

## CITY OF LIBBY

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### REGULAR COUNCIL MEETING #1559

DECEMBER 21, 2020 @ 7:00PM

COUNCIL CHAMBERS – CITY HALL

#### CALL TO ORDER:

- Pledge of Allegiance
- Roll Call
- Welcome
- Prayer offered by Bill Sonntag.
- Approve City Council Meeting Minutes for #1558 dated 7 December 2020.

#### ANNOUNCEMENTS:

#### COMMITTEE REPORTS:

- City Administrators Report
- Fire
- Police
- Ordinances
- Lights/Streets/Sidewalks
- Building
- Water/Sewer
- Zoning Commission
- Cemetery/Parks
- Finance
- KRDC
- City-County Board of Health
- Park District Manager of Projects

**PUBLIC COMMENT ON NON-AGENDA ITEMS:** This is an opportunity for the public to offer comments related to issues that are not currently on the agenda that the council has jurisdiction over. **Public comment is limited to 3 minutes.**

**NEW BUSINESS:** Each new agenda item will be introduced by the Mayor (or assigned liaison) with a description of the item and explanation for the recommended action. Following council discussion on each item will be an opportunity for public comment prior to any action taken. **Public comment is limited to 3 minutes concerning the agenda item being discussed only.**

1. Approve Independent Contractor Agreement for Lincoln County Park District Manager through January 31, 2023.
2. Approve Inter-Local Agreement for the upkeep and improvement of the Libby Community Tennis and Pickle Ball Courts.
3. Approve renewal of Fraser Management and Consulting. PLLC., contract.
4. Approve new business licenses received to date.
  - a. Above and Beyond Roofing, Individual, PO Box 1684 Plains MT, Roofing and Handyman.
  - b. Darby Lee Construction, Individual, 281 Autumn Rd., Construction.
  - c. Windy Cindy Janitorial LLC, Individual LLC, 69 Wilson Ave., Janitorial.
  - d. DRH Contracting, Individual, 50 Pioneer Rd., Handyman.

**UNFINISHED BUSINESS:**

1. City of Libby Wildlife Management Plan
2. IP negotiations.
3. Approve (tabled) location for vault toilet at the Cross-Country Ski Course.

**GENERAL COMMENTS FROM COUNCIL:**

**ADJOURNMENT:**

**The manner of Addressing Council:**

Each person, not a Council member shall address the Council, at the time designated in the agenda or as directed by the Council, by stepping to the podium or microphone, giving that person's name and address in an audible tone of voice for the record, unless further time is granted by the Council, **shall limit the address to the Council to three minutes.**

All remarks shall be addressed to the Council as a body and not to any member of the Council or Staff.

No personal remarks shall be addressed to the Council as a body and not to any member of the Council or Staff.

No person, other than the Council and the person having the floor, shall be permitted to enter any discussion either directly or through a member of the Council, without the permission of the Presiding Officer. Any person making personal, impertinent, or slanderous remarks or who shall become boisterous or disruptive during the council meeting shall be forthwith barred from further presentation to the council by the presiding officer unless permission to continue by granted by a majority vote of the council.

**ATTENTION:**

To access this meeting electronically with ZOOM,  
Dial: 253-215-8782  
Meeting ID: 4042719951  
Password: 151041

Posted: 12/16/20

## UNAPPROVED MINUTES

The City Council held meeting #1558 on Monday, December 7, 2020, in the Council Chambers at City Hall.

### Call to Order:

The meeting was called to order at 7:00 pm by Mayor Brent Teske.

The Pledge of Allegiance was completed, and Roll Call commenced. Present were Mayor Teske, Mrs. Williams (via Zoom), Mr. Beach (via Zoom), Mr. Dufficy, Ms. Smith, Mr. Taylor (via Zoom), City Administrator Mr. Hammons and City Clerk/Treasurer Mr. Sikes. Mr. Zimmerman was not in attendance.

Mayor Teske welcomed all and a prayer was offered by Mr. Bill Sonntag.

Approve City Council Meeting minutes for #1557 dated 16 November 2020. Councilor Beach **MADE A MOTION** to approve and Councilor Smith **SECONDED**.

Mrs. Williams, Mr. Beach, Mr. Dufficy, Ms. Smith and Mr. Taylor voted **FOR**.

### **MOTION PASSED.**

Approve Public Hearing minutes for 23 November 2020. Councilor Beach **MADE A MOTION** to approve and Councilor Smith **SECONDED**. One change was proposed by Councilor Smith and accepted by the Council.

Mrs. Williams, Mr. Beach, Mr. Dufficy and Ms. Smith voted **FOR** while Mr. Taylor abstained due to not attending the meeting.

### **MOTION PASSED.**

### Announcements:

Mayor Teske brought to everyone's attention that it was Pearl Harbor Day mentioning special days do not occur on a meeting night very often and spoke to the meaning of the day and his remembrances. Mr. Teske asked for and received a moment of silence.

### Committee Reports:

**City Administrator's Report:** Mr. Hammons pointed out the large \$17,000 dollar plus payment in the claims to be approved was the first of 5 yearly payments being made for the Vacuum Truck that was just purchased adding that hopefully the truck will be delivered next week. Mr. Hammons informed that Council that 5 employees of the Street Shop are on quarantine by the Health Department with 1 of the quarantined being a confirmed case adding that he hoped it would not snow until they are back.

Mayor Teske stated that he did not see snow coming soon. Councilor Zimmerman was able to join the Meeting via Zoom at 7:08 pm.

**Fire:** Councilor Zimmerman reported that LVFD responded to 4 calls for service. The calls consisted of 1 for the City, 1 in the Rural District and 2 outside of both. 1 was for a vehicle, 1 for ambulance assistance, 1 false alarm and 1 for a powerline. This brings the total number of calls to 112 through the end of November.

**Police:** Police Chief Kessel reported 188 calls for service in November as opposed to 263 last year. Of the calls 6 resulted in arrest and 19 in citations whereas last year it was 26 arrests and 22 citations. The numbers are lower due to COVID-19 and not being able to arrest with exception being violent offenders. Chief Kessel mentioned that his Deputies were all COVID-19 free but suffering from flu symptoms. Mrs. Laura Crismore added that the Board of Health had yet to confirm a flu case in Lincoln County this year.

**Resolution/Ordinances:** Councilor Williams reported nothing at this time, but the Committee is gearing up to confront several items soon.

**Lights/Streets/Sidewalks:** None.

**Building:** Mayor Teske mentioned to the Council that there is an office space for rent in City Hall in case anyone was looking. Councilor Smith asked if it had been advertised to which the Mayor responded that it had not but that it would be a good idea.

**Water/Sewer:** Mayor Teske inquired if Councilor Zimmerman had been in contact with Wendy Berry who had contacted him. Mr. Zimmerman confirmed the contact and was getting with Mr. Hammons to set up an evening meeting to discuss some issues.

**Zoning Commission:** Councilor Smith reported that the Committee had met last Monday and that they are plucking away at the language used in the Residential A Code. The language seems to be archaic and does not reflect the current cultural norms. Ms. Smith let the Council know that there is still an opening on the Committee if there was anyone interested. Mayor Teske stated that there was indeed an application for the position that he was tracking down.

**Cemetery/Parks:** None.

**Finance:** Mr. Sikes informed the Council that the Cities portion of the required information due to the auditor was complete adding that CARES reimbursement was now the focus of effort for the next couple days.

**KRDC:** Councilor Smith reported that there will be a tele-meeting this Thursday.

**City-County Board of Health:** Mrs. Laura Crismore reported that Libby Care Center gave an update to the public and board. It was reported on 11/10 that they had 10 residents and 7 staff test positive for COVID. The care center continues to test staff weekly, separate COVID patients by placement to a dedicated unit, and have dedicated staff to work only this unit. Currently, the care center is now accepting patients again.

Several community members and county health met to discuss ways that we may better our communication. We will utilize the County website more efficiently to ensure we are giving a standardized and timely message.

Sara Mertes' time is up with the Board of Health (BOH) and she has agreed to another term. Several Eureka residents would like to see more Northern Lincoln County representation on the board. Several BOH members agreed to more representation and this will be further discussed at the 12/09/20 BOH meeting.

Team 56 continues to work with community members to find effective ways to reduce COVID cases. Please check out their Facebook page if you are able.

Our COVID cases continue to grow. There was an outbreak at Turning Winds. Additionally, several from Libby High School were out with COVID or quarantined due to exposure. From the 12/06/20 update, we have a total of 845 cases with 151 of those being listed as active.

The County has reviewed the enforcement process on those that are not complying with the Governor's mandate. At this time, they are restarting the entire process so that everyone is treated equally. They have revised the process and they will be updating the FAQs to include information regarding this change.

Jan Ivers proposed setting up an educational meeting by the BOH to answer frequently asked questions. Topics could include organizational structure, rules and responsibilities, finances, testing, collaboration of medical care and contact tracing to name a few.

The County has access to the Binaxnow Rapid COVID test allowing the County to have results within 15 minutes on each test.

The County has begun the mobile flu clinic and if you would like to have the flu vaccine, please call 283-2447. Currently, we have no flu cases in our County.

Operations and Maintenance for Solid Waste department have been updated. As soon as these are finalized, they will be uploaded to the County website.

Asbestos Resource Program (ARP):

- (1) Final revisions were made to the Memorandum of Agreement (MOA) between Lincoln County and MT Department of Environmental Quality. Lincoln County sent a signed copy of the MOA to DEQ for final signatures. We are still waiting for confirmation on an effective agreement.
- (2) While we wait for the agreement to be signed, ARP has met with the finance departments at Lincoln County and DEQ to understand new procedures for invoice requirements for reimbursement of monthly costs, including cost expended before the agreement is finalized (starting from July 2020).
- (3) ARP continues to meet and work with DEQ on operations & maintenance (O&M) activities within Libby and Troy:

- a. ARP has responded to 46 utility locates during October 2020 which includes information about potential remaining contamination at dig sites and ARP staff conducting site visits.
  - b. There are 3 pending activities in Troy and 12 pending activities in Libby. These activities include site inspections, information requests, investigative sampling, and abatement.
  - c. The lab contract between DEQ and Techlaw is now established and ARP will be collecting their first round of confirmation sampling from a property. Also, ARP is trying to educate local accredited asbestos inspectors on the O&M process when they are hired by a property owner to collect samples. This process allows reimbursement to the property owner to pay for DEQ-approved sampling activities.
- (4) DEQ is finalizing their 2020 Annual O&M Inspection Report on the Riverfront Property (OU1), the former Parker's residence/currently W.R. Grace property/former vermiculite processing area (OU2), the Port Authority (OU5), and the transportation corridor which includes portions of Hwy 2, MT-37, and Farm to Market Rd (OU8).
  - (5) There was a public comment period for the EPA OU8 Institutional Control Implementation Assurance Plan (ICIAP) document. This comment period ended late October.
  - (6) The current Region 8 EPA Administrator, Mr. Greg Sopkin, along with Mike Cirian met with Commissioner Peck and Commissioner Bennet during the Administrators tour of OU3, the former W. R. Grace mine site on October 15<sup>th</sup>.
  - (7) The EPA released their second 5-year Review report on OU1, OU2, OU4 (properties in Libby), OU5, OU6 (BNSF railroad corridor), OU7 (properties in Troy), and OU8. That report can be found on the EPA's website for the Libby Asbestos Superfund Site.
  - (8) Finally, the EPA Information Office on 9<sup>th</sup> street closed after more than 20 years of service. The Lincoln County Asbestos Resource Program (ARP) will be replacing the services that the info office provided, including education about Libby asbestos, providing resources for O&M activities, and participating in initiatives that affect the Superfund Site. ARP's office is located at 503 California Avenue in Libby, MT.

Libby Asbestos superfund Oversight Committee (LASOC) recently requested of DEQ to fund 7 properties regarding asbestos removal. DEQ agreed to fund 2 but declined 5. The Libby Asbestos Superfund Oversight Committee has taken the stance that no property owners should be responsible for cleanup costs and will continue to work with DEQ to push this.

Councilor Dufficy asked if homeowners were going to have to pay for cleanups in the future and Mrs. Crismore informed Mr. Dufficy that the County was supposed to get money from the DEQ to clean up the remaining Asbestos.

**Park District Manager:** None.

**Public Comment on Non- Agenda Items:**

None.

**New Business:**

**Approve all business licenses received to date.**

Mayor Teske read through the application for Goddess Home Solutions. Councilor Dufficy **MADE A MOTION** to approve the license and Ms. Smith **SECONDED**.

Mrs. Williams, Mr. Beach, Mr. Dufficy, Ms. Smith, Mr. Taylor, And Mr. Zimmerman voted **FOR**.

**MOTION PASSED.**

**Approve claims and payroll for November of 2020.**

Councilor Williams **MADE A MOTION** to approve and Ms. Smith **SECONDED**.

Mrs. Williams, Mr. Beach, Mr. Dufficy, Ms. Smith, Mr. Taylor, And Mr. Zimmerman voted **FOR**.

**MOTION PASSED.**

**Unfinished Business:**

**City of Libby Wildlife Management Plan.** Councilor Taylor informed the Council that communication with the Fish and Game was scarce since hunting season had begun. Mr. Taylor informed the Mayor that the draft plan has gone back and forth between the City and Fish and Game and that it was currently in their possession.

**IP Negotiations.** Mayor Teske informed the Council that there was a phone meeting tomorrow with the EPA and DEQ where he hoped to find out where the Controlled Ground Water Agreement was at.

**Approve location for vault toilet at the Cross-Country Ski Course.** Mayor Teske informed the Council that the last information on the vault toilet was that plans were still being gathered for resubmittal to the Council.

**General Comments from Council:**

Councilor Smith informed the Council that the City had always gone through the County to get maps printed when updated and now a sub-contractor will print future maps and the County would still print the required maps for the City.

Mayor Teske asked if the City had to get a contract also and Ms. Smith said it was not required yet and that a proposal could be put together if it was needed in the future. Mr. Teske said it could be put in the budget next year if needed.

**Adjournment:**

Councilor Dufficy **MADE A MOTION** to Adjourn and Councilor Williams **SECONDED**.

Mrs. Williams, Mr. Beach, Mr. Dufficy, Ms. Smith, Mr. Taylor, And Mr. Zimmerman voted **FOR**.

**MOTION PASSED.**

Meeting adjourned at 7:28 pm.

\_\_\_\_\_

Mayor Brent Teske

Attest; \_\_\_\_\_

Clerk/Treasurer Samuel Sikes



## Request to present to the City Council

Request for agenda item on December 21 meeting, requested by:

Tony Petrusha,

Recreation Project Manager

Cabinet Country Consulting, Libby, MT

December 16, 2020

I have been engaged by The City of Libby, Lincoln County Commissioners and the Libby Park District to perform Project Management services related to recreation. Each of the three entities budgeted \$10,000 annually to fund this assigned scope of work for a 3 year period, January 2021 will end the current agreement.

Work began May 1, 2018, since that time \$15,033.75 has been invoiced for services. Included in the invoice amount is \$941.00 annually for the required Error and Omissions Insurance coverage. Current balance as of 1 December is \$74966.25.

The Kootenai Wellness Aquatic Center and the Libby Area Trails Plan are the two projects currently being worked, as summarized below.

### Libby Pool Project (Kootenai Wellness Aquatic Center)

1. Created a legal non-profit organization.
2. Created the ballot language and prepared to be on November ballot; however the pandemic de-railed our plans. The project is currently on hold.
3. The Pool committee meets quarterly to assess status and discuss plans for a restart when the time is right.

### Greater Libby Area Trails Plan

1. Libby Outdoor Recreation Association (LORA), a group consisting of representatives from 14 different organizations in the community,
2. Regular meetings with these stake holders has been reduced to a 'call in meeting' every other month. Meetings attendance is typically between 15 and 25 people, currently, call ins are around 10 participants
3. Participated in the City of Libby Source Water Delineation Report as part of the Nordic Ski Course. Prepared drainage diagrams for ski course, in pursuit of design for a Parking area for City and USFS approval. Working to present engineering documents for a vault toilet at the Nordic Ski Course for City Council approval. Working on hydrology/runoff plan for all ski course roads and trails.
4. Working with DNRC to create a mountain bike course in section 16 located north of Flower Creek reservoir.
5. Continue to develop the 'East Cabinet Trail Complex' Recreation Development Plan

In the past 3 years I have invoiced for \$ 15033.75, about one-fifth the allocated amount. The current agreement expires 31 January 2021. I am requesting to renew the agreement for three more years, however there is no need to commit additional funds, as the account balance is adequate for seven years at the current spending rate.

Thank you for your time and consideration.

# INDEPENDENT CONTRACTOR AGREEMENT LINCOLN COUNTY PARK DISTRICT MANAGER OF PROJECTS

This Independent Contractor Agreement (“Agreement”) is made and entered into as of this **1st day of February 2020** (“Effective Date”) by and between Lincoln County, Montana, City of Libby, Montana, the Libby Park District, (collectively, “Government Entities”), and Cabinet Country Consulting LLC / Paul Petrusha, (“Contractor”) to provide contract services for the identification, detailed development and initial implementation of recreation projects in the Libby area.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

## 1. TERM

The term of this Agreement shall commence on the Effective Date, and shall terminate on **January 31, 2023** unless terminated earlier by either party in writing as provided herein.

## 2. COMPENSATION

Contractor shall be paid by “Government Entities” as follows:

2.1 For purposes of payment, work will be invoiced under either one of two categories; Project Planning and Project Execution.

2.2 Project Planning work, defined as work performed during the formative or planning stages of a project, will be invoiced at an hourly rate of \$35.00 per hour.

2.3 Project Execution work, including project manager duties that are part of a project, will be included as line item expenses in the project breakdown and invoiced for each completed stage of the project at an hourly rate of \$35.00 an hour.

2.4 Payment will be made as an independent contractor service, not as wages.

## 3. CONTRACTOR DUTIES

Contractor will be expected to provide the following services;

3.1 Establish a list of recreation projects.

3.2 Identify local citizens or groups interested in participating in each project’s development.

3.3 Identify stakeholders that can provide labor, equipment, or other resources in support of each project.

3.4 Research and develop a resource list of available grants and other opportunities for project funding.

3.5 Promote support for the project in and around Libby and facilitate public meetings as requested.

3.6 Provide monthly progress reports to Lincoln County, City of Libby, and the Libby Park Board.

3.7 Establish a five-year work plan, detailed for years one and two, with priority given to trails, swimming pool, and the ice skating rink.

3.8 Develop a strategy to implement the "Greater Libby Area Trails Plan" including but not limited to the following;

A. Coordinate with Montana DNRC, United States Forest Service, and other entities to obtain required approvals or to provide simple notice.

B. Provide design oversight and interface with design entities for review, sequencing, prioritization and clarification of design.

C. Plan and monitor construction of trails, trail heads, parking areas, and bridges, etc.

#### 4. DESIGN AUTHORITY and OWNERSHIP

4.1 Any plans and designs for all projects shall be owned by the Government Entities and their agencies. Contractor shall have no ownership rights of any plans or designs, including those produced by Contractor in the course of fulfilling Contractor's duties under this Agreement.

#### 5. INDEPENDENT CONTRACTOR

5.1 The parties intend and agree that, at all times during the performance of services under this Agreement; Contractor shall act as an independent contractor and shall not be considered an agent or employee of the Government Entities. As such, Contractor shall have the sole legal responsibility to remit all federal and state income and social security taxes and to provide for his/her own workers compensation and unemployment insurance and that of his/her representatives. Contractor also agrees to provide liability insurance as required by Government Entities and this Agreement.

#### 6. INSURANCE

6.1 General Liability Insurance. The contractor must provide and maintain at all times general liability insurance in an amount not less than one million dollars (\$1 million per occurrence), and insurance for bodily injury, personal injury, and property damage in the amount of \$50,000 per occurrence.

6.2 Contractor's insurance coverage shall be primary insurance and/or primary source of recovery Entities, its elected or appointed officers, agents, officials, employees and volunteers with respect to all claims, losses or liability arising directly or indirectly from the Contractor's operations or services provided to Government Entities.

6.3 Workers Compensation Insurance. By executing this Agreement, Contractor certifies that the contractor is aware of and will comply with the Labor Code of the State of Montana requiring every employer to be insured against liability for workers compensation or to undertake self-insurance before commencing any work. Contractor shall carry the insurance or provide for self-insurance required by Montana law to protect Contractor from claims under the Workers' Compensation Act.

6.4 The contractor shall indemnify, defend and hold harmless Government Entities, its elected and appointed officers, employees, agents, representatives, boards and commissions (“Indemnified Parties”) with respect to any loss, liability, injury or damage that arises out of, or is in any way related to, the acts or omissions of Contractor, his or her employees, representatives, officers and agents in the course of performing services under this Agreement; however, Contractor shall not be required to indemnify Government Entities from any claim arising from the sole negligence or willful misconduct of the Indemnified Parties.

## 7. SEVERABILITY

7.1 If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

## 8. TERMINATION

8.1 Lincoln County, the City of Libby, or Libby Parks Board has the right, at its sole discretion and with or without cause, to terminate this Agreement at any time by giving three (3) calendar days prior written notice to Contractor. In the event of termination under this section, Government Entities shall pay Contractor on a prorated basis for any completed work up to the effective date of termination.

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Mark Peck, Lincoln County Commissioner

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Brent Teske, City of Libby, Mayor

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Jim Germany, Libby Park District

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Paul Petrusha, Contractor  
Cabinet Country Consulting LLC

**INTER-LOCAL AGREEMENT**  
**For The**  
**UPKEEP AND IMPROVEMENT OF THE LIBBY COMMUNITY**  
**TENNIS AND PICKLE BALL COURTS**

**THIS AGREEMENT** is made and entered into by and between the following four public agencies pursuant to the *Inter-Local Cooperation Act* found at 7-11-101, MCA., namely, the City of Libby, hereinafter called the “City,” Lincoln County, hereinafter called the “County,” and Libby Public School District, hereinafter called “School” and The Libby Park District Board, hereinafter called “Parks.” The City, County, School and Parks shall hereinafter be referred to as the “Parties”.

**THIS AGREEMENT** shall be for a period of ten years, with the first day of December 2020. At the end of the ten years, on November 30, 2030, the Parties shall have the option to renew the Agreement for an additional ten years upon the same or modified terms and conditions (which must comply with current laws of the State of Montana). If agreement cannot be reached, the city shall be notified and the Agreement will be terminated as of November 30, 2030.

**WHEREAS**, Title 7, Chapter 11, MCA, known as the *Inter-Local Cooperation Act*,” permits local government units to make the most efficient use of their powers by enabling them to cooperate with other government units on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities, and...

**WHEREAS**, the Parties desire to address matters relating to the use, maintenance and improvement of the Libby Community Tennis and Pickle Ball Courts (located on city property on Spruce Street near Libby City Hall) and to delineate responsibilities, obligations and rights concerning the utilization of these courts. **NOW THEREFORE**, the following are mutually agreed upon:

**1. Scheduling of Court Usage:**

- a. The Libby High School tennis team shall have the exclusive use of the courts for after-school practices Monday through Friday from 3:30-6:00 p.m. during the spring tennis season. LHS shall also have exclusive use of the courts during meets and tournaments sponsored by the School.
- b. Except for usage by LHS as described above, U Serve Libby, Inc., which leases the courts from the City, shall have non-exclusive use of the courts throughout the entire outdoor tennis season for the purpose of offering instructional programs to the public, holding clinics, social events and exhibitions. As set forth in its 25-year lease agreement (2008-2033) with the City, U Serve Libby, Inc., shall be eligible for the exclusive use of the courts during tournaments for which it is the sponsor and which do not conflict with School uses.
- c. When the courts are not being officially used by the School or by U Serve Libby, Inc., they shall be open to use by the public and also for private lessons.

## 2. Financial Contributions to the “Inter-Local Courts Fund”:

- a. U Serve Libby, Inc. shall establish the “**Inter-Local Courts Fund**” into which each of the Parties, beginning the first day of December 2020, shall deposit \$1500 per year. Checks should be made out to U Serve Libby, Inc., (with “Inter-Local Courts Fund” in the memo) and mailed to P.O. Box 908, Libby, MT 59923. (NOTE: Several years’ contributions may be made at one time). U Serve Libby, Inc., although not a Party in this Agreement, shall also contribute to the “Court Upkeep and Improvement Fund” as they are able. The Parks Board, should work begin on a community swimming pool, will have to devote its finances to help with the pool, and may have to discontinue its \$1500 per year contribution at such a time).

(NOTE: This new “Inter-Local Agreement” of September 2020, by approval of the Parties listed—at a meeting in August 2020—supercedes “Inter-local Agreement, “ Section Ten, Item H” of the “Lease Agreement” of 2008 between the City of Libby and U Serve Libby, Inc.)

- b. U Serve Libby, Inc. will send out a computer-generated invoice prior to the due date of Dec. 1.
- c. The “Inter-Local Courts Fund” will be held and administered by U Serve Libby, Inc. who will supply each Party with an annual statement of the status of the account, listing the contributions of each.
- d. Court maintenance, upkeep and improvements shall be taken from the “Inter-Local Courts Fund.”

## 3. Responsibilities of the Parties:

### a. The School:

- 1) Shall be responsible for snow removal and cleaning of the courts and premises in the spring prior to the spring sports season.
- 2) Shall be responsible for cleaning the courts and premises of all debris after the use of the courts for student practices, meets and tournaments.
- 3) Shall provide liability insurance coverage during school-sponsored practices, meets and tournaments.

### b. U Serve Libby, Inc.:

- 1) Shall be responsible for cleaning and maintaining the facility (courts, buildings, and kiosk) during the summer and fall (after the spring LHS tennis season).
- 2) Shall put up public notices at the kiosk regarding tennis and pickle ball activities, lessons, tournaments, etc.
- 3) Shall lower the nets and lock the gates before the cold winter months.

### c. The City:

- 1) Shall be responsible for repair and upkeep to walkways, parking lots, sprinkling system, premises, and all other City facilities associated with the Libby Community Courts.
- 2) Shall provide liability insurance relative to the day-to-day utilization of the courts. (NOTE: The school shall provide additional liability insurance coverage during school-sponsored practices, meets and tournaments. The upper limit of the insurance requirement for which the City shall be named as an additional insured shall not exceed the maximum liability exposure against the City as may from time-to-time be provided under state law. The

School agrees to hold the City harmless from all damages and costs including attorney's fees, which the City may incur resulting from personal injury or property damage incurred in the use of the premises by the School.


4. **Assignment or Subletting:** The Parties agree not to assign or sublet whatever rights they may have under this Agreement without first obtaining the written consent of the City.
5. **Termination:**
- a. The parties shall have the right to terminate this Agreement upon furnishing the other members with a sixty-day notice of cause.
  - b. After notice of termination, the Parties shall only be liable to make payments as set forth within the terms of this Agreement.
  - c. Any monies remaining in the "Inter-Local Courts Fund," after payment of all outstanding claims and expenses, shall continue to be maintained by U Serve Libby, Inc. for future maintenance and improvements of the courts.
  - d. In the case of the dissolution of U Serve Libby, Inc., all monies in the "Inter-Local Courts Fund" shall go to the City of Libby to continue the maintenance and improvement of the Libby Community Courts.
6. **Enactment of this Agreement:** The Parties agree that, prior to exercising their rights under this Inter-Local Agreement, it must be signed and filed with the Lincoln County Clerk and Recorder and the Montana Secretary of State.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**CITY OF LIBBY**

\_\_\_\_\_ (Mayor)

**LINCOLN COUNTY**

 \_\_\_\_\_ (District 1 Commissioner)

**LIBBY SCHOOL DISTRICT**

\_\_\_\_\_ (Superintendent)

**LIBBY PARK DISTRICT BOARD**

\_\_\_\_\_ (Board Chair)

**FRASER MANAGEMENT & CONSULTING, PLLC.  
690 NORTH MERIDIAN, SUITE 103  
KALISPELL, MT. 59901**

Jim Hammons, City Supervisor  
City of Libby  
PO Box 1428  
Libby, MT. 59923

December 9, 2020

Rc: Retainer- Amendment #9

Dear Jim;

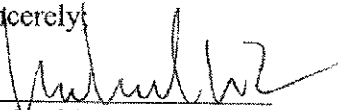
Fraser Management & Consulting, PLLC. will provide general consulting services for one year, January thru December 2021, for \$190.00 per month. The retainer fee will provide unlimited access for consultation by either phone or email.

Additional services will be provided Libby as authorized by the Mayor or council. All services would be provided by Michael W. Fraser, PE. at an hourly rate of \$190.00. Only time greater than ½ hour will be recorded and invoiced. Hourly charges are not invoiced for travel.

Additional services such as attending meetings, preparation of studies, applications or plan reviews would be provided with authorization. Attached is Exhibit A the general conditions of service.

Please review with the Mayor and Council. With approval have the Mayor sign and return a copy of this letter as the basis of the agreement.

Sincerely,

  
\_\_\_\_\_  
Michael W. Fraser, PE.

The City of Libby accepts this proposal for General Consulting Services for one year at a rate of \$190.00 per month.

\_\_\_\_\_  
Brent Teske, Mayor

\_\_\_\_\_  
Date



## EXHIBIT A

### GENERAL CONDITIONS FOR PROJECT MANAGEMENT & CONSULTING

1. **INVOICE AND PAYMENT:** Fraser Management & Consulting, PLLC. (FMC) will invoice services monthly by the 10<sup>th</sup> to the Client. Payment is due by the last of the month in the office of FMC. FMC will assess a late fee of not less than ½ hours time or 10% of the past due amount, whichever is greater on all past due invoices. FMC reserves the right to stop work on all past due accounts, until payment in full is received.
2. **LIMIT OF LIABILITY:** The limit of liability of FMC to the Client for any cause or combination of causes shall be, in not greater than the amount of the fee . No action relating to the services provided under this Agreement maybe brought by either the Client or FMC more than two years from the date of completion or notice of termination by either party.
3. **INSURANCE:** FMC shall at all times maintain Professional Liability and General Liability coverage.
4. **ASSIGNMENT:** Neither FMC or the Client may transfer or assign this Agreement without the consent of the other.
5. **ENTIRETY OF AGREEMENT:** This Agreement embodies the entire agreement and understanding between FMC and Client. No alteration, change, or modification of this Agreement shall be made unless in writing as an Amendment, signed by FMC and Client.
6. **PERMITTING:** FMC will prepare or assist in the preparation of applications for various approvals, on behalf of the Client. FMC warrant's the applications will be prepared with care and in accordance with the application guidelines. FMC does not warrant, guarantee or represent the applications will be approved by the reviewing agencies.
7. **STANDARD OF CARE:** Services provided FMC under this Agreement will be provided in manner consistent with the level of care and skill ordinarily exercised by other similar professionals. No representations, express or implied arc included in this Agreement.
8. **GENERAL INDEMNITY:** Client agrees to defend, indemnify and hold harmless FMC against all claims, obligations and liabilities arising from or related to the performance of project management services under this Agreement, and resulting from the Client's negligent acts or omissions. FMC agrees to defend, indemnify and hold harmless Client from any claims, obligations, and liabilities arising from the performance of project management services under this Agreement and resulting from the negligent actions, omissions of FMC.
9. **GOVERNING LAW:** FMC and Client agree the venue and jurisdiction for any action arising under this Agreement is the District Court located in Flathead County, Montana.
10. **TERMINATION:** Either party may terminate by tendering notice. Termination shall be 30 days after receipt of the notice. In the event the owner terminates services the final invoice shall include any costs of FMC related to termination. In the event FMC terminates, the owner shall pay all fees to the date of termination and other costs related to termination.