNSF, which right-of-way is currently leased to Montana Rail Link, Inc. The roadway that will cross over and through the aforementioned right-of-way will be a public roadway owned and maintained by the City of Livingston. BNSF is requiring the City of Livingston to enter into an easement agreement covering the roadway.

Staff Recommendation: Staff recommends this resolution be approved.

Fiscal Impact: N/A

Regulatory Impact (local): N/A

Attachments: Agreement

RESOLUTION NO. 4661

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN AN EASEMENT AGREEMENT WITH BNSF RAILWAY COMPANY (“BNSF”) FOR THE CONSTRUCTION AND MAINTENANCE OF A PUBLIC ROADWAY THAT WILL RUN OVER AND THROUGH BNSF’S RIGHT-OF-WAY NEAR TRAVERTINE LANE IN LIVINGSTON, MONTANA.

WHEREAS, Vista, LLC (“Vista”) owns the following real property that is located within the corporate limits of the City of Livingston, Montana:

Lot 41A and Lot 42A of the Amended Plat of Lot 41 and Lot 42 of Amended Subdivision Plat No. 111, located in the Northeast Quarter (NE ¼) of Section 26, Township 2 South, Range 9 East, Principal Montana Meridian (the “Property”); and

WHEREAS, the Property was annexed into the corporate limits of the City of Livingston on March 10, 2015 by way of Resolution No. 4533; and

WHEREAS, Vista intends to obtain all entitlements and services necessary to use the Property for commercial purposes, including but not limited to the right for traffic to cross over and through lands owned by third parties; and

WHEREAS, for traffic to gain access to the Property, it will be required to cross over and through railroad right-of-way owned by BNSF, which right-of-way is currently leased to Montana Rail Link, Inc.; and

WHEREAS, the roadway that will cross over and through the aforementioned right-of-way will be a public roadway owned and maintained by the City of Livingston; and

WHEREAS, BNSF is requiring the City of Livingston to enter into an Easement Agreement (the “Agreement”) that sets forth and describes the parties’ respective rights and duties concerning the proposed public roadway, which Agreement is attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the City Manager is ready and willing to sign the Agreement upon obtaining authorization from the Livingston City Commission.

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 Agreement with BNSF, a copy of which document is attached hereto and incorporated herein as Exhibit A.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this _____ day of June, 2016.

JAMES BENNETT - Chairman

ATTEST:

APPROVED AS TO FORM:

LISA HARRELD
Recording Secretary

ERIK COATE
City Attorney

EASEMENT AGREEMENT FOR PUBLIC ROADWAY

THIS EASEMENT AGREEMENT FOR Roadway Purposes ("**Easement Agreement**") is made and entered into as of the ____ day of _____ 2016 ("**Effective Date**"), by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**Grantor**"), and the CITY OF LIVINGSTON, a political subdivision of the State of Montana, for the benefit and use of its Public Works Department, ("**Grantee**").

A. Grantor is in the railroad transportation business and owns or controls a system of rail tracks and various real properties associated therewith which Grantor leases to Montana Rail Link, Inc., a Montana corporation, ("**MRL**") pursuant to that certain Master Agreement between Grantor and MRL dated July 21, 1987, including that certain real property situated at or near the vicinity of Livingston, Park, State of Montana, near RR Milepost 1.66, as described or depicted on EXHIBIT "A" attached hereto and made a part hereof (the "**Premises**").

B. Grantee and Montana Rail Link, Inc, ("**MRL**") have entered into that certain Construction and Maintenance Agreement dated as of _____ concerning improvements on or near the Premises (the "**C&M Agreement**").

C. Grantee has requested that Grantor grant to Grantee an easement over the Premises for the Easement Purpose (as defined below).

D. Grantor has agreed to grant Grantee such easement, subject to the terms and conditions set forth in this Easement Agreement.

NOW, THEREFORE, for and in consideration of the foregoing recitals which are incorporated herein, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1 Granting of Easement.

1.1 Easement Purpose. The "**Easement Purpose**" shall be for the purpose of the construction and maintenance of a public roadway as set forth in the C&M Agreement. Any improvements to be constructed in connection with the Easement Purpose are referred to herein as "**Improvements**" and shall be constructed, located, configured and maintained by Grantee in strict accordance with the terms of this Easement Agreement and the C&M Agreement.

1.2 Grant. Grantor does hereby grant unto Grantee a non-exclusive easement ("**Easement**") over the Premises for the Easement Purpose and for no other purpose. The Easement is granted subject to any and all restrictions, covenants, easements, licenses, permits, leases and other encumbrances of whatsoever nature whether or not of record, if any, relating to the Premises and is subject to all with all applicable federal, state and local laws, regulations, ordinances, restrictions, covenants and court or administrative decisions and orders, including Environmental Laws (defined below) and zoning laws (collectively, "**Laws**"). Grantee may not make any alterations or improvements or perform any maintenance or repair activities within the Premises except in accordance with the terms and conditions of the C&M Agreement.

1.3 Reservations by Grantor. Grantor excepts and reserves the right, to be exercised by Grantor and any other parties who may obtain written permission or authority from Grantor:

- (a) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any existing pipe, power, communication, cable, or utility lines and appurtenances and other facilities or structures of like character (collectively, "**Lines**") upon, over, under or across the Premises;
- (b) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; and
- (c) to use the Premises in any manner as the Grantor in its sole discretion deems appropriate, provided Grantor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Grantee for the Easement Purpose.

1.4 Prior to the issuance of an easement or permit by Grantor to a public utility within the described premises, the utility must obtain an occupancy agreement from the Grantee. Any public utility which occupies the above described premises without obtaining such an occupancy agreement shall not be entitled to any relocation cost in the event relocation is determined by the Grantee to be necessary.

Prior to the issuance of an easement or permit by Grantor to a non-utility within the described premises, the non-utility must obtain an occupancy agreement from the Grantee.

Section 2 Term of Easement. The term of the Easement, unless sooner terminated under provisions of this Easement Agreement, shall be perpetual.

Section 3 No Warranty of Any Conditions of the Premises. Grantee acknowledges that Grantor has made no representation whatsoever to Grantee concerning the state or condition of the Premises, or any personal property located thereon, or the nature or extent of Grantor's ownership interest in the Premises. Grantee has not relied on any statement or declaration of Grantor, oral or in writing, as an inducement to entering into this Easement Agreement, other than as set forth herein. GRANTOR HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF ANY PROPERTY PRESENT ON OR CONSTITUTING THE PREMISES, ITS MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF ANY SUCH PROPERTY, OR THE CONFORMITY OF ANY SUCH PROPERTY TO ITS INTENDED USES. GRANTOR SHALL NOT BE RESPONSIBLE TO GRANTEE OR ANY OF GRANTEE'S CONTRACTORS FOR ANY DAMAGES RELATING TO THE DESIGN, CONDITION, QUALITY, SAFETY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY PROPERTY PRESENT ON OR CONSTITUTING THE PREMISES, OR THE CONFORMITY OF ANY SUCH PROPERTY TO ITS INTENDED USES. GRANTEE ACCEPTS ALL RIGHTS GRANTED UNDER THIS EASEMENT AGREEMENT IN THE PREMISES IN AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" CONDITION, AND SUBJECT TO ALL LIMITATIONS ON GRANTOR'S RIGHTS, INTERESTS AND TITLE TO THE PREMISES. Grantee has inspected or will inspect

the Premises, and enters upon Grantor's rail corridor and property with knowledge of its physical condition and the danger inherent in Grantor's rail operations on or near the Premises. Grantee acknowledges that this Easement Agreement does not contain any implied warranties that Grantee or Grantee's Contractors (as hereinafter defined) can successfully construct or operate the Improvements.

Section 4 **Nature of Grantor's Interest in the Premises.** THE GRANTOR DOES NOT WARRANT ITS TITLE TO THE PREMISES NOR UNDERTAKE TO DEFEND THE GRANTEE IN THE PEACEABLE POSSESSION, USE OR ENJOYMENT THEREOF; AND THIS GRANT IS SUBJECT TO ALL OUTSTANDING INTERESTS OF OTHERS, INCLUDING THE TENANTS AND LICENSEES OF THE GRANTOR.

Section 5 **Improvements.** Grantee shall take, in a timely manner, all actions necessary and proper to the lawful establishment, construction, operation, and maintenance of the Improvements, including such actions as may be necessary to obtain any required permits, approvals or authorizations from applicable governmental authorities. Any and all cuts and fills, excavations or embankments necessary in the construction, maintenance, or future alteration of the Improvements shall be made and maintained in such manner, form and extent as will provide adequate drainage of and from the adjoining lands and premises of the Grantor; and wherever any such fill or embankment shall or may obstruct the natural and pre-existing drainage from such lands and premises of the Grantor, the Grantee shall construct and maintain such culverts or drains as may be requisite to preserve such natural and pre-existing drainage, and shall also wherever necessary, construct extensions of existing drains, culverts or ditches through or along the premises of the Grantor, such extensions to be of adequate sectional dimensions to preserve the present flowage of drainage or other waters, and of materials and workmanship equally as good as those now existing. In the event any construction, repair, maintenance, work or other use of the Premises by Grantee will affect any Lines, fences, buildings, improvements or other facilities (collectively, "**Other Improvements**"), Grantee will be responsible at Grantee's sole risk to locate and make any adjustments necessary to such Other Improvements. Grantee must contact the owner(s) of the Other Improvements notifying them of any work that may damage these Other Improvements and/or interfere with their service and obtain the owner's written approval prior to so affecting the Other Improvements. Grantee must mark all Other Improvements on the Plans and Specifications and mark such Other Improvements in the field in order to verify their locations. Grantee must also use all reasonable methods when working on or near Grantor property to determine if any Other Improvements (fiber optic, cable, communication or otherwise) may exist. The Grantee agrees to keep the above-described premises free and clear from combustible materials and to cut and remove or cause to be cut and removed at its sole expense all weeds and vegetation on said premises, said work of cutting and removal to be done at such times and with such frequency as to comply with Grantee and local laws and regulations and abate any and all hazard of fire.

Section 6 This Section intentionally left blank.

Section 7 **Environmental.**

7.1 **Compliance with Environmental Laws.** Grantee shall strictly comply with all federal, state and local environmental Laws in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act,

the Oil Pollution Act, the Hazardous Materials Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Toxic Substances Control Act (collectively referred to as the "**Environmental Laws**"). Grantee shall not maintain a "treatment," "storage," "transfer" or "disposal" facility, or "underground storage tank," as those terms are defined by Environmental Laws, on the Premises. Grantee shall not handle, transport, release or suffer the release of "hazardous waste" or "hazardous substances", as "hazardous waste" and "hazardous substances" may now or in the future be defined by any Environmental Laws.

7.2 Notice of Release. Grantee shall give Grantor immediate notice to Grantor's Resource Operations Center at (800) 832-5452 of any release of hazardous substances on or from the Premises, violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Grantee's use of the Premises. Grantee shall use its best efforts to promptly respond to any release on or from the Premises. Grantee also shall give Grantor immediate notice of all measures undertaken on behalf of Grantee to investigate, remediate, respond to or otherwise cure such release or violation.

7.3 Remediation of Release. In the event that Grantor has notice from Grantee or otherwise of a release or violation of Environmental Laws which occurred or may occur during the term of this Easement Agreement, Grantor may require Grantee, at Grantee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises. If during the construction or subsequent maintenance of the Improvements, soils or other materials considered to be environmentally contaminated are exposed, Grantee will remove and safely dispose of said contaminated soils. Determination of soils contamination and applicable disposal procedures thereof, will be made only by an agency having the capacity and authority to make such a determination.

7.4 Preventative Measures. Grantee shall promptly report to Grantor in writing any conditions or activities upon the Premises known to Grantee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities; provided, however, that Grantee's reporting to Grantor shall not relieve Grantee of any obligation whatsoever imposed on it by this Easement Agreement. Grantee shall promptly respond to Grantor's request for information regarding said conditions or activities.

Section 8 Default and Termination.

8.1 Grantor's Performance Rights. If at any time Grantee, or Grantee's Contractors, fails to properly perform its obligations under this Easement Agreement, Grantor, in its sole discretion, may: (i) seek specific performance of the unperformed obligations, or (ii) at Grantee's sole cost, may arrange for the performance of such work as Grantor deems necessary for the safety of its rail operations, activities and property, or to avoid or remove any interference with the activities or property of Grantor, or anyone or anything present on the rail corridor or property with the authority or permission of Grantor. Grantee shall promptly reimburse Grantor for all costs of work performed on Grantee's behalf upon receipt of an invoice for such costs. Grantor's failure to perform any obligations of Grantee or Grantee's Contractors shall not alter the liability allocation set forth in this Easement Agreement.

8.2 Abandonment. Grantor may, at its option, terminate this Easement Agreement by serving five (5) days' notice in writing upon Grantee if Grantee should abandon or cease to use the Premises for the Easement Purpose. Any waiver by Grantor of any default or defaults shall not constitute a waiver of the right to terminate this Easement Agreement for any subsequent default or defaults, nor shall any such waiver in any way affect Grantor's ability to enforce any section of this Easement Agreement.

8.3 Effect of Termination or Expiration. Neither termination nor expiration will release Grantee from any liability or obligation under this Easement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date the Premises are restored as required by **Section 9**.

8.4 Non-exclusive Remedies. The remedies set forth in this **Section 8** shall be in addition to, and not in limitation of, any other remedies that Grantor may have under the C&M Agreement, at law or in equity.

Section 9 Surrender of Premises.

9.1 Removal of Improvements and Restoration. Upon termination of this Easement Agreement, whether by abandonment of the Easement or by the exercise of Grantor's termination rights hereunder, Grantee shall, at its sole cost and expense, immediately perform the following:

- (a) remove all or such portion of Grantee's Improvements and all appurtenances thereto from the Premises, as Grantor directs at Grantor's sole discretion;
- (b) repair and restore any damage to the Premises arising from, growing out of, or connected with Grantee's use of the Premises;
- (c) remedy any unsafe conditions on the Premises created or aggravated by Grantee; and
- (d) leave the Premises in the condition which existed as of the Effective Date.

9.2 Limited License for Entry. If this Easement Agreement is terminated, Grantor may direct Grantee to undertake one or more of the actions set forth above, at Grantee's sole cost, in which case Grantee shall have a limited license to enter upon the Premises to the extent necessary to undertake the actions directed by Grantor. The terms of this limited license include all of Grantee's obligations under this Easement Agreement. Termination will not release Grantee from any liability or obligation under this Easement Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination, or, if later, the date when Grantee's Improvements are removed and the Premises are restored to the condition that existed as of the Effective Date. If Grantee fails to surrender the Premises to Grantor upon any termination of the Easement, all liabilities and obligations of Grantee hereunder shall continue in effect until the Premises are surrendered.

Section 10 Liens. Grantee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Grantee on

the Premises or attributable to Taxes that are the responsibility of Grantee. Grantor is hereby authorized to post any notices or take any other action upon or with respect to the Premises that is or may be permitted by Law to prevent the attachment of any such liens to any portion of the Premises; provided, however, that failure of Grantor to take any such action shall not relieve Grantee of any obligation or liability under this **Section 10** or any other section of this Easement Agreement.

Section 11 Notices. Any notice required or permitted to be given hereunder by one party to the other shall be delivered in the manner set forth in the C&M Agreement. Notices to Grantor under this Easement shall be delivered to the following address: BNSF Railway Company, Real Estate Department, 2500 Lou Menk Drive, Ft. Worth, TX 76131, Attn: Permits, or such other address as Grantor may from time to time direct by notice to Grantee.

Section 12 Recordation. It is understood and agreed that this Easement Agreement shall not be in recordable form and any recording shall be a breach of this Easement Agreement. Grantor and Grantee shall execute a Memorandum of Easement in the form attached hereto as **Exhibit "B"** (the "**Memorandum of Easement**") subject to changes required, if any, to conform such form to local recording requirements. The Memorandum of Easement shall be recorded in the real estate records in the county where the Premises are located.

Section 13 Miscellaneous.

13.1 All questions concerning the interpretation or application of provisions of this Easement Agreement shall be decided according to the substantive Laws of the State of Montana without regard to conflicts of law provisions.

13.2 In the event that Grantee consists of two or more parties, all the covenants and agreements of Grantee herein contained shall be the joint and several covenants and agreements of such parties. This instrument and all of the terms, covenants and provisions hereof shall inure to the benefit of and be binding upon each of the parties hereto and their respective legal representatives, successors and assigns and shall run with and be binding upon the Premises.

13.3 If any action at law or in equity is necessary to enforce or interpret the terms of this Easement Agreement, the prevailing party or parties shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party or parties may be entitled.

13.4 If any provision of this Easement Agreement is held to be illegal, invalid or unenforceable under present or future Laws, such provision will be fully severable and this Easement Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision is not a part hereof, and the remaining provisions hereof will remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision herein, there will be added automatically as a part of this Easement Agreement a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

13.5 This Easement Agreement is the full and complete agreement between Grantor and Grantee with respect to all matters relating to Grantee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Grantee's use

of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Grantee or Grantee's obligation to defend and hold Grantor harmless in any prior written agreement between the parties.

13.6 Time is of the essence for the performance of this Easement Agreement.

13.7 The terms of the C&M Agreement are incorporated herein as if fully set forth in this instrument which terms shall be in full force and effect for purposes of this Easement even if the C&M Agreement is, for whatever reason, no longer in effect.

[Signature page follows]

Witness the execution of this Easement Agreement as of the date first set forth above.

GRANTOR:

BNSF RAILWAY COMPANY, a Delaware corporation

By: _____

Name: _____

Title: _____

GRANTEE:

CITY OF LIVINGSTON, a political subdivision of the State of Montana

By: _____

Name: _____

Title: _____

ACCEPTED AND APPROVED:

MRL:

Montana Rail Link, Inc., a Montana corporation

By: _____

Name: _____

Title: _____

EXHIBIT "B"**Memorandum of Easement**

THIS MEMORANDUM OF EASEMENT is hereby executed this _____ day of _____, 2016, by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**Grantor**"), whose address for purposes of this instrument is 2500 Lou Menk Drive, Fort Worth, Texas 76131, and the CITY OF LIVINGSTON, a political subdivision of the State of Montana, for the benefit and use of its Public Works Department, ("**Grantee**"), whose address for purposes of this instrument is 414 East Callender Street, Livingston, Montana 59047, which terms "Grantor" and "Grantee" shall include, wherever the context permits or requires, singular or plural, and the heirs, legal representatives, successors and assigns of the respective parties:

WITNESSETH:

WHEREAS, Grantor owns or controls certain real property situated in Gallatin County, Montana as described on **Exhibit "A"** attached hereto and incorporated herein by reference (the "**Premises**");

WHEREAS, Grantor and Grantee entered into an Easement Agreement, dated _____ (the "**Easement Agreement**") which set forth, among other things, the terms of an easement granted by Grantor to Grantee over and across the Premises (the "**Easement**"); and

WHEREAS, Grantor and Grantee desire to memorialize the terms and conditions of the Easement Agreement of record.

For valuable consideration the receipt and sufficiency of which are hereby acknowledged, Grantor does grant unto Grantee and Grantee does hereby accept from Grantor the Easement over and across the Premises for the construction and maintenance of a roadway as set forth in the Construction and Maintenance Agreement between the Grantee and Montana Rail Link, Inc. ("MRL").

Grantor reserves the right to reasonable access to and from the above-mentioned roadway and the adjacent property of the Grantor.

The term of the Easement, unless sooner terminated under provisions of the Easement Agreement, shall be perpetual. Provisions regulating the use and purposes to which the Easement shall be limited, are set forth in detail in the Easement Agreement and Grantor and Grantee agree to abide by the terms of the Easement Agreement.

All the terms, conditions, provisions and covenants of the Easement Agreement are incorporated herein by this reference for all purposes as though written out at length herein, and both the Easement Agreement and this Memorandum of Easement shall be deemed to constitute a single instrument or document. This Memorandum of Easement is not intended to amend, modify, supplement, or supersede any of the provisions of the Easement Agreement and, to the extent there may be any conflict or inconsistency between the Easement Agreement or this Memorandum of Easement, the Easement Agreement shall control.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Memorandum of Easement to as of the date and year first above written.

GRANTOR:

BNSF RAILWAY COMPANY, a Delaware corporation

By: _____

Name: _____

Title: _____

GRANTEE:

CITY OF LIVINGSTON, a political subdivision of the State of Montana

By: _____

Name: _____

Title: _____

ACCEPTED AND APPROVED:

MRL:

Montana Rail Link, Inc., a Montana corporation

By: _____

Name: _____

Title: _____

STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2015,
by _____(name) as _____(title)
of **BNSF RAILWAY COMPANY, a Delaware corporation.**

Notary Public
(Seal)
My appointment expires:_____

STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2015,
by _____(name) as _____(title)
of the **CITY OF LIVINGSTON, a political subdivision of the State of Montana.**

Notary Public
(Seal)
My appointment expires:_____

STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2015,
by _____(name) as _____(title) of
MONTANA RAIL LINK, INC., a Montana Corporation

Notary Public
(Seal)
My appointment expires:_____

Backup material for agenda item:

- F. RESOLUTION NO. 4665 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH VISTA, LLC ("VISTA") REGARDING COSTS FOR THE CONSTRUCTION OF AN AT-GRADE CROSSING NEAR TRAVERTINE LANE IN LIVINGSTON, MONTANA.**

Livingston City Commission
LEGISLATIVE ACTION SUMMARY
Resolution No. 4665

Requested by: Planning Department

Date of First Consideration/Status: June 7, 2016

Purpose of Legislation: Resolution No. 4665 requests the City Commission's authorization for the City Manager to enter into an Agreement (the "Agreement") with Vista, LLC ("Vista") concerning the costs of construction for an at-grade crossing near Vista's property on Travertine Lane.

Background: Vista owns the following real property that is located within the corporate limits of the City of Livingston, Montana:

Lot 41A and Lot 42A of the Amended Plat of Lot 41 and Lot 42 of Amended Subdivision Plat No. 111, located in the Northeast Quarter (NE ¼) of Section 26, Township 2 South, Range 9 East, Principal Montana Meridian (the "Property");
and

The Property was annexed into the corporate limits of the City of Livingston on March 10, 2015 by way of Resolution No. 4533. Vista intends to obtain all entitlements and services necessary to use the Property for commercial purposes, including but not limited to the right for traffic to cross over and through lands owned by third parties. For traffic to gain access to the Property, it will be required to cross over and through railroad right-of-way owned by BNSF, which right-of-way is currently leased to Montana Rail Link, Inc. ("MRL"). The roadway that will cross over and through the aforementioned right-of-way will require an updated or wholly new at-grade crossing, which the City and MRL have agreed the City will be required to pay for. Vista has agreed it will pay MRL directly, or reimburse the City for, any and all costs associated with the construction and/or improvement of the necessary at-grade crossing. See Exhibit A to Resolution No. 4665.

Staff Recommendation: Staff recommends this resolution be approved.

Fiscal Impact: See attached.

Regulatory Impact (local): N/A

Attachments: Agreement.

RESOLUTION NO. 4665

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH VISTA, LLC (“VISTA”) REGARDING COSTS FOR THE CONSTRUCTION OF AN AT-GRADE CROSSING NEAR TRAVERTINE LANE IN LIVINGSTON, MONTANA.

WHEREAS, Vista owns the following real property that is located within the corporate limits of the City of Livingston, Montana:

Lot 41A and Lot 42A of the Amended Plat of Lot 41 and Lot 42 of Amended Subdivision Plat No. 111, located in the Northeast Quarter (NE ¼) of Section 26, Township 2 South, Range 9 East, Principal Montana Meridian (the “Property”); and

WHEREAS, the Property was annexed into the corporate limits of the City of Livingston on March 10, 2015 by way of Resolution No. 4533; and

WHEREAS, Vista intends to obtain all entitlements and services necessary to use the Property for commercial purposes, including but not limited to the right for traffic to cross over and through lands owned by third parties; and

WHEREAS, for traffic to gain access to the Property, it will be required to cross over and through railroad right-of-way owned by BNSF, which right-of-way is currently leased to Montana Rail Link, Inc. (“MRL”); and

WHEREAS, the roadway that will cross over and through the aforementioned right-of-way will require an updated or wholly new at-grade crossing, which the City and MRL have agreed the City will be required to pay for; and

WHEREAS, Vista has agreed it will pay MRL directly, or reimburse the City for, any and all costs associated with the construction and/or improvement of the necessary at-grade crossing, which agreement is detailed in the document attached hereto and incorporated herein as Exhibit A (the “Agreement”); and

WHEREAS, the City Manager is ready and willing to sign the Agreement upon obtaining authorization from the Livingston City Commission.

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

Resolution No. 4665

Authorizing City Manager to Sign Agreement with Vista, LLC for Costs of At-Grade Crossing Construction Near Travertine Lane in Livingston, Motnana

Page 1

The City Manager is hereby authorized to enter into the Agreement with Vista, a copy of which document is attached hereto and incorporated herein as Exhibit A.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this _____ day of June, 2016.

JAMES BENNETT - Chairman

ATTEST:

APPROVED AS TO FORM:

LISA HARRELD
Recording Secretary

ERIK COATE
City Attorney

AGREEMENT

THIS AGREEMENT is made and entered into as of the latest date set forth by a signature below, 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, Montana, hereinafter referred to as the City, and Vista, LLC of 1276 North 15th, #103, Bozeman, Montana, hereinafter referred to as Developer.

Recitals

- A. As part of the overall development plan for the seven acre parcel described as Lots 41 and 42 of Subdivision Plat No. 111, located in Section 26, Township 2 South, Range 9 East, Park County, Montana, M.P.M, Developer is proposing to modify and reconstruct the rail crossing at Highway 89 South and Travertine Lane.
- B. Pursuant to Livingston City Commission Resolution No. 4660, the City is entering into a Construction and Maintenance Agreement (the “Agreement”) with Montana Rail Link that calls for the City to pay any and all costs associated with construction of the necessary at-grade crossing, which agreement estimates the costs for the at-grade crossing work to be \$73,985.00.

Agreement

NOW, THEREFORE, in consideration of the foregoing recitals, the parties agree as follows:

1. Developer agrees to pay MRL directly, and/or reimburse the City for, any and all costs the Agreement requires the City to pay in connection with construction of or modification to the at-grade crossing. The City shall not be required to pay any costs in connection with the construction of or modification to the at-grade crossing.

Vista, LLC
Kevin Cook, Managing Member

City of Livingston
Lisa Lowy, Interim City Manager

Date

Date

Backup material for agenda item:

- G. RESOLUTION NO. 4657 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A SUB-RECIPIENT AGREEMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT REVOLVING FUND WITH GALLATIN DEVELOPMENT CORPORATION, D/B/A PROSPERA BUSINESS NETWORK.**

Livingston City Commission
LEGISLATIVE ACTION SUMMARY
Resolution No. 4657

Requested by: Finance Department

Date of First Consideration/Status: June 7, 2016

Purpose of Legislation: Resolution No. 4656 requests the City Commission's authorization for the City Manager to enter into a Sub-Recipient Agreement for Community Development Block Grant Revolving Fund with Gallatin Development Corporation, d/b/a Prospera Business Network ("Prospera").

Background: The City of Livingston has applied to and has been approved by the Montana Department of Commerce to receive grant funds under the Montana Community Development Block Grant Economic Development Program ("CDBG"). On May 7, 2013 the Livingston City Commission approved Resolution No. 4307, a resolution that authorized the disbursement of a portion of the principal balance (\$13,220.00) to the City of Livingston for the purpose of supporting an economic development specialist position that was to be jointly funded by Park County. Prospera requested to use remaining future CDBG grants and loan fund revenue to further develop the "CDBG Revolving Loan Fund" ("RLF"), which is designed to leverage private investment in new business for the purpose of generating new jobs within the City of Livingston and Park County. On June 19, 2012, the City authorized a sub-grant of the CDBG funds to Prospera and engaged Prospera to administer the City of Livingston and Park County RLF for a period of twenty-four months. Prospera has requested to extend its agreement with the City until the date set forth in the Agreement.

Staff Recommendation: Staff recommends this resolution be approved.

Fiscal Impact: See fiscal note.

Regulatory Impact (local): N/A

Attachments: Agreement and fiscal note.

RESOLUTION NO. 4657

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A SUB-RECIPIENT AGREEMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT REVOLVING FUND WITH GALLATIN DEVELOPMENT CORPORATION, D/B/A PROSPERA BUSINESS NETWORK.

WHEREAS, the City of Livingston has applied to and has been approved by the Montana Department of Commerce to receive grant funds under the Montana Community Development Block Grant Economic Development Program (“CDBG”); and

WHEREAS, on May 7, 2013 the Livingston City Commission approved Resolution No. 4307, a resolution that authorized the disbursement of a portion of the principal balance (\$13,220.00) to the City of Livingston for the purpose of supporting an economic development specialist position that was to be jointly funded by Park County; and

WHEREAS, Gallatin Development Corporation, d/b/a Prospera Business Network (“Prospera”) requested to use remaining future CDBG grants and loan fund revenue to further develop the “CDBG Revolving Loan Fund” (“RLF”), which is designed to leverage private investment in new business for the purpose of generating new jobs within the City of Livingston and Park County; and

WHEREAS, on June 19, 2012, the City authorized a sub-grant of the CDBG funds to Prospera and engaged Prospera to administer the City of Livingston and Park County RLF for a period of twenty-four months; and

WHEREAS, Prospera has requested to extend its agreement with the City until the date set forth in the Agreement attached hereto and incorporated herein as Exhibit A;

WHEREAS, the City Manager is ready, willing, and able to execute the Agreement upon the City Commission’s approval of this Resolution.

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 Agreement with Prospera, which document is attached hereto and incorporated herein as Exhibit A.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this _____ day of June, 2016.

JAMES BENNETT - Chairman

ATTEST:

APPROVED AS TO FORM:

LISA HARRELD
Recording Secretary

ERIK COATE
City Attorney

Resolution No. 4657
Authorizing City Manager to Enter Into Sub-Recipient Agreement for Community
Development Block Grant Revolving Fund with Gallatin Development Corporation, d/b/a
Prospera Business Network
Page 2

**SUB-RECIPIENT AGREEMENT FOR
COMMUNITY DEVELOPMENT BLOCK GRANT REVOLVING LOAN FUND**

THIS AGREEMENT is entered into this _____ day of June, 2016 by the **CITY OF LIVINGSTON, MONTANA**, whose address is 414 E. Callender St., Livingston, MT 59047, herein referred to as the “City”, and the **GALLATIN DEVELOPMENT CORPORATION**, doing business as **PROSPERA BUSINESS NETWORK**, whose address is 2015 Charlotte, Suite 1, Bozeman MT 59718, a nonprofit economic development corporation, herein referred to as the “Sub-Recipient.”

WITNESSETH THAT:

WHEREAS, the City has applied to and has been approved by the Montana Department of Commerce (MTDOC) for the receipt of grant funds under the Montana Community Development Block Grant Economic Development (CDBG) Program; and

WHEREAS, the City passed Resolution No. 4307 on May 7, 2013 authorizing the disbursement and withdrawal of a portion (**\$13,220.00**) of the principal balance to the possession of the City of Livingston for the purpose of supporting an economic development specialist position jointly funded with Park County.

WHEREAS, the City wishes to use **remaining** present and future CDBG grants and loan fund revenue to further develop the “CDBG Revolving Loan Fund” (RLF) which is designed to leverage private investment in new business for the purpose of generating new jobs within the City of Livingston and Park County; and

WHEREAS, the City has entered into an Agreement with the Sub-Recipient **previously** dated June 19, 2012, (resolution No. 4305) to sub-grant the CDBG funds to the Sub-Recipient and engage the Sub-Recipient to administer the City of Livingston and Park County Revolving Loan Fund (RLF) jointly on their behalf for a period of twenty-four months; and

WHEREAS, the City expressly acknowledges that the funds are being managed as a pooled resource with those of the County RLF, yet separately accounted for, and hereby further acknowledges that neither the City Commissioners nor any agents or employees of the County/City may override the loan authority granted herein to the Sub-Recipient; and

WHEREAS, in order to maintain accountability, professional management and program performance, it is deemed to be in the best interest of the **City to agree to extend the Agreement with the Sub-Recipient until June _____, 2018, as hereinafter provided; and**

WHEREAS, the City desires to sub-grant the CDBG funds to the Sub-Recipient and engage the Sub-Recipient to administer the RLF on the City behalf; and

WHEREAS, the Gallatin Development Corporation, dba Prospera Business Network is qualified as a nonprofit organization serving the development needs of the communities of non-entitlement areas as defined by §105(a)(15) of Title I of the Housing and Community Development Act (the “Act”); and

WHEREAS, loan repayments made back to a qualified nonprofit entity defined by §105(a)(15) of the Act are considered miscellaneous revenue and would not be subject to federal program income requirements, except as mutually agreed to by the Sub-Recipient, the City, and the Department; and

WHEREAS, the parties to this Agreement understand that neither of them has in any way, expressly or impliedly, abrogated any of its individual powers, and further agree that this Agreement does not create any new organization or legal entity.

NOW THEREFORE, in consideration of the mutual covenants and conditions set out in this Agreement, the parties agree that the foregoing statements of fact are true and correct and further agree as follows:

A. SPECIAL PROVISIONS. The City agrees, under the terms and conditions of this Agreement, to continue to sub-grant to the Sub-Recipient the CDBG loan funds as a grant for gap financing and technical assistance to eligible borrowers

B. INDEPENDENT CONTRACTOR. It is understood by the parties hereto that the Sub-Recipient is an independent contractor and that neither its principals nor its employees, if any, are employees of the City for purposes of tax, retirement system, or social security (FICA) withholding. It is further understood that pursuant to section 39-71-401, MCA, the Sub-Recipient has obtained, and will maintain at its expense for the duration of this Contract, coverage in a workers' compensation plan for its principals and employees for the services to be performed hereunder.

C. SCOPE OF SERVICES. The Sub-Recipient will perform the following services:

1. The Sub-Recipient will be responsible for all facets of the CDBG financing program as described in the Management Plan for the CDBG project, a copy of which the City has delivered or will deliver to Sub-Recipient prior to execution of this Agreement. The Sub-Recipient will also be responsible for all aspects of the Revolving Loan Fund program, including the following:

(a) Develop, apply and enforce written Policies and Procedures as they relate to the City of Livingston RLF program and/or administering the RLF program under the local CDBG grant program, including the creation and operation of an RLF Loan Committee to review and act upon loan requests.

(b) Application process through approval
a. Assist prospective borrowers in completing loan application materials.
b. Conduct UCC lien searches, if applicable and pertinent to the proposed loan collateral.
c. Provide a project analyses to the RLF Loan Committee.
d. Coordinate monthly RLF Loan Committee meetings.
e. Present proposed projects to RLF Loan Committee for loan approval or denial. Decisions as to loan approval or denial are the sole responsibility of the RLF Loan Committee, and the City/County shall have no authority or ability to intervene in the loan approval or denial process.

(c) Loan Closing and Documentation

- a. Completion of loan documentation.
 - b. Loan closing, to be conducted by a title company or by Sub-Recipient.
 - c. Funds disbursement and payment processing, utilizing the GMS Loan Accounting software.
 - d. Collection and retention, for Sub-Recipient's use, of loan fees and charges, as provided in Sub-Recipient's Policies and Procedures.
- (d) Loan Servicing Oversight
- a. Gather and analyze monthly or quarterly financial reports from borrowers as required by the applicable loan agreement.
 - b. Track and monitor status of borrower insurance policies.
 - c. Track and monitor UCC financing statement filings and renewals.
 - d. Provide monthly loan updates to RLF Loan Committee.
- (e) Process monthly loan payments
- a. Track, receive, process and account for all monthly loan payments.
 - b. Track late payments – mailing late notices and calling delinquent borrowers, as needed.
 - c. Work with delinquent borrowers to cure defaults and, when appropriate, develop a work-out plan, subject to approval of the RLF Loan Committee.
- (f) Monitor and process all forfeitures of loan collateral and use commercially reasonable efforts to collect delinquent and defaulted loans, including the filing of creditor's claims in bankruptcy, where applicable, subject to the approval of the RLF Loan Committee.
2. During the term of this Agreement, the Sub-Recipient will maintain reasonable records of its performance under this Agreement in a manner consistent with Generally Accepted Accounting Principles. The Sub-Recipient will provide the City (or its authorized representatives) access to these records at any time during normal business hours. Upon written request of the City, the Sub-Recipient will submit to the City, in the format prescribed by the City, semi-annual status reports on its performance under this Agreement.
 3. Except as set forth in Section (4) below, the Sub-Recipient will retain, administer, manage, record, and account to the City for all RLF loan fund revenue received subsequent to the date of this Agreement, including principal and interest received from borrowers. Sub-Recipient will use such revenue to enhance the RLF program for the benefit of all eligible borrowers located within Park County.
 4. As payment for the services rendered by Sub-Recipient, the Sub-Recipient shall retain either \$14,000.00 or eighteen percent (18%) of the total of payments on interest and principal from loan repayments and interest earned on the principal balance, whichever is greater. The Sub-Recipient may retain and pay such compensation to itself in installments, not more frequently than monthly. In no case, except for the Sub-Recipient's expenses for attorney fees and attorney costs related to collection efforts as described in Section (5) below, shall the payment for services to the Sub-Recipient result in a decrease in the base principal amount of the fund as determined on a yearly basis.

5. Sub-Recipient is entitled to use RLF funds for any costs incurred by Sub-Recipient in connection with the collection of delinquent or defaulted loans, including but not limited to any filing fees or legal fees and costs. It is specifically agreed and understood that any such use of RLF funds in this manner by the Sub-Recipient is separate and distinct from the payment Sub-Recipient will be receiving for its services; that is to say, costs and fees incurred in connection with the collection of delinquent or defaulted loans will be paid by RLF Funds and not by the Sub-Recipient.
6. The Sub-Recipient will comply with the Revolving Loan Fund Plan as previously approved by the City and the Montana Department of Commerce. If the Sub-Recipient ceases to exist or an Event of Default occurs, all program income relating to this grant, including funds on hand and accounts or notes receivable, will revert to the City.

D. EFFECTIVE DATE AND TIME OF PERFORMANCE. This Agreement supersedes all previous Agreements, whether written or oral, between the City and the Sub-Recipient dealing with the City of Livingston/Park County RLF program. The term of this Agreement shall be twenty-four months, commencing on the date of execution by the parties. This Agreement will terminate upon expiration of its initial term, unless extended in writing by mutual agreement of the parties, or if either party fails to meet the conditions of this Agreement or if an Event of Default occurs, after notice and opportunity to cure as provided in Section T below.

E. CONFLICT OF INTEREST. The Sub-Recipient covenants that it presently has no interest and will not acquire any interest, direct or indirect, in the CDBG project that would conflict in any manner or degree with the performance of its services hereunder. The Sub-Recipient further covenants that, in performing this Agreement, it will employ no person who has any such interest.

F. DISPOSITION OF REAL PROPERTY OR EQUIPMENT ACQUIRED. Upon the expiration of the Agreement, the Sub-Recipient will transfer to the City any CDBG-ED funds on hand at the time of expiration and any accounts receivable attributable from the use of CDBG-ED funds. With respect to any real property or equipment under the Sub-Recipient control that was acquired or improved in whole or in part with CDBG-ED funds in excess of \$25,000, the Sub-Recipient will either:

1. Use the property to meet the national objectives contained in 24 CFR section 570.901 for five (5) years after expiration of the Agreement; or
2. Dispose of the property in a manner consistent with OMB Circular A-102 Attachment and as approved by the Department. Reimbursement is not required after the period of time specified in the first paragraph of this section. The proceeds from such disposition will be subject to the applicable provisions of 24 CFR 570.504 (program income).

G. DOCUMENTS INCORPORATED BY REFERENCE. The *City's* application to the Department for CDBG-ED funding, dated February 6, 1996 and all applicable federal and state statutes and regulations are incorporated into this Contract by this reference and are binding upon the Sub-Recipient.

H. CIVIL RIGHTS ACT OF 1964. The Sub-Recipient will abide by the provisions of the Civil Rights Act of 1964, which states that under Title VI, no person may, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

I. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974. The Sub-Recipient will comply with the following provision: No person in the United States may on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 will also apply to any such program or activity.

J. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968. The Sub-Recipient will ensure that to the greatest extent feasible, opportunities for training and employment arising in connection with this CDBG-ED assisted project will be extended to lower income project area residents. Further, the Sub-Recipient will, to the greatest extent feasible, utilize business concerns located in or substantially owned by residents of the project area, in the award of contracts and purchase of services and supplies.

K. MINORITY BUSINESS ENTERPRISE. Consistent with the provisions of Executive Order 11246, the Sub-recipient will take affirmative steps to assure that minority businesses are used when possible as sources of supplies, equipment, construction and services. Additionally, the Sub-recipient will document all affirmative steps taken to solicit minority businesses and will forward this documentation along with the names of the minority subcontractors and suppliers to the local government CDBG-ED recipient upon request.

L. NONDISCRIMINATION. The Sub-Recipient will not discriminate against any employee or applicant for employment on the basis of race, color, religion, creed, political ideas, sex, age, marital status, sexual orientation, physical or mental handicap, or national origin.

M. OWNERSHIP AND PUBLICATION OF MATERIALS. All reports, information, data, and other materials prepared by the Sub-recipient pursuant to this Contract are the property of the City and the Department which have the exclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. If applicable, any reuse without written verification or adaptation by the Architect/Engineer for the specific purpose intended will be at the Owner's sole risk and without liability or legal exposure to the Architect/Engineer. No material produced in whole or in part under this Contract may be copyrighted or patented in the United States or in any other country without the prior written approval of the City and the Department.

N. REPORTS AND INFORMATION. The Sub-Recipient will maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Agreement and such other records as may be deemed necessary by the City/County to assure proper accounting for all project funds. These records will be made available for audit purposes to the City/County or its authorized representative, and will be retained for three years after receipt of final payment for the services rendered under this Agreement unless permission to destroy them is granted by the City/County. It is understood by the City of

Livingston that the City and County RLF's will be reported separately to the Montana Department of Commerce.

O. PUBLIC MEETINGS AND PUBLIC ACCESS TO RECORDS. Subject to those meetings or portions of those meetings at which an individual's right to privacy outweighs the public's right to know as determined by the chairperson of such meeting, the Sub-Recipient's RLF Loan Committee will comply with the "open meeting" requirements of Montana law, including those set forth in MCA Title 7, Chapter 1, Part 41, and Title 2, Chapter 3.

In accordance with MCA Section 7-1-4144 and subject to any applicable legal obligation to protect and preserve individual confidential or private information, upon reasonable request and at reasonable times during normal business hours, Sub-Recipient will make such RLF loan documents and records available for inspection and copying by members of the public. Sub-Recipient may charge for such copying in accordance with the policies of the City/County, which Sub-Recipient hereby adopts for such purposes.

P. ACCESS TO RECORDS. It is expressly understood that the Sub-Recipient's records relating to this Contract will be available during normal business hours for inspection by the City, the Department, the U.S. Department of Housing and Urban Development, the U.S. Comptroller General, and, when required by law, the Montana Legislative Auditor and Legislative Fiscal Analyst.

Q. ADMINISTRATION

1. For purposes of implementing this Agreement, the City will appoint a local government project representative that will work with the Sub-Recipient. The parties will meet as necessary to provide for the efficient and smooth implementation of this Agreement and the activities contained herein.
2. The Sub-Recipient will comply with the "Certifications for Application" signed by the City and submitted with the application for economic development assistance to the Montana Department of Commerce.
3. The Sub-Recipient shall ensure that all borrowers, to whom Sub-Recipient lends RLF funds after the effective date of this Agreement, comply with the State of Montana Department of Commerce's Community Development Block Grant-Economic Development Program Application Guidelines pertaining to low and moderate income persons.
4. The Sub-Recipient will comply with Procurement Standards as outlined in Chapter 3 and Chapter 8 of the CDBG Administration Manual before entering into any agreements to remodel, to purchase equipment or material, or to retain the services of a consultant or Sub-Recipient.
5. The Sub-Recipient will contract with an independent accounting firm to conduct an annual audit sufficient to obtain an unqualified opinion of the RLF loan fund and program as conducted by Sub-Recipient under this Agreement. A copy of the audit report will be delivered to the City project representative no later than 30 days after completion of the audit report. A copy of the audit report will also be delivered to the Montana Department of Commerce.

R. TERMINATION-DISPOSITION OF REAL PROPERTY OR EQUIPMENT ACQUIRED Upon the expiration or termination of this Agreement, the Sub-Recipient will transfer to the City the then-existing RLF loan portfolio and all related loan records, together with the then-existing balance in the Sub-Recipient's RLF loan fund, less any unpaid portion of Sub-Recipient's compensation under this Agreement to the date of expiration or termination.

S. INDEMNIFICATION. The parties agree to waive any and all claims and recourse against one another, including the right of contribution of loss or damage to person or property arising from, growing out of, or in any way connected with or incidental to the parties' performance of this Agreement. Each party shall indemnify, defend and hold harmless the other party (including such other party's affiliates, partners, officers, directors, employees, agents and representatives) against any claims and/or liabilities of any nature, including reasonable attorneys' fees, arising out of the performance of this Agreement. The City specifically agrees that RLF loan decisions are the prerogative of the RLF Loan Committee, and that the Sub-Recipient has no liability of any kind for decisions and actions related thereto, including loan decisions that were made prior to this Agreement.

T. TERMINATION OF AGREEMENT. If any of the following events occur, the City may, in its sole discretion, declare such event a default under this Agreement ("Event of Default"):

1. Any representation or warranty made by the Sub-Recipient in this Agreement, or in any request or certificate or other information furnished to the City under this Agreement, proves to have been incorrect in any material respect; or
2. The Sub-Recipient fails in any material respect to carry out its obligations under its proposal to the City for the assistance provided under this Agreement.

If the Sub-Recipient fails to perform any of its duties under this Agreement or if any Event of Default occurs, the City may declare the Sub-Recipient to be in default and thereafter give the Sub-Recipient written notice setting forth the action or inaction that constitutes the default and giving the Sub-Recipient 45 days in which to correct the default. If the Sub-Recipient fails to correct the default within 45 days of receipt of such notice, the City may terminate this Agreement without further notice, subject to the terms of Section L above.

The parties agree that this Agreement provides for reasonable and sufficient notice to be given to the Sub-Recipient in case of the Sub-Recipient's failure to comply with any of its covenants and that this notice is sufficient for the Sub-Recipient to rectify its actions or inactions of default.

The waiver by the City of any default by the Sub-Recipient does not constitute a waiver of a continuing breach or a waiver of a subsequent breach. Any Agreement contrary to this Agreement is not binding upon either party unless it is in writing and signed by both parties.

U. CONSTRUCTION AND VENUE. This Agreement will be construed under and governed by the laws of the State of Montana. The City and the Sub-Recipient agree that performance of this Agreement is in the County of Park, State of Montana, and that in the event of litigation concerning it, venue is in the District Court of the Judicial District in and for the City of Livingston, Montana.

This Agreement has been approved by City Commission and by Sub-recipient’s Board of Directors, each of which has authorized the undersigned persons to execute this Agreement on its behalf.

V. ATTORNEY’S FEES. In the event that either party incurs legal expenses, including the costs, expenses, salary and fees of the in-house counsel, to include City Attorney, to enforce the terms and conditions of this Agreement, the prevailing party is entitled to recover reasonable attorney's fees and other costs and expenses, whether the same are incurred with or without suit, including fees on appeal.

W. ELIGIBILITY. The Sub-Recipient certifies that the Sub-Recipient and the Sub-Recipient's principals are not debarred, suspended, voluntarily excluded, or otherwise ineligible for participation in federally assisted contracts under Executive Order 12549, "Debarment and Suspension". (24 CFR 24.505)

IN WITNESS WHEREOF, the parties hereto have executed this Sub-Recipient Agreement on the ____ day of _____, 20____.

SUB-RECIPIENT:

CITY:

Paul Reichert Date
Executive Director
Gallatin Development Corporation, DBA
“Prospera Business Network”

Edwin R. Meece Date
City Manager
City of Livingston

Attest:

Attest:

Larry Mikkola Date
Treasurer, Board of Directors
Gallatin Development Corporation, DBA
“Prospera Business Network”

David Fine Date
Recording Secretary
City of Livingston

CITY OF LIVINGSTON FISCAL NOTE

Ordinance # _____
 Resolution # _____ 4657

Fiscal Analysis Assumptions

- In December 2010 the City of Livingston and Park County pooled their CDBG money to further enhance our ability to provide low interest loans to business within Park County.
- This contract maintains the same terms as the prior agreement and extends the Agreement until June 2018.

<input checked="" type="checkbox"/> Budgeted Expenditure	<input type="checkbox"/> Unbudgeted Expenditure:
	<input type="checkbox"/> Unanticipated Revenue
	<input type="checkbox"/> Reserves
	<input type="checkbox"/> Other Line Item Savings

<u>Costs by Object</u>	<u>FY 17</u>	<u>FY 18</u>	<u>FY 19</u>
Personnel			
Operating	\$ 14,000	\$ 14,000	\$ 14,000
Capital			
Debt Service			
 Total Costs	 <u>\$ 14,000</u>	 <u>\$ 14,000</u>	 <u>\$ 14,000</u>

<u>Funding Source</u>	<u>FY 17</u>	<u>FY 18</u>	<u>FY 19</u>
Fund Name CDBG Revolving	\$ 14,000	\$ 14,000	\$ 14,000
Fund Name			
Fund Name			
 Total	 <u>\$ 14,000</u>	 <u>\$ 14,000</u>	 <u>\$ 14,000</u>

Signature Jessie R. Hogg
 Date 5/26/2016

Backup material for agenda item:

- H. RESOLUTION NO. 4662 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A GRANT FUNDING AGREEMENT WITH NORTHWESTERN CORPORATION FOR THE CITY-COUNTY LIBRARY SOLAR PROJECT.**

Livingston City Commission
LEGISLATIVE ACTION SUMMARY
Resolution No. 4662

Requested by: Administration

Date of First Consideration/Status: June 7, 2016

Purpose of Legislation: Resolution No. 4662 requests the City Commission’s authorization for the City Manager to enter into a Custom Solar Photovoltaic Incentive Project Agreement (the “Agreement”) with NorthWestern Corporation (“NWC”) for the Livingston-Park County Library solar project.

Background: Livingston-Park County Library management desires to undertake a solar energy project that calls for the installation of solar panels on the library roof. NWC provides incentives / grants for eligible solar projects. NWC has agreed to provide funding to cover the entire cost of the solar project at the Livingston-Park County Library. Livingston-Park County Library management has selected a NWC-approved contractor to perform the solar installation work and is ready to proceed with the project. The City of Livingston, as owner of the library building, will be involved in the project in that it will pay the solar contractor as work progresses, with NWC reimbursing the City for the total costs of the project upon completion. NWC has requested that the City of Livingston enter into the Agreement with NWC setting forth the terms and conditions associated with the funding.

Staff Recommendation: Staff recommends this resolution be approved.

Fiscal Impact: See attached.

Regulatory Impact (local): N/A

Attachments: Agreement and fiscal note.

RESOLUTION NO. 4662

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A GRANT FUNDING AGREEMENT WITH NORTHWESTERN CORPORATION FOR THE CITY-COUNTY LIBRARY SOLAR PROJECT.

WHEREAS, Livingston-Park County Library management desires to undertake a solar energy project that calls for the installation of solar panels on the library roof; and

WHEREAS, NorthWestern Corporation (“NWC”) provides incentives / grants for eligible solar projects; and

WHEREAS, Livingston-Park County Library management has selected a NWC-approved contractor to perform the solar installation work; and

WHEREAS, NWC has agreed to provide funding to cover the entire cost of the solar project at the Livingston-Park County Library; and

WHEREAS, the City of Livingston, as owner of the library building, will be involved in the project in that it will pay the solar contractor as work progresses, with NWC reimbursing the City for the total costs of the project upon completion; and

WHEREAS, NWC has requested that the City of Livingston enter into a Custom Solar Photovoltaic Incentive Project Agreement (“Agreement”) with NWC setting forth the terms and conditions associated with the funding, which Agreement is attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the City Manager is ready, willing, and able to execute the Agreement upon the City Commission’s approval of this Resolution.

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 Agreement with NWC, which document is attached hereto and incorporated herein as Exhibit A.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this _____ day of June, 2016.

JAMES BENNETT - Chairman

ATTEST:

APPROVED AS TO FORM:

LISA HARRELD
Recording Secretary

ERIK COATE
City Attorney



Custom Solar Photovoltaic Incentive Project Agreement

This Custom Solar Photovoltaic Project Agreement (*the "Agreement"*) is made effective as of the 1st day of June, 2016, by and between NorthWestern Corporation, a Delaware corporation d/b/a NorthWestern Energy (*"NorthWestern"*) with offices at 11 East Park, Butte, Montana, 59701-1711 and the City of Livingston (*"Customer"*) 414 East Callender Street, Livingston, MT 59047

RECITALS

WHEREAS, NorthWestern makes available solar photovoltaic ("PV") incentives to eligible customers who implement small scale renewable solar PV projects in their facilities; and

WHEREAS, Customer desires to implement a small scale solar PV project at Customer's facility and obtain an incentive from NorthWestern.

NOW, THEREFORE, in consideration of the foregoing and for good and sufficient consideration, the parties agree as follows:

AGREEMENT

1. Project. Customer agrees to install a solar PV project in compliance with the Project Requirements and Technical Specifications attached as Exhibit A (*the "Project"*) at the Livingston Park County Public Library situated at 228 West Callender, Livingston, MT 59047 (*the "Facility"*). Customer is an existing customer of NorthWestern, electric account number(s) 107897, and is eligible for participation in NorthWestern's PV incentive program.
2. Agreement Execution. This Agreement must be executed by Customer and returned to NorthWestern on or before the 1st day of June, 2016. If the Agreement is not executed by such date, the parties will renegotiate the terms and conditions.
3. Required Completion Date. The Project shall be completed and fully operational at the Facility no later than one year from the Effective Date. If the Customer does not meet the Project completion date, then at NorthWestern's election, (i) the parties will renegotiate the terms and conditions stated herein; or (ii) the Agreement may be terminated.
4. Payment. NorthWestern shall pay to Customer an incentive payment in the amount of **\$34,975** upon satisfaction of the inspection and approval requirements set forth in Exhibit A. This incentive represents NorthWestern's full payment and entire obligation under this Agreement.
5. Installation and Ownership. The Customer shall contract with an installer qualified by NorthWestern to perform the services necessary for the completion of the Project. A list of qualified installers is available at <http://nwplus.northwesternenergy.com/docs/default-source/documents/e-programs/e-qualifiedrenewabledealers.pdf>. All equipment installed is the property of the Customer, and Customer is solely responsible for: (i) the proper installation, operation and maintenance of the Project; (ii) obtaining all necessary and required governmental and third-party consents and permits and meeting applicable code requirements; (iii) proper

disposal of waste material; and, (iv) determining the adequacy of the installation and paying contractors and suppliers.

6. Liability. Customer agrees that NorthWestern is not responsible for workmanship, materials, warranties or guarantees provided by contractors. Customer understands and agrees that although NorthWestern may inspect the Project, NorthWestern incurs no liability as a result of such inspection.

Customer agrees to indemnify, defend and save harmless NorthWestern, its officers, agents and employees against and from any and all actions, suits, claims, demands or liability of any character whatsoever, brought or asserted for injuries to or death of any person, damages to property or the environment arising out of, resulting from or occurring in connection with this Agreement.

Customer shall independently evaluate any advice or direction given by NorthWestern related to estimates of electric generation or the cost, selection or installation of the Project. In no event will NorthWestern be liable for the failure of Customer to achieve a specified amount of energy generation, the operation of the Project, or any incidental or consequential damages of any kind in connection with this Agreement or the installation of the Project, and in no event shall NorthWestern's liability exceed any obligation to pay the incentive for which Customer is eligible under this Agreement.

7. Correspondence. Customer shall transmit all correspondence to NorthWestern Representative June Pusich-Lester at NorthWestern Energy, 11 East Park, Butte, MT 59701-1711. All correspondence shall reference CLM0004086 and PO 404177.
8. Termination. NorthWestern may terminate this Agreement if Customer fails to perform any of its material obligations. Upon termination, NorthWestern will not be liable for any incentive payment to Customer. NorthWestern's rights herein are in addition to any other remedies it may have under the law. Prior to termination, NorthWestern shall give Customer written notice of the intent to terminate. The notice shall state the basis for such termination and allow Customer 10 days to either cure the failure to perform or propose a corrective plan satisfactory to NorthWestern.
9. Force Majeure. If either party is prevented in whole or in part from performing its obligations under this Agreement by unforeseeable causes beyond its reasonable control and without its fault or negligence in whole or in part, then the party so prevented shall be excused from whatever performance is affected by such cause, to the extent the performance is actually affected; provided that such party delivers written notice to the other party of such condition promptly after onset of such condition.
10. Assignment. Customer shall not assign this Agreement in whole or in part without the prior written consent of NorthWestern, such consent not to be unreasonably withheld, conditioned or denied.
11. Third Party Not To Benefit. This Agreement is not intended for the benefit of any person other than Customer and does not confer upon any other such person (including, but not limited to any contractor performing Project installation for the Customer) any benefits or rights or remedies hereunder.
12. Authority. Customer represents that Customer either owns the Facility or has obtained permission necessary for Customer to make alterations, additions, or capital improvements to the Facility.

- 13. Toxic Material. NorthWestern is not responsible for the discovery, presence, handling, removal, or disposal of or exposure of persons to hazardous materials of any kind in connection with the Project, including without limitation, asbestos, asbestos products, PCB's, or other toxic substances.
- 14. Applicable Law; Attorney's Fees. This Agreement shall be governed in all respects by the laws of the State of Montana. All actions or proceedings seeking enforcement of this Agreement may be brought against either of the parties in the courts of the State of Montana, County of Butte-Silver Bow. If litigation is commenced by either party to enforce or interpret any of the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable costs and attorney's fees through trial and appeal.
- 15. Entire Agreement/Modification. This Agreement contains the entire Agreement between the parties with respect to the subject matter hereof, and unless otherwise provided in this Agreement, no modification or waiver of any of the provisions, or any future representation, promise, or addition, is binding upon the parties unless made in writing and signed by both parties.
- 16. Customer understands and agrees that execution of this Agreement may impact eligibility for participation in any other existing or future NorthWestern small scale renewable energy incentive programs and, specifically, Customer will not qualify for any additional NorthWestern small scale renewable energy incentives for the Project.

Each party represents that it has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement, understands it, and agrees to be bound by it.

In WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in **duplicate the day and year first** above written.

**NorthWestern Corporation d/b/a
NorthWestern Energy**

City of Livingston

By _____

By _____

Printed Name _____

Printed Name _____

Title _____

Title _____

Date _____

Date _____

Exhibit A

Custom Solar Photovoltaic Incentive Project Agreement

Project Specifications and Requirements

The following constitutes the specifications and requirements of the Project:

1. Location. The Project must be installed at the Facility.
2. Capacity and Eligibility. The total capacity of the solar PV system shall be a minimum of 10,000 watts (10kW) or greater and a maximum of 50,000 watts (50kW). All systems shall be installed on facilities that receive electric service from NorthWestern. Off-grid facilities are not eligible for incentive funding.
3. Specifications. Customer shall provide all materials including, but not limited to, the solar PV panels, mounting brackets and hardware, conduit and wire, an inverter, the electrical disconnect, lighting protectors, miscellaneous electrical equipment, and electrical enclosure(s). All material shall be new and, when applicable, shall meet the current Institute of Electrical and Electronics Engineers (IEEE) 1547-2003 Standard and IEEE 1547a (Amendment 1). Customer shall provide all labor to complete the Project and integrate the system into the building's electric panel. When completed, all installations shall meet current National Electric Code requirements and shall pass an electrical inspection by the state or local electrical inspector. Systems shall be sited to take full advantage of available solar input.
4. Installation. Customer shall contract with an installer qualified by NorthWestern to perform the services necessary for the completion of the Project. A list of qualified installers is available at <http://nweplus.northwesternenergy.com/docs/default-source/documents/e-programs/e-qualifiedrenewabledealers.pdf>.
5. Completion Notice. Upon completion, and prior to the required contractual completion date, Customer shall provide NorthWestern, in writing a copy of the final invoice(s) from the NorthWestern qualified installer and the date and permit number of the electrical inspection by the state or local electrical inspector to the address below referencing this Agreement number and stating:

“The custom solar PV project is complete, fully operational, and ready for inspection by a NorthWestern Energy representative. After the project inspection has been performed, we request NorthWestern Energy issue the incentive in the amount of \$34,975 to the following address: 414 East Callender Street, Livingston, MT 59047.”

Along with the letter or email referenced above, Customer shall provide copies of all invoices associated with the Project. Customer shall mail the Project completion notice, with invoice copies, the date and permit number of the electrical inspection by the state or local electrical inspector, to NorthWestern Energy; Attn: June Pusich-Lester, 11 East Park Street, Butte, MT 59701-1711.

6. Payment. Within 45 days of: (i) NorthWestern's receipt of written or email notice from Customer that the Project is complete; and (ii) receipt of a satisfactory inspection by the state or local electrical inspector, NorthWestern, at its discretion, may inspect the Project to ensure it is complete, fully functional and meets the requirements of Exhibit A or notify Customer of its intent to waive its inspection right. NorthWestern shall pay to Customer the incentive payment within 30 days from NorthWestern's satisfactory inspection and approval of the Project or waiver of its inspection right. If the Project is not

approved by NorthWestern after inspection, Customer shall take action required to meet the requirements set forth in this Exhibit A.

CITY OF LIVINGSTON FISCAL NOTE

Ordinance # _____
 Resolution # _____ 4662

Fiscal Analysis Assumptions

- This grant funding agreement will allow for the purchase and installation of solar panels on the Park County- Livingston Public Library. The amount of the grant is \$34,975.
- A separate agreement (Resolution # 4664) with the installer guarantees that the price will be no more than the amount of the grant.

<input checked="" type="checkbox"/> Budgeted Expenditure	<input type="checkbox"/> Unbudgeted Expenditure:
	<input checked="" type="checkbox"/> Unanticipated Revenue
	<input type="checkbox"/> Reserves
	<input type="checkbox"/> Other Line Item Savings

<u>Costs by Object</u>	<u>FY 17</u>	<u>FY 18</u>	<u>FY 19</u>
Personnel			
Operating			
Capital	\$ 34,975		
Debt Service			
Total Costs	<u>\$ 34,975</u>	<u>\$ -</u>	<u>\$ -</u>

<u>Funding Source</u>	<u>FY 17</u>	<u>FY 18</u>	<u>FY 19</u>
Fund Name Library Operating	\$ 34,975	\$ -	\$ -
Fund Name			
Fund Name			
Total	<u>\$ 34,975</u>	<u>\$ -</u>	<u>\$ -</u>

Signature Jessie R. Hogg
 Date 6/1/2016

Backup material for agenda item:

- I. RESOLUTION NO. 4663 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A GENERAL SERVICES AGREEMENT WITH ONSITE ENERGY, INC. FOR THE CITY-COUNTY LIBRARY SOLAR PROJECT.**

Livingston City Commission
LEGISLATIVE ACTION SUMMARY
Resolution No. 4663

Requested by: Administration

Date of First Consideration/Status: June 7, 2016

Purpose of Legislation: Resolution No. 4663 requests the City Commission's authorization for the City Manager to enter into a General Services Agreement (the "Agreement") with Onsite Energy, Inc. ("Onsite") for the Livingston-Park County Library solar project.

Background: Livingston-Park County Library management desires to undertake a solar energy project that calls for the installation of solar panels on the library roof. NorthWestern Corporation ("NWC") provides incentives / grants for eligible solar projects. Livingston-Park County Library management has selected Onsite, a NWC-approved contractor, to perform the solar installation work. NWC has agreed to provide funding to cover the entire cost of the solar project at the Livingston-Park County Library. The City of Livingston, as owner of the library building, will be involved in the project in that it will pay Onsite as work progresses, with NWC reimbursing the City for the total costs of the project upon completion. The Administration and Onsite have agreed upon the form of the Agreement covering the work and the Administration is now requesting authorization to sign the document.

Staff Recommendation: Staff recommends this resolution be approved.

Fiscal Impact: See attached.

Regulatory Impact (local): N/A

Attachments: Agreement and fiscal note.

RESOLUTION NO. 4663

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A GENERAL SERVICES AGREEMENT WITH ONSITE ENERGY, INC. FOR THE CITY-COUNTY LIBRARY SOLAR PROJECT.

WHEREAS, Livingston-Park County Library management desires to undertake a solar energy project that calls for the installation of solar panels on the library roof; and

WHEREAS, NorthWestern Corporation (“NWC”) provides incentives / grants for eligible solar projects; and

WHEREAS, Livingston-Park County Library management has selected Onsite Energy, Inc. (“Onsite”), a NWC-approved contractor, to perform the solar installation work; and

WHEREAS, NWC has agreed to provide funding to cover the entire cost of the solar project at the Livingston-Park County Library; and

WHEREAS, the City of Livingston, as owner of the library building, will be involved in the project in that it will pay Onsite as work progresses, with NWC reimbursing the City for the total costs of the project upon completion; and

WHEREAS, the Administration and Onsite have agreed upon the form of the General Services Agreement covering the work, which document is attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the City Manager is ready, willing, and able to execute the Agreement upon the City Commission’s approval of this Resolution.

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 Agreement with Onsite, which document is attached hereto and incorporated herein as Exhibit A.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this _____ day of June, 2016.

JAMES BENNETT - Chairman

ATTEST:

APPROVED AS TO FORM:

LISA HARRELD
Recording Secretary

ERIK COATE
City Attorney

CITY OF LIVINGSTON FISCAL NOTE

Ordinance # _____
 Resolution # _____ 4663

Fiscal Analysis Assumptions

•This agreement would allow for the purchase and installation of solar panels on the Park County- Livingston Public Library. The amount of the contract is financed with a grant from Northwestern Energy in the amount of \$34,975.

<input checked="" type="checkbox"/> Budgeted Expenditure	<input type="checkbox"/> Unbudgeted Expenditure:
	<input checked="" type="checkbox"/> Unanticipated Revenue
	<input type="checkbox"/> Reserves
	<input type="checkbox"/> Other Line Item Savings

<u>Costs by Object</u>	<u>FY 17</u>	<u>FY 18</u>	<u>FY 19</u>
Personnel			
Operating			
Capital	\$ 34,975		
Debt Service			
Total Costs	\$ 34,975	\$ -	\$ -

<u>Funding Source</u>	<u>FY 17</u>	<u>FY 18</u>	<u>FY 19</u>
Fund Name Library Operating	\$ 34,975	\$ -	\$ -
Fund Name			
Fund Name			
Total	\$ 34,975	\$ -	\$ -

Signature Jessie R. Hogg
 Date 6/1/2016

GENERAL SERVICES AGREEMENT

THIS GENERAL SERVICES AGREEMENT (this “Agreement”) is made and entered into as of the latest date set forth by a signature below, 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 ONSITE ENERGY, INC., a Montana corporation with a principal business address of 619 North Church Avenue, #4, Bozeman, Montana 59715 (hereinafter referred to as the “Contractor”; and together with the City, the “Parties”).

RECITALS:

- A. The City requires completion of the project commonly known as the “2016 Livingston-Park County Public Library Solar Project” (the “Project”). The Project is set forth and described in detail in the Contract Documents (defined below); and
- B. The Contractor is engaged in the business of contracting, independent of the City, and has the manpower, knowledge, expertise, skills, means, tools, licenses, if applicable, and equipment necessary to perform the Project and is ready, willing and able to undertake and perform the Project 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 Exhibit A. The Project for which the work shall be completed may be generally described as the “2016 Livingston-Park County Public Library Solar Project.”

4. CONTRACT DOCUMENTS. In addition to this Agreement, the contract documents shall consist of the Contractor's estimate and any change orders (the foregoing documents are collectively referred to in this Agreement as the "Contract Documents.") The Contract Documents are collectively attached hereto and incorporated herein as Exhibit A.

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 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 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.

 - d. 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 Project 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 Project 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. The prevailing wage and fringe benefits rates for the current year are attached hereto and incorporated herein as Exhibit C.

- 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. PAYMENT.

- a. Subject to additions or deductions by change order, the Contractor shall perform his obligations under this agreement for the contract price of Thirty-Four Thousand Seven Hundred Ninety-Six and No/100 Dollars (\$34,796.00), as set forth in Exhibit A. 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 Finance Director at 110 South B Street, Livingston, Montana.
- b. The Parties agree to the following payment schedule: (i) twenty-five percent (25%) of the total contract price is due and payable before Contractor commences work; (ii) fifty percent (50%) of the total contract price is due and payable upon Contractor's delivery of equipment to the site of the Project; and (iii) payment of the final twenty-five percent (25%) is due and payable upon the Project passing any and all necessary inspections. Though the Parties have agreed to the foregoing payment schedule, the Contractor remains obligated to submit invoices for the foregoing amounts in accordance with Sections 8.a., 8.c., and 8.d. The City shall not be required to meet the foregoing payment schedule if Contractor fails to provide the necessary invoices.
- c. 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.
- d. 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.

- e. In the event this Agreement for public construction is in excess of \$5,000.00, the Contractor hereby acknowledges that this Agreement is subject to the public contractor's tax in the amount of 1% of the gross receipts received from the City and that the City is required by law to withhold said sum and to send said sum to the Montana Department of Revenue pursuant to Mont. Code Ann. § 15-50-206.

9. TERMINATION OF AGREEMENT.

- 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.

10. 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.

11. INSURANCE. During the term of this Agreement, Contractor shall be responsible for maintaining, at its sole expense, insurance coverage. The Contractor shall provide the City with certificates of insurance demonstrating such insurance coverage 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. In addition to any other insurance mentioned in this Agreement, the Contractor shall 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 \$750,000.00 per claim and \$1,500,000.00 for each occurrence.
12. 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.
13. 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.
14. 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.
15. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the Parties with respect to the Project and supersedes all prior agreements and understandings between the Parties with respect to the Project.


16. 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.
17. 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.
18. 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 any 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.
19. LIAISON. The designated liaison with the City is Matthew Whitman, who can be reached at (406) 222-5667. The Contractor's liaison is Orion Thornton, who can be reached at (406) 249-9912.
20. 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.
21. 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

ONSITE ENERGY, INC.

Lisa Lowy
Interim City Manager



Name: ORION JOHNSTON
Its: OWNER/PARTNER

Date

4-26-16

Date

APPROVED AS TO FORM:

Erik Coate, City Attorney

Backup material for agenda item:

- J. RESOLUTION NO. 4664 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A GENERAL SERVICES AGREEMENT WITH ACE ROOFING, LLC FOR THE CITY-COUNTY LIBRARY RE-ROOFING PROJECT.**

Livingston City Commission
LEGISLATIVE ACTION SUMMARY
Resolution No. 4664

Requested by: Administration

Date of First Consideration/Status: June 7, 2016

Purpose of Legislation: Resolution No. 4664 requests the City Commission’s authorization for the City Manager to enter into a General Services Agreement (the “Agreement”) with Ace Roofing, LLC (“Ace”) for the Livingston-Park County Library re-roofing project.

Background: Livingston-Park County Library management desires to undertake a solar energy project that calls for the installation of solar panels on the library roof. In connection with the solar project, management desires to replace a portion of the library’s shingle roofing. The City of Livingston, as owner of the library building, will be involved in the project in that it will enter into the Agreement with Ace and pay for the services as work progresses, with Yellowstone Bend Citizen’s Council and Friends of the Library actually providing the City with all funds necessary to pay for the work.

Staff Recommendation: Staff recommends this resolution be approved.

Fiscal Impact: See attached.

Regulatory Impact (local): N/A

Attachments: Agreement and fiscal note.

RESOLUTION NO. 4664

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA AUTHORIZING THE CITY MANAGER TO SIGN A GENERAL SERVICES AGREEMENT WITH ACE ROOFING, LLC FOR THE CITY-COUNTY LIBRARY RE-ROOFING PROJECT.

WHEREAS, Livingston-Park County Library management desires to undertake a solar energy project that calls for the installation of solar panels on the library roof; and

WHEREAS, management desires to replace a portion of the library’s shingle roofing in connection with the solar project; and

WHEREAS, the City of Livingston, as owner of the library building, will be involved in the project in that it will enter into a General Services Agreement with Ace Roofing, LLC (“Ace”) and pay for the services as work progresses, with Yellowstone Bend Citizen’s Council and Friends of the Library actually providing the City with all funds necessary to pay for the work; and

WHEREAS, the Administration and Ace have agreed upon the form of the General Services Agreement covering the work, which document is attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the City Manager is ready, willing, and able to execute the Agreement upon the City Commission’s approval of this Resolution.

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 Agreement with Ace, which document is attached hereto and incorporated herein as Exhibit A.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this _____ day of June, 2016.

JAMES BENNETT - Chairman

ATTEST:

APPROVED AS TO FORM:

LISA HARRELD
Recording Secretary

ERIK COATE
City Attorney

GENERAL SERVICES AGREEMENT

THIS GENERAL SERVICES AGREEMENT (this “Agreement”) is made and entered into as of the latest date set forth by a signature below, 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 ACE ROOFING, LLC, a Montana limited liability company with a principal business address of P.O. Box 405, Wilsall, Montana 59086 (hereinafter referred to as the “Contractor”; and together with the City, the “Parties”).

RECITALS:

- A. The City requires completion of the project commonly known as the “2016 Livingston-Park County Public Library Roofing Project” (the “Project”). The Project is set forth and described in detail in the Contract Documents (defined below); and
- B. The Contractor is engaged in the business of roofing, independent of the City, and has the manpower, knowledge, expertise, skills, means, tools, licenses, if applicable, and equipment necessary to perform the Project and is ready, willing and able to undertake and perform the Project 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 Exhibit A. The Project for which the work shall be completed may be generally described as the “2016 Livingston-Park County Public Library Roofing Project.”

4. CONTRACT DOCUMENTS. In addition to this Agreement, the contract documents shall consist of the Contractor's estimate, the graphic depicting the portion of the library roofing that is to be replaced, and any change orders (the foregoing documents are collectively referred to in this Agreement as the "Contract Documents.") The Contract Documents are collectively attached hereto and incorporated herein as Exhibit A.

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 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 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.

 - d. 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 Project 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 Project 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. The prevailing wage and fringe benefits rates for the current year are attached hereto and incorporated herein as Exhibit C.

- 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. PAYMENT.

- a. Subject to additions or deductions by change order, the Contractor shall perform his obligations under this agreement for the contract price of Five Thousand Three Hundred Fifty-Four and 86/100 Dollars (\$5,354.86) as set forth in Exhibit A. 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 Finance Director at 110 South B 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.
- d. In the event this Agreement for public construction is in excess of \$5,000.00, the Contractor hereby acknowledges that this Agreement is subject to the public contractor's tax in the amount of 1% of the gross receipts received from the City and that the City is required by law to withhold said sum and to send said sum to the Montana Department of Revenue pursuant to Mont. Code Ann. § 15-50-206.

9. TERMINATION OF AGREEMENT.

- 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.

10. 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. 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.

11. INSURANCE. During the term of this Agreement, Contractor shall be responsible for maintaining, at its sole expense, insurance coverage. The Contractor shall provide the City with certificates of insurance demonstrating such insurance coverage 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. In addition to any other insurance mentioned

in this Agreement, the Contractor shall 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 \$750,000.00 per claim and \$1,500,000.00 for each occurrence.

12. 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.
13. 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.
14. 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.
15. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the Parties with respect to the Project and supersedes all prior agreements and understandings between the Parties with respect to the Project.
16. 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.

17. 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.
18. 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 any 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.
19. LIAISON. The designated liaison with the City is Matthew Whitman, who can be reached at (406) 222-5667. The Contractor's liaison is Jake Magalsky, who can be reached at (406) 578-2107.
20. 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.
21. 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.

[Remainder of page intentionally left blank]

[Signatures on following page]

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

Lisa Lowy
Interim City Manager

Date

ACE ROOFING, LLC



Name: JAKE MAGALSKY
Its: PRESIDENT

5/4/16

Date

APPROVED AS TO FORM:

Erik Coate, City Attorney

[Exhibit A]

[Contract Documents]



Ace Roofing

PO BOX 405 Wilsall MT 59086

Phone: (406) 578-2107

Fax: (406) 578-2233

Customer Info:

Job #: N/A

Livingston Park County Public Library

228 West Callender Street,

Livingston, MT, 59047

(406) 222-0862

Livingston Park County Public Library (30 year shingles)

Description

Remove Tear off, haul and dispose of shingles - Laminated or equivalent

Remove Remove additional charge for high roof (2 stories or greater)

Remove Remove additional charge for steep roof 7/12 - 9/12 slope

Install Ice & water shield

****Note:** 1 row on eaves and in valleys

Install Roofing felt - 30 lb.

Install Drip edge

Install Ace Roofing is donating the \$537.63 value of an upgrade from Malarkey Highlander (30 Year Shingles) to Malarkey Legacy (50 Year Shingles). This donation is reflected in the reduced price on this estimate. We will install Malarkey Legacy (50 Year Shingles).

Install High roof charge (>1 story)

Install Steep roof charge, 7/12 to 9/12

Install Step flashing

Install Ridge cap - dimensional shingles

Install Chimney flashing, large

Rental & delivery of man lift for safety

Livingston Park County Public Library (30 year shingles) total: \$5,354.86

Total for all sections: \$5,354.86

Total: \$5,354.86

Notes/Comments:

I spoke with Catherine Logan this morning. There is a grant process in place that is moving slow. There is no more money available to pay for 50 year shingles. I said that Ace Roofing would donate the upgrade to 50 year shingles for the price of 30 year shingles (a value of \$537.63).

Conditions and Terms:

- All work to be completed in a professional, workmanlike manner according to standard practices.

- The permit for this project is the responsibility of the owner of the building or the general contractor.
- Any alterations or deviation from the above specifications involving extra costs will be executed only written orders and will become an extra charge over and above the estimate.
- all agreements are contingent upon weather and delays beyond our control.
- Owners are to carry fire, wind damage, and other necessary insurance.
- Price effective for 30 days from contract date.
- Balance due upon project completion.
- Two (2) year warranty on labor craftsmanship performed by Ace Roofing, LLC
- This contract supercedes any and all other agreements written, spoken or implied prior to this document.

Half down required for materials and scheduling.

Mailing Address:

Ace Roofing, LLC
PO BOX 405
Wilsall MT 59086

_____	_____	_____	_____
Company Authorized Signature	Date	Customer Signature	Date
		_____	_____
		Customer Signature	Date

The estimate may be withdrawn if not accepted within _____ days.



{ Exhibit B }

[Certificates of Insurance or Exemptions]

[Exhibit C]

[Prevailing Wage Rates]

MONTANA
PREVAILING WAGE RATES FOR BUILDING CONSTRUCTION SERVICES 2016

Effective: January 2, 2016

Steve Bullock, Governor
State of Montana

Pam Bucy, Commissioner
Department of Labor and Industry

To obtain copies of prevailing wage rate schedules, or for information relating to public works projects and payment of prevailing wage rates, visit ERD at www.mtwagehourbopa.com or contact:

Employment Relations Division
Montana Department of Labor and Industry
P. O. Box 201503
Helena, MT 59620-1503
Phone 406-444-5600
TDD 406-444-5549

The Labor Standards Bureau welcomes questions, comments and suggestions from the public. In addition, we'll do our best to provide information in an accessible format, upon request, in compliance with the Americans with Disabilities Act.

MONTANA PREVAILING WAGE REQUIREMENTS

The Commissioner of the Department of Labor and Industry, in accordance with Sections 18-2-401 and 18-2-402 of the Montana Code Annotated (MCA), has determined the standard prevailing rate of wages for the occupations listed in this publication.

The wages specified herein control the prevailing rate of wages for the purposes of Section 18-2-401, et seq., MCA. It is required that each employer pay (as a minimum) the rate of wages, including fringe benefits, travel allowance, zone pay and per diem applicable to the district in which the work is being performed as provided in the attached wage determinations.

All Montana Prevailing Wage Rates are available on the internet at www.mtwagehourbopa.com or by contacting the Labor Standards Bureau at (406) 444-5600 or TDD (406) 444-5549.

In addition, this publication provides general information concerning compliance with Montana's Prevailing Wage Law and the payment of prevailing wages. For detailed compliance information relating to public works contracts and payment of prevailing wage rates, please consult the regulations on the internet at www.mtwagehourbopa.com or contact the Labor Standards Bureau at (406) 444-5600 or TDD (406) 444-5549.

PAM BUCY
Commissioner
Department of Labor and Industry
State of Montana

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A. Date of Publication January 2, 2016

B. Definition of Building Construction

For the purposes of Prevailing Wage, the Commissioner of Labor and Industry has determined that building construction occupations are defined to be those performed by a person engaged in a recognized trade or craft, or any skilled, semi-skilled, or unskilled manual labor related to the construction, alteration, or repair of a public building or facility, and does not include engineering, superintendence, management, office or clerical work.

The Administrative Rules of Montana (ARM), 24.17.501(2) – 2(a), states *“Building construction projects generally are the constructions of sheltered enclosures with walk-in access for housing persons, machinery, equipment, or supplies. It includes all construction of such structures, incidental installation of utilities and equipment, both above and below grade level, as well as incidental grading, utilities and paving.”*

Examples of building construction include, but are not limited to, alterations and additions to buildings, apartment buildings (5 stories and above), arenas (closed), auditoriums, automobile parking garages, banks and financial buildings, barracks, churches, city halls, civic centers, commercial buildings, court houses, detention facilities, dormitories, farm buildings, fire stations, hospitals, hotels, industrial buildings, institutional buildings, libraries, mausoleums, motels, museums, nursing and convalescent facilities, office buildings, out-patient clinics, passenger and freight terminal buildings, police stations, post offices, power plants, prefabricated buildings, remodeling buildings, renovating buildings, repairing buildings, restaurants, schools, service stations, shopping centers, stores, subway stations, theaters, warehouses, water and sewage treatment plants (buildings only), etc.”

C. Definition of Public Works Contract

Section 18-2-401(11)(a), MCA defines “public works contract” as *“...a contract for construction services let by the state, county, municipality, school district, or political subdivision or for nonconstruction services let by the state, county, municipality, or political subdivision in which the total cost of the contract is in excess of \$25,000...”*

D. Prevailing Wage Schedule

This publication covers only Building Construction occupations and rates. These rates will remain in effect until superseded by a more current publication. Current prevailing wage rate schedules for Heavy Construction, Highway Construction, and Nonconstruction Services occupations can be found on the internet at www.mtwagehourbopa.com or by contacting the Labor Standards Bureau at (406) 444-5600 or TDD (406) 444-5549.

E. Rates to Use for Projects

ARM, 24.17.127(1)(c), states *“The wage rates applicable to a particular public works project are those in effect at the time the bid specifications are advertised.”*

F. Wage Rate Adjustments for Multiyear Contracts

Section 18-2-417, MCA states:

“(1) Any public works contract that by the terms of the original contract calls for more than 30 months to fully perform must include a provision to adjust, as provided in subsection (2), the standard prevailing rate of wages to be paid to the workers performing the contract.

(2) The standard prevailing rate of wages paid to workers under a contract subject to this section must be adjusted 12 months after the date of the award of the public works contract. The amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract.

(3) Any increase in the standard rate of prevailing wages for workers under this section is the sole responsibility of the contractor and any subcontractors and not the contracting agency.”

G. Fringe Benefits

Section 18-2-412, MCA states:

“(1) To fulfill the obligation...a contractor or subcontractor may:

(a) pay the amount of fringe benefits and the basic hourly rate of pay that is part of the standard prevailing rate of wages directly to the worker or employee in cash;

(b) make an irrevocable contribution to a trustee or a third person pursuant to a fringe benefit fund, plan, or program that meets the requirements of the Employee Retirement Income Security Act of 1974 or that is a bona fide program approved by the U. S. department of labor; or

(c) make payments using any combination of methods set forth in subsections (1)(a) and (1)(b) so that the aggregate of payments and contributions is not less than the standard prevailing rate of wages, including fringe benefits and travel allowances, applicable to the district for the particular type of work being performed.

(2) The fringe benefit fund, plan, or program described in subsection (1)(b) must provide benefits to workers or employees for health care, pensions on retirement or death, life insurance, disability and sickness insurance, or bona fide programs that meet the requirements of the Employee Retirement Income Security Act of 1974 or that are approved by the U. S. department of labor.”

Fringe benefits are paid for all hours worked (straight time and overtime hours). However, fringe benefits are not to be considered a part of the hourly rate of pay for calculating overtime, unless there is a collectively bargained agreement in effect that specifies otherwise.

H. Prevailing Wage Districts

Montana counties are aggregated into 4 districts for the purpose of prevailing wage. The prevailing wage districts are composed of the following counties:

Montana Prevailing Wage Districts



I. Dispatch City

ARM, 24.17.103(11), defines dispatch city as “...*the courthouse in the city from the following list which is closest to the center of the job: Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, and Missoula.*” A dispatch city shall be considered the point of origin only for jobs within the counties identified in that district (as shown below):

District 1 – Kalispell and Missoula: includes Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders;

District 2 – Butte and Helena: includes Beaverhead, Broadwater, Deer Lodge, Glacier, Granite, Jefferson, Lewis and Clark, Liberty, Madison, Pondera, Powell, Silver Bow, Teton, and Toole;

District 3 – Bozeman and Great Falls: includes Blaine, Cascade, Chouteau, Fergus, Gallatin, Golden Valley, Hill, Judith Basin, Meagher, Park, Petroleum, Phillips, Sweet Grass, and Wheatland;

District 4 – Billings: includes Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone, Musselshell, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Treasure, Valley, Wibaux, and Yellowstone.

J. Zone Pay

Zone pay is not travel pay. ARM, 24.17.103(24), defines zone pay as “...*an amount added to the base pay; the combined sum then becomes the new base wage rate to be paid for all hours worked on the project. Zone pay must be determined by measuring the road miles one way over the shortest practical maintained route from the dispatch city to the center of the job.*” See section I above for a list of dispatch cities.

K. Computing Travel Benefits

ARM, 24.17.103(22), states “‘*Travel pay, also referred to as ‘travel allowance,’ is and must be paid for travel both to and from the job site, except those with special provisions listed under the classification. The rate is determined by measuring the road miles one direction over the shortest practical maintained route from the dispatch city or the employee’s home, whichever is closer, to the center of the job.*” See section I above for a list of dispatch cities.

L. Per Diem

ARM, 24.17.103(18), states “‘*Per diem*’ typically covers costs associated with board and lodging expenses. *Per diem* is paid when an employee is required to work at a location outside the daily commuting distance and is required to stay at that location overnight or longer.”

M. Apprentices

Wage rates for apprentices registered in approved federal or state apprenticeship programs are contained in those programs. Additionally, Section 18-2-416(2), MCA states “...*The full amount of any applicable fringe benefits must be paid to the apprentice while the apprentice is working on the public works contract.*” Apprentices not registered in approved federal or state apprenticeship programs will be paid the appropriate journey level prevailing wage rate when working on a public works contract.

N. Posting Notice of Prevailing Wages

Section 18-2-406, MCA provides that contractors, subcontractors and employers who are “...*performing work or providing construction services under public works contracts, as provided in this part, shall post in a prominent and accessible site on the project or staging area, not later than the first day of work and continuing for the entire duration of the project, a legible statement of all wages and fringe benefits to be paid to the employees.*”

O. Employment Preference

Sections 18-2-403 and 18-2-409, MCA requires contractors to give preference to the employment of bona fide Montana residents in the performance of work on public works contracts.

P. Building Construction Occupations Website

You can find definitions for these occupations on the following Bureau of Labor Statistics website:
http://www.bls.gov/oes/current/oes_stru.htm

Q. Welder Rates

Welders receive the rate prescribed for the craft performing an operation to which welding is incidental.

R. Foreman Rates

Rates are no longer set for foremen. However, if a foreman performs journey level work, the foreman must be paid at least the journey level rate.

WAGE RATES

BOILERMAKERS

	Wage	Benefit
District 1	\$30.00	\$30.30
District 2	\$30.00	\$30.30
District 3	\$30.00	\$30.30
District 4	\$30.00	\$30.30

Duties Include:

Construct, assemble, maintain, and repair stationary steam boilers and boiler house auxiliaries.

Travel:

All Districts

0-120 mi. free zone

>120 mi. federal mileage rate/mi. in effect when travel occurs.

Special Provision:

Travel is paid only at the beginning and end of the job.

Per Diem:

All Districts

0-70 mi. free zone

>70-120 mi. \$55.00/day

>120 mi. \$70.00/day

BRICK, BLOCK, AND STONE MASONS

	Wage	Benefit
District 1	\$26.41	\$13.19
District 2	\$26.41	\$13.19
District 3	\$26.05	\$13.19
District 4	\$26.05	\$13.19

Travel:

All Districts

0-45 mi. free zone

>45-60 mi. \$25.00/day

>60-90 mi. \$55.00/day

>90 mi. \$65.00/day

CARPENTERS

	Wage	Benefit
District 1	\$22.00	\$11.57
District 2	\$22.00	\$11.86
District 3	\$22.00	\$11.57
District 4	\$24.59	\$11.57

Duties Include:

Install roll and batt insulation, and hardwood floors.

Zone Pay:

All Districts

0-30 mi. free zone

>30-60 mi. base pay + \$4.00/hr.

>60 mi. base pay + \$6.00/hr.

CEMENT MASONS AND CONCRETE FINISHERS

	Wage	Benefit
District 1	\$21.20	\$10.68
District 2	\$21.43	\$ 9.41
District 3	\$23.63	\$ 7.19
District 4	\$21.44	\$ 7.14

Duties Include:

Smooth and finish surfaces of poured concrete, such as floors, walks, sidewalks, or curbs. Align forms for sidewalks, curbs, or gutters.

Zone Pay:

All Districts

0-30 mi. free zone

>30-60 mi. base pay + \$2.95/hr.

>60 mi. base pay + \$4.75/hr.

CONSTRUCTION EQUIPMENT OPERATORS GROUP 1

	Wage	Benefit
District 1	\$23.47	\$11.05
District 2	\$23.47	\$11.05
District 3	\$23.47	\$11.05
District 4	\$23.47	\$11.05

This group includes but is not limited to:

Air Compressor; Auto Fine Grader; Belt Finishing; Boring Machine (Small); Cement Silo; Crane, A-Frame Truck Crane; Crusher Conveyor; DW-10, 15, and 20 Tractor Roller; Farm Tractor; Forklift; Form Grader; Front-End Loader, under 1 cu. yd; Oiler, Heavy Duty Drills; Herman Nelson Heater; Mucking Machine; Oiler, All Except Cranes/Shovels; Pumpman.

Zone Pay:**All Districts**

0-30 mi. free zone

>30-60 mi. base pay + \$3.50/hr.

>60 mi. base pay + \$5.50/hr.

CONSTRUCTION EQUIPMENT OPERATORS GROUP 2

	Wage	Benefit
District 1	\$23.94	\$11.05
District 2	\$23.94	\$11.05
District 3	\$23.94	\$11.05
District 4	\$23.94	\$11.05

This group includes but is not limited to:

Air Doctor; Backhoe\Excavator\Shovel, up to and incl. 3 cu. yds; Bit Grinder; Bituminous Paving Travel Plant; Boring Machine, Large; Broom, Self-Propelled; Concrete Travel Batcher; Concrete Float & Spreader; Concrete Bucket Dispatcher; Concrete Finish Machine; Concrete Conveyor; Distributor; Dozer, Rubber-Tired, Push, & Side Boom; Elevating Grader\Gradall; Field Equipment Serviceman; Front-End Loader, 1 cu. yd up to and incl. 5 cu. yds; Grade Setter; Heavy Duty Drills, All Types; Hoist\Tugger, All; Hydralift Forklifts & Similar; Industrial Locomotive; Motor Patrol (except finish); Mountain Skidder; Oiler, Cranes\Shovels; Pavement Breaker, EMSCO; Power Saw, Self-Propelled; Pugmill; Pumpcrete\Grout Machine; Punch Truck; Roller, other than Asphalt; Roller, Sheepsfoot (Self-Propelled); Roller, 25 tons and over; Ross Carrier; Rotomill, under 6 ft; Trenching Machine; Washing /Screening Plant.

Zone Pay:**All Districts**

0-30 mi. free zone

>30-60 mi. base pay + \$3.50/hr.

>60 mi. base pay + \$5.50/hr.

CONSTRUCTION EQUIPMENT OPERATORS GROUP 3

	Wage	Benefit
District 1	\$23.35	\$11.05
District 2	\$24.34	\$11.05
District 3	\$23.78	\$ 9.41
District 4	\$24.34	\$11.05

This group includes but is not limited to:
 Asphalt Paving Machine; Asphalt Screed;
 Backhoe\Excavator\Shovel, over 3 cu. yds; Cableway
 Highline; Concrete Batch Plant; Concrete Curing
 Machine; Concrete Pump; Cranes, Creter; Cranes,
 Electric Overhead; Cranes, 24 tons and under; Curb
 Machine\Slip Form Paver; Finish Dozer; Front-End
 Loader, over 5 cu. yds; Mechanic\Welder; Pioneer
 Dozer; Roller Asphalt (Breakdown & Finish); Rotomill,
 over 6 ft; Scraper, Single, Twin, or Pulling Belly-Dump;
 YO-YO Cat.

Zone Pay:
All Districts
 0-30 mi. free zone
 >30-60 mi. base pay + \$3.50/hr.
 >60 mi. base pay + \$5.50/hr.

CONSTRUCTION EQUIPMENT OPERATORS GROUP 4

	Wage	Benefit
District 1	\$25.00	\$11.05
District 2	\$25.00	\$11.05
District 3	\$25.00	\$11.05
District 4	\$25.00	\$11.05

This group includes but is not limited to:
 Asphalt\Hot Plant Operator; Cranes, 25 tons up to and
 incl. 44 tons; Crusher Operator; Finish Motor Patrol;
 Finish Scraper.

Zone Pay:
All Districts
 0-30 mi. free zone
 >30-60 mi. base pay + \$3.50/hr.
 >60 mi. base pay + \$5.50/hr.

CONSTRUCTION EQUIPMENT OPERATORS GROUP 5

	Wage	Benefit
District 1	\$25.50	\$11.05
District 2	\$25.50	\$11.05
District 3	\$25.50	\$11.05
District 4	\$25.50	\$11.05

This group includes but is not limited to:
 Cranes, 45 tons up to and incl. 74 tons.

Zone Pay:
All Districts
 0-30 mi. free zone
 >30-60 mi. base pay + \$3.50/hr.
 >60 mi. base pay + \$5.50/hr.

CONSTRUCTION EQUIPMENT OPERATORS GROUP 6

	Wage	Benefit
District 1	\$26.60	\$11.05
District 2	\$26.60	\$11.05
District 3	\$26.60	\$11.05
District 4	\$26.60	\$11.05

Zone Pay:
All Districts
 0-30 mi. free zone
 >30-60 mi. base pay + \$3.50/hr.
 >60 mi. base pay + \$5.50/hr.

This group includes but is not limited to:
 Cranes, 75 tons up to and incl. 149 tons; Cranes, Whirley (All).

CONSTRUCTION EQUIPMENT OPERATORS GROUP 7

	Wage	Benefit
District 1	\$27.10	\$11.05
District 2	\$27.10	\$11.05
District 3	\$27.10	\$11.05
District 4	\$27.10	\$11.05

Zone Pay:
All Districts
 0-30 mi. free zone
 >30-60 mi. base pay + \$3.50/hr.
 >60 mi. base pay + \$5.50/hr.

This group includes but is not limited to:
 Cranes, 150 tons up to and incl. 250 tons; Cranes, over 250 tons—add \$1.00 for every 100 tons over 250 tons; Crane, Tower (All); Crane Stiff-Leg or Derrick; Helicopter Hoist.

CONSTRUCTION LABORERS GROUP 1 / FLAG PERSON FOR TRAFFIC CONTROL

	Wage	Benefit
District 1	\$17.35	\$8.04
District 2	\$18.00	\$8.70
District 3	\$18.00	\$7.24
District 4	\$18.00	\$7.24

Zone Pay:
District 1
 0-30 mi. free zone
 >30-60 mi. base pay + \$1.50/hr.
 >60 mi. base pay + \$3.90/hr.

Districts 2, 3 & 4
 0-15 mi. free zone
 >15-30 mi. base pay + \$0.65/hr.
 >30-50 mi. base pay + \$0.85/hr.
 >50 mi. base pay + \$1.25/hr.

CONSTRUCTION LABORERS GROUP 2

	Wage	Benefit
District 1	\$16.27	\$6.18
District 2	\$17.47	\$7.68
District 3	\$16.28	\$6.25
District 4	\$18.00	\$6.61

This group includes but is not limited to:

General Labor; Asbestos Removal; Burning Bar; Bucket Man; Carpenter Tender; Caisson Worker; Cement Mason Tender; Cement Handler (dry); Chuck Tender; Choker Setter; Concrete Worker; Curb Machine-lay Down; Crusher and Batch Worker; Heater Tender; Fence Erector; Landscape Laborer; Landscaper; Lawn Sprinkler Installer; Pipe Wrapper; Pot Tender; Powderman Tender; Rail and Truck Loaders and Unloaders; Ripraper; Sign Erection; Guardrail and Jersey Rail; Spike Driver; Stake Jumper; Signalman; Tail Hoseman; Tool Checker and Houseman and Traffic Control Worker.

Zone Pay:**District 1**

0-30 mi. free zone
 >30-60 mi. base pay + \$1.50/hr.
 >60 mi. base pay + \$3.90/hr.

District 2

0-15 mi. free zone
 >15-30 mi. base pay + \$1.55/hr.
 >30-50 mi. base pay + \$3.10/hr.
 >50 mi. base pay + \$4.65/hr.

Districts 3 & 4

0-15 mi. free zone
 >15-30 mi. base pay + \$0.65/hr.
 >30-50 mi. base pay + \$0.85/hr.
 >50 mi. base pay + \$1.25/hr.

CONSTRUCTION LABORERS GROUP 3

	Wage	Benefit
District 1	\$19.50	\$8.04
District 2	\$19.50	\$8.70
District 3	\$19.00	\$7.24
District 4	\$19.00	\$7.24

This group includes but is not limited to:

Concrete Vibrator; Dumpman (Grademan); Equipment Handler; Geotextile and Liners; High-Pressure Nozzleman; Jackhammer (Pavement Breaker) Non-Riding Rollers; Pipelayer; Posthole Digger (Power); Power Driven Wheelbarrow; Rigger; Sandblaster; Sod Cutter-Power and Tamper.

Zone Pay:**Districts 1 & 2**

0-30 mi. free zone
 >30-60 mi. base pay + \$1.50/hr.
 >60 mi. base pay + \$3.90/hr.

Districts 3 & 4

0-15 mi. free zone
 >15-30 mi. base pay + \$0.65/hr.
 >30-50 mi. base pay + \$0.85/hr.
 >50 mi. base pay + \$1.25/hr.

CONSTRUCTION LABORERS GROUP 4

	Wage	Benefit
District 1	\$17.14	\$6.80
District 2	\$23.49	\$8.70
District 3	\$22.53	\$7.64
District 4	\$21.02	\$8.01

This group includes but is not limited to:
 Hod Carrier***; Water Well Laborer; Blaster; Wagon Driller; Asphalt Raker; Cutting Torch; Grade Setter; High-Scaler; Power Saws (Faller & Concrete) Powderman; Rock & Core Drill; Track or Truck Mounted Wagon Drill and Welder incl. Air Arc.

***Hod Carriers will receive the same amount of travel and/or subsistence pay as bricklayers when requested to travel.

Zone Pay:
District 1
 0-30 mi. free zone
 >30-60 mi. base pay + \$1.50/hr.
 >60 mi. base pay + \$3.90/hr.

District 2
 0-15 mi. free zone
 >15-30 mi. base pay + \$1.55/hr.
 >30-50 mi. base pay + \$3.10/hr.
 >50 mi. base pay + \$4.65/hr.

Districts 3 & 4
 0-15 mi. free zone
 >15-30 mi. base pay + \$0.65/hr.
 >30-50 mi. base pay + \$0.85/hr.
 >50 mi. base pay + \$1.25/hr.

DRYWALL APPLICATORS

	Wage	Benefit
District 1	\$22.00	\$11.57
District 2	\$22.00	\$11.86
District 3	\$22.00	\$11.57
District 4	\$22.00	\$11.57

Duties Include:
 Drywall and ceiling tile installation.

Zone Pay:
All Districts
 0-30 mi. free zone
 >30-50 mi. base pay + \$4.00/hr.
 >50 mi. base pay + \$6.00/hr.

ELECTRICIANS: INCLUDING BUILDING AUTOMATION CONTROL

	Wage	Benefit
District 1	\$28.17	\$11.80
District 2	\$29.52	\$12.76
District 3	\$28.54	\$11.61
District 4	\$31.39	\$12.72

Duties Include:

Electrical wiring; equipment and fixtures; street lights; electrical control systems. Installation and/or adjusting of building automation controls also during testing and balancing, commissioning and retro-commissioning.

Travel:**District 1**

No mileage due when traveling in employer's vehicle.

The following travel allowance is applicable when traveling in employee's vehicle:

- 0-10 mi. free zone
- >10-45 mi. \$0.585/mi. in excess of the free zone.
- >45 mi. \$75.00/day

District 2

No mileage due when traveling in employer's vehicle.

The following travel allowance is applicable when traveling in employee's vehicle:

- 0-08 mi. free zone
- >08-50 mi. federal mileage rate/mi. in excess of the free zone.
- >50 mi. \$64.00/day

District 3

No mileage due when traveling in employer's vehicle.

The following travel allowance is applicable when traveling in employee's vehicle:

- 0-08 mi. free zone
- >08-50 mi. federal mileage rate/mi. in excess of the free zone.
- >50 mi. \$64.00/day

District 4

No mileage due when traveling in employer's vehicle.

The following travel allowance is applicable when traveling in employee's vehicle:

- 0-18 mi. free zone
- >18-60 mi. federal mileage rate/mi.
- >60 mi. \$75.00/day

ELEVATOR CONSTRUCTORS

	Wage	Benefit
District 1	\$48.59	\$34.08
District 2	\$48.59	\$34.08
District 3	\$48.59	\$34.08
District 4	\$48.59	\$34.08

Travel:**All Districts**

- 0-15 mi. free zone
- >15-25 mi. \$38.90/day
- >25-35 mi. \$77.79/day
- >35 mi. \$84.90/day or cost of receipts for hotel and meals, whichever is greater.

FLOOR LAYERS

	Wage	Benefit
District 1	\$18.36	No Rate Established
District 2	\$18.36	No Rate Established
District 3	\$18.36	No Rate Established
District 4	\$18.36	No Rate Established

Lay and install carpet from rolls or blocks on floors.
Install padding and trim flooring materials.

GLAZIERS

	Wage	Benefit
District 1	\$18.50	\$3.36
District 2	\$17.71	\$3.16
District 3	\$16.79	\$3.36
District 4	\$20.33	\$3.57

HEATING AND AIR CONDITIONING

	Wage	Benefit
District 1	\$27.33	\$15.39
District 2	\$27.33	\$15.39
District 3	\$27.33	\$15.39
District 4	\$27.33	\$15.39

Duties Include:

Testing and balancing, commissioning and retro-commissioning of all air-handling equipment and duct work.

Travel: ***All Districts**

0-50 mi. free zone
>50 mi.

- \$0.25/mi. in employer vehicle
- \$0.65/mi. in employee vehicle

Per Diem: ***All Districts**

\$65.00/day

INSULATION WORKERS - MECHANICAL (HEAT AND FROST)

	Wage	Benefit
District 1	\$27.67	\$18.47
District 2	\$26.55	\$18.47
District 3	\$31.62	\$18.47
District 4	\$27.67	\$18.47

Duties Include:

Insulate pipes, ductwork or other mechanical systems.

Travel:**All Districts**

0-30 mi. free zone

>30-40 mi. \$20.00/day

>40-50 mi. \$30.00/day

>50-60 mi. \$40.00/day

>60 mi. \$45.00/day plus

- \$0.56/mi. if transportation is not provided.
- \$0.20/mi. if in company vehicle.

>60 mi. \$77.00/day on jobs requiring an overnight stay plus

- \$0.56/mi. if transportation is not provided.
- \$0.20/mi. if in company vehicle.

* Corrected 01/22/2016

IRONWORKERS - STRUCTURAL STEEL AND REBAR PLACERS

	Wage	Benefit
District 1	\$26.90	\$20.99
District 2	\$26.50	\$19.98
District 3	\$26.50	\$19.98
District 4	\$26.50	\$19.98

Duties Include:

Structural steel erection; assemble prefabricated metal buildings; cut, bend, tie, and place rebar; energy producing windmill type towers; metal bleacher seating; handrail fabrication and ornamental steel.

Travel:

District 1

0-45 mi. free zone
>45-60 mi. \$30.00/day
>60-100 mi. \$55.00/day
>100 mi. \$75.00/day

Districts 2, 3 & 4

0-45 mi. free zone
>45-85 mi. \$45.00/day
>85 mi. \$75.00/day

MILLWRIGHTS

	Wage	Benefit
District 1	\$31.00	\$11.57
District 2	\$31.00	\$11.86
District 3	\$31.00	\$11.57
District 4	\$31.00	\$11.57

Zone Pay:

All Districts

0-30 mi. free zone
>30-50 mi. base pay + \$4.00/hr.
>50 mi. base pay + \$6.00/hr.

PAINTERS: INCLUDING PAPERHANGERS

	Wage	Benefit
District 1	\$23.14	\$ 8.11
District 2	\$23.14	\$ 8.11
District 3	\$19.70	\$ 8.11
District 4	\$19.25	\$11.78

Travel:

All Districts

0-120 mi. free zone
>120 mi. \$45.00/day

PILE BUCKS

	Wage	Benefit
District 1	\$28.00	\$11.57
District 2	\$28.00	\$11.86
District 3	\$28.00	\$11.57
District 4	\$28.00	\$11.57

Duties Include:

Set up crane; set up hammer; weld tips on piles; set leads; insure piles are driven straight with the use of level or plum bob. Give direction to crane operator as to speed and direction of swing. Cut piles to grade.

Zone Pay:

All Districts

0-30 mi. free zone
>30-50 mi. base pay + \$4.00/hr.
>50 mi. base pay + \$6.00/hr.

PLASTERERS

	Wage	Benefit
District 1	\$21.20	\$10.68
District 2	\$21.43	\$ 9.41
District 3	\$23.63	\$ 7.19
District 4	\$21.44	\$ 7.14

Zone Pay:**All Districts**

0-30 mi. free zone

>30-60 mi. base pay + \$2.95/hr.

>60 mi. base pay + \$4.75/hr.

PLUMBERS, PIPEFITTERS, AND STEAMFITTERS

	Wage	Benefit
District 1	\$27.53	\$13.36
District 2	\$27.97	\$13.73
District 3	\$27.97	\$13.73
District 4	\$30.21	\$16.01

Duties Include:

Assemble, install, alter, and repair pipe-lines or pipe systems that carry water, steam, air, other liquids or gases. Testing of piping systems, commissioning and retro-commissioning. Workers in this occupation may also install heating and cooling equipment and mechanical control systems.

Travel:**District 1**

0-30 mi. free zone

>30-50 mi. \$20.00/day

>50-75 mi. \$35.00/day

>75 mi. \$70.00/day

Special Provision:

If transportation is not provided, an additional \$0.35/mi. is added to the amounts above for travel at the beginning and end of job, not for every mile traveled.

Districts 2 & 3

0-40 mi. free zone

>40-80 mi. \$30.00/day

>80 mi. \$60.00/day

Special Provision:

If employer provides transportation, travel pay will be ½ of the amounts listed above unless the employee stays overnight. If the employee chooses to stay overnight, the employee will receive the full amount of travel listed above even if the employer furnishes transportation.

District 4

0-70 mi. free zone

>70 mi.

- \$90.00/day if transportation is provided.
- \$90.00/day + \$0.55/mi. (for one trip, there and back) if transportation is not provided.

ROOFERS

	Wage	Benefit
District 1	\$17.53	\$10.22
District 2	\$19.68	\$ 5.49
District 3	\$17.31	\$ 8.66
District 4	\$21.28	\$ 3.72

Travel:**District 1**

0-50 mi. free zone
>50 mi. \$0.30/mi.

Districts 2, 3 & 4

No travel established.

Per Diem:**Districts 2 & 3**

Employer pays for room + \$25.00/day.

Districts 1 & 4

No per diem established.

SHEET METAL WORKERS

	Wage	Benefit
District 1	\$27.33	\$15.39
District 2	\$27.33	\$15.39
District 3	\$27.33	\$15.39
District 4	\$27.33	\$15.39

Duties Include:

Testing and balancing, commissioning and retro-commissioning of all air-handling equipment and duct work. Manufacture, fabrication, assembling, installation, dismantling, and alteration of all HVAC systems, air veyer systems, and exhaust systems. All lagging over insulation and all duct lining. Metal roofing.

Travel: ***All Districts**

0-50 mi. free zone
>50 mi.

- \$0.25/mi. in employer vehicle
- \$0.65/mi. in employee vehicle

Per Diem:**All Districts**

\$65.00/day

SPRINKLER FITTERS

	Wage	Benefit
District 1	\$31.16	\$18.37
District 2	\$30.74	\$18.37
District 3	\$30.42	\$18.37
District 4	\$30.71	\$18.37

Duties Include:

Duties Include but not limited to any and all fire protection systems: Installation, dismantling, inspection, testing, maintenance, repairs, adjustments, and corrections of all fire protection and fire control systems, including both overhead and underground water mains, all piping, fire hydrants, standpipes, air lines, tanks, and pumps used in connection with sprinkler and alarm systems.

Travel:**All Districts**

0-60 mi. free zone
>60-80 mi. \$16.50/day
>80-100 mi. \$26.50/day
>100 mi. \$80.00/day

* Corrected 01/22/2016

TAPERS

	Wage	Benefit
District 1	\$23.14	\$8.11
District 2	\$23.14	\$8.11
District 3	\$23.14	\$8.11
District 4	\$23.14	\$8.11

Travel:

All Districts
0-120 mi. free zone
>120 mi. \$45.00/day

TEAMSTERS GROUP 2 (TRUCK DRIVERS)

	Wage	Benefit
District 1	\$20.81	\$9.16
District 2	\$27.69	\$9.16
District 3	\$22.58	\$9.16
District 4	\$27.69	\$9.16

Zone Pay:

All Districts
0-25 mi. free zone
>25-50 mi. base pay + \$2.50/hr.
>50 mi. base pay + \$4.00/hr.

This group includes but is not limited to:

Combination Truck and Concrete Mixer and Transit Mixer; Dry Batch Trucks; Distributor Driver; Dumpman; Dump Trucks and similar equipment; Dumpster; Flat Trucks; Lumber Carriers; Lowboys; Pickup; Powder Truck Driver; Power Boom; Serviceman; Service Truck/Fuel Truck/Tireperson; Truck Mechanic; Trucks with Power Equipment; Warehouseman, Partsman, Cardex and Warehouse Expeditor; Water Trucks.

TELECOMMUNICATIONS EQUIPMENT INSTALLERS

	Wage	Benefit
District 1	\$22.75	\$8.60
District 2	\$23.37	\$8.60
District 3	\$23.37	\$8.60
District 4	\$22.08	\$5.71

Travel:

All Districts
The federal mileage rate/mi. in effect when travel occurs if using own vehicle.

Per Diem:

All Districts
Employer pays for meals and lodging up to \$65.00/day. When jobsite is located in Big Sky, West Yellowstone and Gardiner, lodging and meals will be provided by the employer for all actual and reasonable expenses incurred.

Duties Include:

Install voice; sound; vision and data systems. This occupation includes burglar alarms, fire alarms, fiber optic systems, and video systems for security or entertainment.

TILE AND MARBLE SETTERS**No Rate Established****Duties Include:**

Apply hard tile, marble, and wood tile to floors, ceilings, and roof decks

Backup material for agenda item:

B. DISCUSS/APPROVE/DENY -- MORATORIUM ON GLASS RECYCLING

GLASS RECYCLING

Glass recycling was original done at the City of Livingston by shipping to a Coors’ bottle plant but it became so contaminated they refused to accept any more glass shipments. The City has continued to accept glass and stock pile it without any ability to recycle it. The city currently received 3 tons of glass per week or 156 tons per year. However, when Target in Bozeman stopped recycling glass the amount of glass the City received jumped 50% to 4.5 tons per week. There is currently 200 tons of glass stockpiled at the public works facility.

The City has shipped 2 loads of glass to Momentum in Salt Lake City. The costs for doing this is shown in the table below. The cost of recycling glass is \$49.88 per ton versus the \$42.88 per ton it costs to dispose of. In addition all the glass that comes from recycling does not bring any income but if 70% was collected with commercial waste disposal the city would make \$600 a week. This brings the total difference for the Solid Waste Budget from Glass Recycling to \$42,870.75.

Glass Recycling Costs

Current Stockpile	200 tons
Rate Receiving	4.5 tons/week

Time to fill box	0.525 hrs
Cost of Box	\$ 15.00
Box Wrap	\$ 70.00
Weight of Box	1 tons
Amount per Truck	20
Cost of truck	\$ 690.00
Time to load	2 hrs

Commodity Credit	\$ 20.00 per ton
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Cost to Recycle One Ton	\$ 49.88
Current Liability of Stockpile	\$ 9,975.00
Assumed Liability per week	\$ 224.44
Assumed Liability per Year	\$ 11,670.75
Needed Fee per Customer per Month to Recycle Glass Recieved	\$ 0.29
Needed Fee per Customer per Month to Recycle Glass Recieved and Eliminate Stockpile in 2 Years	\$ 0.42

Backup material for agenda item:

- C. DISCUSS/APPROVE/DENY -- REQUEST TO ALLOW CAMPING AT MAYOR'S LANDING FROM 12 P.M. ON JULY 7, 2016 UNTIL 12 P.M. ON JULY 8, 2016**

Commissioner Bennett
City of Livingston
414 E. Callender St.
Livingston Mt, 59047

05-31-16

Dear Commissioner Bennett

I'm a coordinator with the Yellowstone Boat Float. This is the 53rd annual float and will be taking place July 7-10. I'm writing in order to obtain permission to camp at Mayors Landing.

There will only be 20-30 people that would like to camp there. Most others get motel rooms in town. The exact time we would like to camp would be from noon on Thursday July 7th to noon on Friday July 8th. There would be no camp fires and it will be made sure that no garbage will be left behind.

The Yellowstone Boat Float has appreciated the use of Mayors Landing in the past and will look forward to working with the City of Livingston in the future. An email or call to let us know of your decision would be greatly appreciated. Thank you for your consideration.

Cordially,

Sean McDuffee
1045 Poly Dr.
Billings Mt, 59102
Sean.mcduffee@centurylink.com
406-696-1996

Backup material for agenda item:

- D. DISCUSS/APPROVE/DENY -- REQUEST FOR ADDITIONAL FUNDING FROM THE NORTHERN ROCKY MOUNTAIN ECONOMIC DEVELOPMENT DISTRICT (ROB GILMORE)**



311 West Main Room 311 Bozeman, MT 59715 PH: 406-577-2541 FAX 866-847-8033

May 31, 2016

City of Livingston
City County Complex
414 E. Callender
Livingston, MT 59047

Re: Membership fee 2016/2017

Dear Commissioners:

This letter respectfully requests that the City of Livingston consider raising its annual NRMEDD membership fee from \$3,500 to \$7,000. The NRMEDD is a membership based organization and in an effort to establish a sustainable budget is requesting that all of its members evaluate their annual contributions. The District has been active in several projects that benefit the constituents of Gallatin and Park Counties and the City of Livingston specifically.

In 2015 and 2016 we have directed several key projects as follows:

Guest House: With the help of Manny Goetz, the District reached out to the owners of the Guest House, arranged to meet them, hosted a visit to the Borden Hotel in Whitehall to view a similar property, joined in discussions to measure financial feasibility, assisted in preparing the URA application, prepared an economic impact study demonstrating the millions in new capital and jobs benefit, conducted a tax study to measure future tax revenue. As a result a cornerstone for the City of Livingston and Park County that was vacant for 10 years and suffered from a rapidly deteriorating condition is now engaged in a full rehabilitation with ground floor spaces available this late Spring. The newly renovated space will remove a blighted area, benefits 31 jobs, create 6 new retail stores and provide 40 much-needed affordable housing units. Additionally, the building owners have added public restrooms and a visitor information center at their ground floor to better accommodate tourist and visiting buses.

Technology Center at Printing For Less Property: the NRMEDD contacted owners of property immediately adjacent and surrounding the PFL location to seek their interest in developing a technology park on the property. Having received a positive response the District led an effort that brought in professional consultants to assist the owners analyze their options and to more fully develop a go-forward strategy. The project continues and the District is working with the owners to identify suitable technology tenants.

Livingston Downtown Vaults: Storage vaults currently reside under streets and sidewalks in the Livingston downtown and present a potential liability to the City and property owners. The City requested that residents pay to fill-in the vaults which resulted in a potential economic hardship for some owners. The City's request was met with a lawsuit and the vault program came to a halt. To reinvigorate the program the District, with key introductions made by Manny Goetz, met with the

interested parties and offered a solution that included a URA grant, a URA loan, owner participation and a state grant. The District made inquiries to the State of Montana and also met with the litigant to request that the lawsuit be removed. The project is still in process and the parties are engaged.

Montana Rail Link Property at the Livingston rail yards: Following on an introduction made by a Livingston business owner the District reached out to Wang Chunhua, an Australian consultant, with ties to both US rail manufacturing and also the China Railway Rolling Stock Corporation (CRRC). The District has been in contact with Wang and with property managers and MRL to coordinate a visit with the Chinese company that has shown interest in establishing a US manufacturing facility.

Business Recruitment: The NRMEDD has been active promoting Park and Gallatin counties in its efforts to recruit key high tech companies. The District received over \$17,000 in contributions from Livingston and Bozeman banks to underwrite the costs of meeting with potential companies and to pay the travel costs of select business representatives. As a result the District has succeeded in getting on the short list of major site selectors and is currently working to locate three key companies. This work has required new close partnerships with NorthWestern Energy, CenturyLink and site selection managers. The NRMEDD is confident that the business recruitment program will provide our region with a significant return on investment.

Access to Capital and StartUp initiatives: In 2015 the District worked hard to identify new sources of equity capital for our young and expanding businesses. It also formed ties with StartUpBozeman and the Blackstone LaunchPad that would make it easier to transition young companies into our rural communities. Presently the District is working closely with the Frontier Fund to identify potential expansion candidates.

Business BBQ: In 2015 the NRMEDD hosted its summer business BBQ and had invited guest speakers and young companies.

Expanded board: In 2015 and 2016 the NRMEDD Board was expanded to include key Park County business people Wyeth Windham (PFL), Manny Goetz (Yellowstone Country Motors) and Jane Tecca (Christies Real Estate). These new members join with James Bennett of the Livingston City Commission and Steve Caldwell of the Park County Commission who have been NRMEDD board members for several years. The District is indebted to each of these community leaders for their valuable contributions. Manny Goetz particularly has served a vital role in the delivery of several Livingston programs.

Interagency Cooperation: The NRMEDD has met with and increased its partnerships with Prospera and the Park County Extension office. Protocols are being created to help guide cooperation and promote resource sharing.

Montana High Tech Business Alliance: The NRMEDD helped to form and is represented on the MHTBA Board. This year the organization expanded to over 250 members statewide. Surveys conducted within the organization are shedding light on both the business opportunities and obstacles that are impacting the State's high tech industry.

“Serving Gallatin, Park and Madison Counties of Southwest Montana”

We look forward to continuing our service to the City Livingston in 2016/2017 and will again rely on the guidance and support of the City Commissioners and the NRMEDD Board members.

Sincerely,

A handwritten signature in blue ink, appearing to read "RSJ", is centered on a light blue rectangular background.

Rob Gilmore, Exec Director
NRMEDD