

AGENDA
CITY COUNCIL MEETING
CITY OF SHELBY
April 4, 2022
6:30 P.M.

ROLL CALL OF MEMBERS
PLEDGE OF ALLEGIANCE

OPEN PUBLIC HEARING

- Notice to Show Cause Hearing re: Jack Austin, 502 Treasure Ave (pgs. 5-12)
- TSEP and CDBG applications – Proposed Project ~ Storm Water Drainage (pg. 13)

APPROVAL OF MINUTES

- Regular Council Meeting, 3/07/22 (pgs. 14-15)

APPEARANCE REQUESTS

- Agenda Items
- Non-Agenda Items

CLOSE PUBLIC HEARING

CLAIMS REPORT 3/31/22 (pgs. 16-28)

BUILDING INSPECTOR

- Building Inspector Report, March 2022 (pg. 29)

COMMITTEE REPORTS

- Park & Recreation Committee Meeting Minutes, 3/28/22 (pgs. 30-49)

CITY ATTORNEY

- Resolution No. 2049 re: Authorize Submission of MCEP Application Storm Water Improvements (pg. 50)
- Resolution No. 2050 re: Accept Determination that a Categorical Exclusion is Appropriate for the City of Shelby Storm Water Drainage Improvement Project (pg. 51)

CITY FINANCE OFFICER

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CITY SUPERINTENDENT

COMMUNITY DEVELOPMENT DIRECTOR

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OTHER MATTERS

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ADJOURN

CITY OF SHELBY MEETING SCHEDULE

April 4, 2022

- 6:00 p.m. **Audit Committee**
 (Mayor, Finance Officer, Clark, Frydenlund, Moritz)
- 6:30 p.m. **Regular City Council Meeting**

April 11, 2022

- 6:30 p.m. **City-County Planning Board**
 (Mayor, Deputy Clerk, Flesch, Clark)

April 18, 2022

- 6:30 p.m. **Regular City Council Meeting**

April 25, 2022

- 6:30 p.m. **Park & Recreation Meeting**
 (Mayor, Superintendent, Frydenlund, Kimmet)

City Council Packet Listing

A. Agenda

B. Agenda Items

1. Show Cause Hearing Information re: Jack Austin, 502 Treasure Ave
2. Notice of Public Hearing re: TSEP and CDBG applications for Proposed Project~Storm Water Drainage
3. Minutes of Regular Council Meeting, 03/21/22
4. Claims Report, 3/31/22
5. Building Inspector Report, March 2022
6. Park & Recreation Committee Meeting Minutes, 3/28/22
7. Resolution No. 2049 re: Authorization Submission of MCEP Application Storm Water Improvements
8. Resolution No. 2050 re: Accept Determination that a Categorical Exclusion is Appropriate for the City of Shelby Storm Water Drainage Improvement Project

C. Correspondence

1. 3/13/22 Letter from Cut Bank Area Chamber of Commerce re: Chamber Banquet
2. 3/29/22 Letter to Marilyn Sheldon re: Community Decay & Weed Notice for 670 Oilfield Ave and 424 Sheridan St
- 3.

D. Reports

- 1.

E. Handouts

- 1.

Policy on Conduct and Manner of Addressing Council

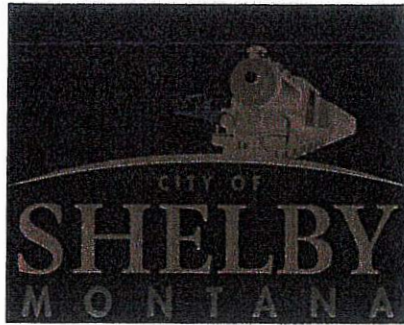
The public is invited to speak on any item after recognition by the presiding officer.

1. Public comments will be accepted only on items within the jurisdiction of the City of Shelby.
2. Comments shall be limited to 5 minutes per meeting, unless such time is extended by a majority vote of the Council members.
3. While the Council is in session, those in attendance must preserve order and decorum. No member of the public shall delay or interrupt the Council proceedings; disturb any member who may be speaking; or refuse to obey the orders of the Council or its presiding officer.
4. Prepared statements are welcome and should be given to the Finance Officer prior to a Council meeting. Prepared statements that are also read, however, shall be deemed unduly repetitious. All prepared statements for public hearings shall become part of the hearing record.
5. All remarks shall be addressed to the Council as a body and not to any member of the Council or Staff.
6. Public members recognized by the presiding officer, shall:
 - a. Stand, if able
 - b. For the record, give his/her name and address
 - c. If applicable, give the person, firm or organization he/she represents
 - d. Limit comments to the matter of fact
 - e. Address the Council as a body and not to any individual member of the Council or City Staff
 - f. Ask no questions of individuals who are Council members, staff or other public members, except through the presiding officer
 - g. Limit comments to a maximum of 5 minutes, unless such time is extended by a majority vote of Council members.

The Council thanks public members for respectfully and courteously providing constructive and valuable information.

CITY OF SHELBY

112 First Street South
Shelby, MT 59474
Telephone: (406) 434-5564
FAX: (406) 434-2143
www.shelbymt.com



Mayor: Garry McDermott
Council: Sanna Clark, Joe Flesch,
Bill Moritz, Lyle Kimmet,
Pat Frydenlund, Arron Heaton
Animal Control:
Attorney: William E. Hunt, Jr.
Building Inspector: Rob Tasker
Community Development: Lorette Carter
Finance Officer: Jade Goroski
Judge: Joe Rapkoch
Superintendent: Jack Johannes

"NOTICE OF SHOW CAUSE HEARING"

March 2, 2022

Jack Austin
614 Birch Ave.
Shelby, MT. 59474

RE: Clean-up of 502 Treasure Ave. Shelby, MT 59474

You are hereby notified to appear at a hearing to be held on April 4th, 2022, 6:30pm, City Hall, 112 1st Street South, City of Shelby, Toole County, Montana, to show cause why the above described travel trailer, which has been reported to be illegally parked, in accordance with the building inspector's notice, dated March 2, 2022, a copy of which is attached hereto.

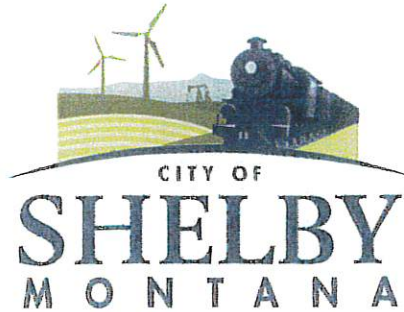
This hearing shall be held pursuant to Title 7-3B-14. of the Shelby Municipal Code. A copy of the code is available for your review at the Shelby City Hall. If requested from Bill Hunt, City Attorney, 201 Main Street, Shelby, Montana, a copy of all relevant code sections will be provided to you for your review prior to said hearing. At this hearing, you are free to testify or bring other persons to testify on your behalf. At the conclusion of the hearing, the City of Shelby City Council will make its determination, based on the evidence, whether said property has an illegal accumulation of junk and junk vehicles and should or should not be removed in accordance with the statement of particulars hereinabove referenced to. You are, of course, entitled to an attorney, at your expense, to represent you at said hearing. You may appeal any unfavorable decision to District Court. Your failure to appear may cause a decision unfavorable to you. An unfavorable decision to you could lead to a lien being placed upon the property, if the City of Shelby has the above property cleaned as requested in the March 2, 2022 "Notice".

DATED THIS 2nd DAY OF MARCH, 2022
BY ORDER OF THE SHELBY CITY COUNCIL

William Hunt
City Attorney

CITY OF SHELBY

112 First Street South
Shelby, MT 59474
Telephone: (406) 434-5222
FAX: (406) 434-2039
www.shelbymt.com



Mayor: Garry McDermott
Council: Sanna Clark, Pat frydenlund,
Bill Moritz, Lyle Kimmet,
Joe Flesch, Arron Heaton
Animal Control:
Attorney: William E. Hunt, Jr.
Building Inspector: Rob Tasker
Community Development: Lorette Carter
Finance Officer: Jade Goroski
Judge: Joe Rapkotch
Superintendent: Jack Johannes

March 2, 2022

Jack Austin
614 Birch Ave
Shelby, MT. 59474

Dear Mr. Austin:

You are in violation of Title 4, Chapter 6 of the Shelby Municipal Code (S.M.C.), regarding the junk in your yard located at 502 Treasure Ave. Shelby, MT 59474 The S.M.C. defines a "nuisance" as:

11. "Nuisance" means anything which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or which unlawfully obstructs to free passage or use, in the customary manner, or any navigable lake, river, bay, stream, canal or basin or any public park, square, street, or highway including but not limited to:
 - A. any junk; or,
 - B. any junk vehicle; or
 - C. dead animal(s); or
 - D. animal waste; or
 - E. appliances; or
 - F. blighted premises; or a mobile home that is not skirted

4-6-5. Abatement and Mitigation. The abatement or mitigation of conditions which constitute a public nuisance prohibited by this Ordinance shall be accomplished under the provisions of this section.

- A. Upon its own initiative, or within thirty (30) days of receiving a written, signed complaint that a condition of community decay exists, the department shall inspect the subject property to determine whether there is a violation of this ordinance.
- B. If it is determined that there is a violation of this Ordinance, the department shall notify the owner, manager or lessee of the property, or other responsible party in writing of the violation by certified mail, return receipt, and order its

abatement or mitigation within thirty (30) days of their receipt of the letter.
The notice of violation shall:

1. Include a statement specifically describing the violation;
 2. Specify that the owner, manager, or lessee, or other responsible party has thirty (30) days from the receipt of such notice to bring the property into compliance, or to submit a corrective action plan to comply with this ordinance by means of removal, shielding or mitigation of the conditions; and
 3. Advise the owner, manager, or lessee, or other responsible party that if the violation is not resolved, the City of Shelby may undertake abatement or mitigation and assess the costs to the owner.
- C. Upon receipt of a notice of violation, the owner, manager, or lessee, or other responsible party, may submit a plan to the department which shall include.
1. A complete description of the plan to be undertaken.
 2. The date for commencement of the corrective action.
 3. The date for completion of the corrective action. An extension may be granted at the discretion of the department.
- D. The department may accept or reject the plan, accept the plan with modifications, or request additional information before making a final determination.
- E. The owner, manager, or lessee, or other responsible party may appeal the department's final decision according to the procedure set forth in Section 6.

4-6-6. Appeal Process. An alleged violator may appeal a department's decision in writing via certified mail to the Shelby City Council within ten (10) days of the department's final decision regarding:

1. A determination that a community decay violation exists,
2. Rejection of a corrective action plan, or
3. The assessment of a fine for noncompliance.

The City Council shall hold a hearing within forty-five (45) days from the date that the appeal was received. The City Council shall, in writing, affirm, modify or withdraw the department's decision within thirty (30) days after the hearing. Once an appeal for a hearing has been made, the department's decision shall be stayed until the City Council has held the hearing and affirmed, modified or withdrawn the determination of the department. The City Council will issue an order of the City Council's findings signed by the Mayor. The order shall include what, if any, corrective actions are required, the time period for the corrective actions, and that the department or City of Shelby is authorized to remedy the violation and assess costs to the responsible party.

If a violator fails to resolve a violation upon order from the City Council, the department shall be authorized to remedy the violation, and assess costs to the property owner, manager, or lessee, or other responsible party. In the event that a violator does not appeal the department's decision and fails to resolve the violation, the department will bring the matter before the City Council for authorization to complete the corrective action, and assess costs to the property owner, manager, or lessee, or other responsible party. If the assessment is not paid, it shall become a lien upon the property and may be enforced, as is non-payment of property taxes.

4-6-7 Enforcement and Penalties. A violation of this Ordinance, or plan approved under this Ordinance or order issued under this Ordinance shall constitute a misdemeanor. Any person who shall violate any of the provisions of this Chapter shall, upon conviction, thereof, be punishable as provided in Section 1.08.010 Shelby Municipal Code. Each day the violation is in existence may be considered a separate violation. Any court or judge before whom there may be pending any proceeding for the violation of any of the provisions of this chapter, in addition to any fine or other punishment which it may impose for such violation, may order such nuisance abated.

You have until April 2, 2022 to comply with this ordinance

BY ORDER OF THE CITY OF SHELBY, MONTANA

Robert Tasker
Building Inspector/Code Official
City of Shelby

CITY OF SHELBY

112 First Street South
Shelby, MT 59474
Telephone: (406) 434-5564
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Joe Flesch, Aaron Heaton.
Animal Control:
Attorney: William E. Hunt, Jr.
Building Inspector: Rob Tasker
Community Development: Lorette Carter
Finance Officer: Jade Goroski
Judge: Joe Rapkoch
Superintendent: Jack Johannes

502 Treasure Ave. Shelby, MT 59474

15 Vehicles

7 RVs (One appears to be lived in)

5 flatbed trailers, 5th wheels

Large amount of junk on trailers, yard, ect.







CITY OF SHELBY

MONDAY, APRIL 4, 2022

NOTICE OF PUBLIC HEARING

(Please provide an affidavit of publication)

Publication date: March 30, 2022

The City of Shelby will hold a public hearing on Monday, April 4, 2022 at 6:30pm at Shelby City Hall for the purpose of obtaining comments regarding the city's preparation of an application to the Montana Coal Endowment Program (MCEP) Grant and Community Development Block Grant Program from the Montana Department of Commerce for the completion of storm water drainage in sections on the north side of Shelby.

The hearing is also for the purpose of obtaining comments regarding the environmental review record of the proposed storm water drainage project.

At the public hearing the proposed project will be explained, including the purpose and proposed area of the project, activities, budget, possible sources of funding, any costs that may result for local citizens as a result of the project, and a decision will be made on the environmental assessment. All interested persons will be given the opportunity to ask questions and express opinions regarding the proposed project and any environmental impacts.

Comments may be given orally at the meeting; via the phone bridge; or submitted in writing before Monday, April 4, 2022 at 5:00pm.

Anyone wanting to review the environmental review record and project impacts or submit questions and comments should contact Lorette Carter at Shelby City Hall, 112 1st St. S., Shelby, MT 59474 or email lorette@shelbymt.com.

The call-in number to the Shelby City Council meeting and public hearing is (406) 467-1555/access code 471023#.

Gary McDermott, Mayor

Shelby, MT 59474

**MINUTES OF REGULAR COUNCIL MEETING OF THE SHELBY CITY COUNCIL
HELD IN COUNCIL CHAMBERS
March 21, 2022**

Mayor McDermott called the meeting to order at 6:30 p.m.
Present were: Sanna Clark, Lyle Kimmet, Jayce Yarn, Joe Flesch,
Pat Frydenlund and Bill Moritz, Council Members; Jade Goroski,
Finance Officer; Lorette Carter, Community Development Director;
and Rob Tasker, Building Inspector. Absent & Excused: None.

Other citizens present: Tyler Padilla & Josh Uylaki.

PLEDGE OF ALLEGIANCE

REGULAR MEETING MINUTES 3/7/2022

FLESCH MADE A MOTION TO APPROVE THE 3/7/2022 MINUTES. SECONDED
BY CLARK. VOTE AYES - CLARK, KIMMET, FLESCH, MORITZ,
FRYDENLUND, YARN. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.

APPEARANCE REQUESTS

- Agenda Items
- Non-Agenda Items

Committee Reports

Tyler Padilla provided an update on the sheriff's department.

BUILDING INSPECTOR

Rob provided an update on projects he is working on.

CITY ATTORNEY

CITY FINANCE OFFICER

1. City Judge's Report, 2/28/2022
2. Bank Account Report, Budget Year to Date, Vendor Summary,
Enterprise Funds, Statement of Expenditures, Revenues, Cash
Flow Report, 2/28/2022
FRYDENLUND MADE A MOTION TO APPROVE THE REPORTS. SECONDED
BY KIMMET. VOTE AYES - CLARK, KIMMET, FLESCH, MORITZ,
FRYDENLUND, YARN. NOES - NONE. ABSENT - NONE. ABSTAIN -
NONE.
2. Annual Landfill Trust Deposit
KIMMET MADE A MOTION TO APPROVE THE TRUST DEPOSIT.
SECONDED BY FRYDENLUND. VOTE AYES - CLARK, KIMMET, FLESCH,

MORITZ, FRYDENLUND, YARN. NOES - NONE. ABSENT - NONE.
ABSTAIN - NONE.

CITY SUPERINTENDENT

COMMUNITY DEVELOPMENT DIRECTOR

Lorette provided notes as a handout.

OTHER MATTERS

1. Triple Tree Engineering Amendment 1 to Task Order No. 2 -
Shelby Rail Safety

MORITZ MADE A MOTION TO APPROVE THE \$19,700 AMENDMENT AND
16,416 IN GEO-TECH. SECONDED BY KIMMET. VOTE AYES -
CLARK, KIMMET, FLESC, MORITZ, FRYDENLUND, YARN. NOES -
NONE. ABSENT - NONE. ABSTAIN - NONE.

2. SE Front Street Sewer Bid

MORITZ MADE A MOTION TO APPROVE THE BID PENDING THE OUTCOME
OF NETA'S APPROVAL ON APRIL 7TH. SECONDED BY FRYDENLUND.
VOTE AYES - CLARK, KIMMET, FLESC, MORITZ, FRYDENLUND,
YARN. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.

ADJOURN

AT 7:25 P.M. KIMMET MADE A MOTION TO ADJOURN THE MEETING.
SECONDED BY YARN. VOTE AYES - CLARK, KIMMET, FLESC, MORITZ,
FRYDENLUND, YARN. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.

GARY MCDERMOTT, MAYOR

ATTEST:

JADE GOROSKI, FINANCE OFFICER

03/31/22
09:55:34

CITY OF SHELBY
Claim Details
For the Accounting Period: 3/22

Page: 1 of 13
Report ID: AP100

* ... Over spent expenditure

Claim	Vendor #/Name/	Document \$/	Disc \$						Cash
Line #	Check Invoice #/Inv Date/Description	Line \$		PO #	Fund Org Acct	Object Proj		Account	
210638	283578 01124 FIRST INTERSTATE BANK	18,430.00							
	Landfill Trust Annual - Closure & Post-Closure								
1	03/21/22 Landfill Trust Annual Closure	10,672.00*			5410 430840	581		101000	
2	03/21/22 Landfill Trust Post Closure	7,758.00*			5410 430840	581		101000	
210639	00088 CARQUEST AUTO PARTS	224.87							
1	2567336397 03/02/22 License Light	1.31		33890	1000 430200	200		101000	
2	2567336397 03/02/22 License Light	1.30		33890	5210 430500	200		101000	
3	2567336397 03/02/22 License Light	1.30*		33890	5310 430600	200		101000	
4	2567336397 03/02/22 License Light	1.30		33890	5410 430830	200		101000	
5	2567336415 03/02/22 Air Fresheners	2.64		33890	1000 430200	200		101000	
6	2567336415 03/02/22 Air Fresheners	2.63		33890	5210 430500	200		101000	
7	2567336415 03/02/22 Air Fresheners	2.63*		33890	5310 430600	200		101000	
8	2567336415 03/02/22 Air Fresheners	2.63		33890	5410 430830	200		101000	
9	2567336916 03/14/22 Battery	84.41		33890	1000 430200	200		101000	
10	2567336943 03/15/22 HD Blade Wide Saddle	10.38		33890	1000 430200	200		101000	
11	2567336943 03/15/22 HD Blade Wide Saddle	10.38		33890	5210 430500	200		101000	
12	2567336943 03/15/22 HD Blade Wide Saddle	10.38*		33890	5310 430600	200		101000	
13	2567336943 03/15/22 HD Blade Wide Saddle	10.38		33890	5410 430830	200		101000	
14	2567337618 03/28/22 Brakleen Spray	16.53		33890	1000 430200	200		101000	
15	2567337618 03/28/22 Brakleen Spray	16.53		33890	5210 430500	200		101000	
16	2567337618 03/28/22 Brakleen Spray	16.53*		33890	5310 430600	200		101000	
17	2567337618 03/28/22 Brakleen Spray	16.53		33890	5410 430830	200		101000	
18	2567337640 03/28/22 Gear Oil	17.08		33890	1000 430200	200		101000	
210640	02045 NAPA AUTO PARTS	593.28							
1	171581 03/30/22 Filters	29.47		33889	1000 430200	200		101000	
2	171581 03/30/22 Filters	29.48		33889	5210 430500	200		101000	
3	171581 03/30/22 Filters	29.48*		33889	5310 430600	200		101000	
4	171581 03/30/22 Filters	29.48		33889	5410 430840	200		101000	
5	169964 03/02/22 Filters	19.76		33889	1000 430200	200		101000	
6	169964 03/02/22 Filters	19.76		33889	5210 430500	200		101000	
7	169964 03/02/22 Filters	19.76*		33889	5310 430600	200		101000	
8	169964 03/02/22 Filters	19.76		33889	5410 430840	200		101000	
9	170637 03/15/22 Lamp	2.97		33889	1000 430200	200		101000	
10	170637 03/15/22 Lamp	2.99		33889	5210 430500	200		101000	
11	170637 03/15/22 Lamp	2.99*		33889	5310 430600	200		101000	
12	170637 03/15/22 Lamp	2.99		33889	5410 430840	200		101000	
13	170706 03/16/22 Filters	42.48		33889	1000 430200	200		101000	
14	170706 03/16/22 Filters	42.49		33889	5210 430500	200		101000	
15	170706 03/16/22 Filters	42.49*		33889	5310 430600	200		101000	
16	170706 03/16/22 Filters	42.49		33889	5410 430840	200		101000	
17	171493 03/29/22 Battery	55.48*		33889	1000 460430	200		101000	
18	171514 03/29/22 Filters	58.76*		33889	1000 460430	200		101000	

03/31/22
09:55:34

CITY OF SHELBY
Claim Details
For the Accounting Period: 3/22

Page: 2 of 13
Report ID: AP100

* ... Over spent expenditure

Claim	Vendor #/Name/	Document \$/	Disc \$					Cash
Line #	Check Invoice #/Inv Date/Description	Line \$		PO #	Fund Org Acct	Object Proj	Account	
19	171474 03/28/22 ShopTowels	1.08		33889	1000 430200	200	101000	
20	171474 03/28/22 ShopTowels	1.10		33889	5210 430500	200	101000	
21	171474 03/28/22 ShopTowels	1.10*		33889	5310 430600	200	101000	
22	171474 03/28/22 ShopTowels	1.10		33889	5410 430840	200	101000	
23	171066 03/22/22 Cleaner	13.99		33889	1000 430200	200	101000	
24	170996 03/21/22 Armor All/Cleaner	9.48		33889	1000 430200	200	101000	
25	168574 02/02/22 Filters/Floor Dri	18.08		33889	1000 430200	200	101000	
26	168574 02/02/22 Filters/Floor Dri	18.09		33889	5210 430500	200	101000	
27	168574 02/02/22 Filters/Floor Dri	18.09*		33889	5310 430600	200	101000	
28	168574 02/02/22 Filters/Floor Dri	18.09		33889	5410 430840	200	101000	
210641	01137 AQUA TECH LABORATORY	92.00						
1	36005 03/02/22 Monthly Coliform Water Testing	92.00		33885	5210 430500	300	101000	
210642	-98211E 01486 USDA RURAL DEVELOPMENT	1,603.00						
1	03/07/22 Fire Hall Improvement Loan	772.21			1000 490527	610	101000	
2	03/07/22 Fire Hall Improvement Loan Int	830.79*			1000 490527	620	101000	
210643	28358S 00144 POSTMASTER	358.60						
1	03/23/22 3/22 UB Postage	119.53			5210 430570	310	101000	
2	03/23/22 3/22 UB Postage	119.54			5310 430670	310	101000	
3	03/23/22 3/22 UB Postage	119.53			5410 430870	310	101000	
210644	00043 SHELBY GAS ASSOCIATION	4,166.10						
1	03/25/22 3/22 Gas Bill	108.40			1000 411200	343	101000	
2	03/25/22 3/22 Gas Bill	578.15			1000 420400	343	101000	
3	03/25/22 3/22 Gas Bill	578.15			1000 420401	343	101000	
4	03/25/22 3/22 Gas Bill	718.10			1000 460445	343	101000	
5	03/25/22 3/22 Gas Bill	229.50			1000 460442	343	101000	
6	03/25/22 3/22 Gas Bill	161.60			5410 430840	343	101000	
7	03/25/22 3/22 Gas Bill	254.93			1000 430200	343	101000	
8	03/25/22 3/22 Gas Bill	254.93			5210 430500	343	101000	
9	03/25/22 3/22 Gas Bill	254.93			5310 430600	343	101000	
10	03/25/22 3/22 Gas Bill	254.91			5410 430830	343	101000	
11	03/25/22 3/22 Gas Bill	72.78			1000 411202	343	101000	
12	03/25/22 3/22 Gas Bill	72.78			5210 430520	343	101000	
13	03/25/22 3/22 Gas Bill	72.78			5310 430620	343	101000	
14	03/25/22 3/22 Gas Bill	72.76			5410 430820	343	101000	
15	03/25/22 3/22 Gas Bill	22.30			5210 430500	343	101000	
16	03/25/22 3/22 Gas Bill	459.10			1000 460465	343	101000	

03/31/22
09:55:34

CITY OF SHELBY
Claim Details
For the Accounting Period: 3/22

Page: 3 of 13
Report ID: AP100

* ... Over spent expenditure

Claim	Vendor #/Name/	Document \$/	Disc \$					Cash
Line #	Check Invoice #/Inv Date/Description	Line \$		FO #	Fund Org Acct	Object Proj	Account	
210645	01851 CT CLEANING	1,200.00						
1	03/23/22 3/22 Janitorial Service	75.00			1000 411202	390	101000	
2	03/23/22 3/22 Janitorial Service	75.00			5210 430520	390	101000	
3	03/23/22 3/22 Janitorial Service	75.00			5310 430620	390	101000	
4	03/23/22 3/22 Janitorial Service	75.00			5410 430820	390	101000	
5	03/23/22 3/22 CC Janitorial Service	900.00			1000 460442	300	101000	
210646	02368 OPTUM FINANCIAL INC	29.75						
1	1292549 03/11/22 HSA Service Fee	7.43			1000 410550	300	101000	
2	1292549 03/11/22 HSA Service Fee	7.44			5210 430570	300	101000	
3	1292549 03/11/22 HSA Service Fee	7.44			5310 430670	300	101000	
4	1292549 03/11/22 HSA Service Fee	7.44			5410 430870	300	101000	
210647	02517 VALLI INFORMATION SYSTEMS INC	90.00						
1	80899 02/28/22 Express Pay Online Monthly Fee	15.00			5210 430570	300	101000	
2	80899 02/28/22 Express Pay Online Monthly Fee	15.00			5310 430670	300	101000	
3	80899 02/28/22 Express Pay Online Monthly Fee	15.00			5410 430870	300	101000	
4	81368 03/31/22 Express Pay Online Monthly Fee	15.00			5210 430570	300	101000	
5	81368 03/31/22 Express Pay Online Monthly Fee	15.00			5310 430670	300	101000	
6	81368 03/31/22 Express Pay Online Monthly Fee	15.00			5410 430870	300	101000	
210648	01285 HUNT, WILLIAM E JR	6,296.32						
1	03/29/22 3/22 Legal Services	1,535.55			1000 411100	350	101000	
2	03/29/22 3/22 Legal Services	1,535.56			5210 430513	350	101000	
3	03/29/22 3/22 Legal Services	1,535.56			5310 430613	350	101000	
4	03/29/22 3/22 Legal Services	1,535.56			5410 430813	350	101000	
5	03/29/22 3/22 Expenses	38.52			1000 411100	350	101000	
6	03/29/22 3/22 Expenses	38.53			5210 430513	350	101000	
7	03/29/22 3/22 Expenses	38.52			5310 430613	350	101000	
8	03/29/22 3/22 Expenses	38.52			5410 430813	350	101000	
210649	01862 MOUNTAIN ALARM	38.50						
1	2738726 04/01/22 4/22 Fire Alarm Monitoring	38.50			1000 420401	300	101000	
210650	01137 AQUA TECH LABORATORY	23.00						
1	36006 03/03/22 DWI Monthly Water Test	23.00		33885	5210 430500	300	101000	
210651	02563 DPHHS-LABORATORY	24.00						
1	31530 02/28/22 NCMRWA Water Samples	24.00			5210 430500	300	101000	

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Claim	Vendor #/Name/	Document \$/	Disc \$					Cash
Line #	Check Invoice #/Inv Date/Description	Line \$		PO #	Fund Org Acct	Object Proj	Account	
210652	-98209E 02578 GOOD SPORTSMAN	20.00						
1	03/21/22 Monthly Trail Camera Photos	20.00			5310 430600	300	101000	
210653	01137 AQUA TECH LABORATORY	23.00						
1	36004 03/03/22 NCMRW Monthly Water Test	23.00		33885	5210 430500	300	101000	
210654	-98210E 02499 DISH	131.07						
1	03/14/22 Monthly TV at Civic Center	131.07			1000 460442	300	101000	
210655	28356S 02468 T-MOBILE	198.44						
1	03/10/22 Mobile Charge	25.95			1000 420500	344	101000	
2	03/10/22 Mobile Charge	47.32			1000 411050	344	101000	
3	03/10/22 Mobile Charge	47.32			1000 440600	344	101000	
4	03/10/22 Mobile Charge	19.46			1000 430200	344	101000	
5	03/10/22 Mobile Charge	19.47			5210 430500	344	101000	
6	03/10/22 Mobile Charge	19.46			5310 430600	344	101000	
7	03/10/22 Mobile Charge	19.46			5410 430840	344	101000	
210656	00048 TOOLE COUNTY CLERK & RECORDER	52,415.24						
1	02/28/22 City Judge/Sec Wages	2,426.52			1000 410360	100	101000	
2	02/28/22 City Judge/Sec Medicare	34.76			1000 410360	142	101000	
3	02/28/22 City Judge/Sec SS	148.61			1000 410360	141	101000	
4	02/28/22 City Judge/Sec Unemploy Ins	4.35			1000 410360	145	101000	
5	02/28/22 City Judge/Sec Workers Comp	14.71			1000 410360	146	101000	
6	02/28/22 City Judge/Sec PERS	215.23			1000 410360	143	101000	
7	02/28/22 City Judge Health Insurance	442.38			1000 410360	147	101000	
8	02/28/22 City Judge Supplies	8.00			1000 410360	200	101000	
9	02/28/22 City Judge Phone	20.68			1000 410360	344	101000	
10	02/28/22 Law Enforcement	34,370.00			1000 420000	300	101000	
11	02/28/22 Law Enforcement	4,910.00			5210 420100	300	101000	
12	02/28/22 Law Enforcement	4,910.00			5310 420100	300	101000	
13	02/28/22 Law Enforcement	4,910.00			5410 420100	300	101000	
210657	00026 MARIAS RIVER ELECTRIC COOP INC	12,057.30						
1	03/25/22 3/22 Electric Bill	99.34			1000 411200	342	101000	
2	03/25/22 3/22 Electric Bill	218.31			1000 420400	342	101000	
3	03/25/22 3/22 Electric Bill	218.30			1000 420401	342	101000	
4	03/25/22 3/22 Electric Bill	41.27			1000 411202	342	101000	
5	03/25/22 3/22 Electric Bill	41.27			5210 430520	342	101000	
6	03/25/22 3/22 Electric Bill	41.27			5310 430620	342	101000	
7	03/25/22 3/22 Electric Bill	41.28			5410 430820	342	101000	
8	03/25/22 3/22 Electric Bill	66.68			1000 430200	342	101000	
9	03/25/22 3/22 Electric Bill	66.68			5210 430500	342	101000	
10	03/25/22 3/22 Electric Bill	66.68			5310 430600	342	101000	

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Line #	Check	Invoice #/Inv Date/Description	Line \$		FO #	Fund Org Acct	Object Proj	Account
11	03/25/22	3/22 Electric Bill	66.69			5410 430830	342	101000
12	03/25/22	3/22 Electric Bill	57.30			1000 440600	342	101000
13	03/25/22	3/22 Electric Bill	57.30			1000 460430	342	101000
14	03/25/22	3/22 Electric Bill	127.26			1000 460465	342	101000
15	03/25/22	3/22 Electric Bill	41.42			1000 460439	342	101000
16	03/25/22	3/22 Electric Bill	924.78			1000 460442	342	101000
17	03/25/22	3/22 Electric Bill	51.16			1000 460445	342	101000
18	03/25/22	3/22 Electric Bill	3,881.08			2400 430263	342	101000
19	03/25/22	3/22 Electric Bill	5,013.21			5210 430500	342	101000
20	03/25/22	3/22 Electric Bill	874.94			5310 430600	342	101000
21	03/25/22	3/22 Electric Bill	38.58			5410 430840	342	101000
22	03/25/22	3/22 Electric Bill	22.50			1000 460430	342	101000
210658		01388 3 RIVERS COMMUNICATIONS INC	847.12					
1	03/01/22	2/22 Phone Bill	19.82			1000 420500	344	101000
2	03/01/22	2/22 Phone Bill	43.22			1000 410550	344	101000
3	03/01/22	2/22 Phone Bill	43.22*			5210 430570	344	101000
4	03/01/22	2/22 Phone Bill	43.22*			5310 430670	344	101000
5	03/01/22	2/22 Phone Bill	43.22*			5410 430870	344	101000
6	03/01/22	2/22 Phone Bill	18.23			1000 430200	344	101000
7	03/01/22	2/22 Phone Bill	18.23			5210 430500	344	101000
8	03/01/22	2/22 Phone Bill	18.23			5310 430600	344	101000
9	03/01/22	2/22 Phone Bill	18.23			5410 430830	344	101000
10	03/01/22	2/22 Phone Bill	170.67			1000 460442	344	101000
11	03/01/22	2/22 Phone Bill	67.96			1000 420400	344	101000
12	03/01/22	2/22 Phone Bill	67.95			1000 420401	344	101000
13	03/01/22	2/22 Phone Bill	7.63*			1000 410200	344	101000
14	03/01/22	2/22 Phone Bill	7.63*			5210 430512	344	101000
15	03/01/22	2/22 Phone Bill	7.63*			5310 430612	344	101000
16	03/01/22	2/22 Phone Bill	7.63*			5410 430812	344	101000
17	03/01/22	2/22 Phone Bill	45.93			1000 460445	344	101000
18	03/01/22	2/22 Phone Bill	133.58			5310 430600	344	101000
19	03/01/22	2/22 Phone Bill	32.44			5210 430500	344	101000
20	03/01/22	2/22 Phone Bill	32.45			5210 430500	344	101000
210659		00309 PREFERRED OFFICE EQUIPMENT	329.95					
1	40781 03/17/22	3/22 Maintenance/Copies	45.61			1000 411050	300	101000
2	40781 03/17/22	3/22 Maintenance/Copies	45.61			1000 410550	300	101000
3	40781 03/17/22	3/22 Maintenance/Copies	45.61			5210 430570	300	101000
4	40781 03/17/22	3/22 Maintenance/Copies	45.61			5310 430670	300	101000
5	40781 03/17/22	3/22 Maintenance/Copies	45.61			5410 430870	300	101000
6	40731 03/15/22	3/22 Maintenance/Copies Shop	7.96			1000 430200	300	101000
7	40731 03/15/22	3/22 Maintenance/Copies Shop	7.96			5210 430500	300	101000
8	40731 03/15/22	3/22 Maintenance/Copies Shop	7.97			5310 430600	300	101000
9	40731 03/15/22	3/22 Maintenance/Copies Shop	7.97			5410 430840	300	101000

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10	40731 03/15/22 3/22 Maintenance/Copies Shop	7.97			1000 420500	300	101000	
11	40732 03/15/22 3/22 Maintenance/Copies CC	62.07			1000 460442	300	101000	
210660	28355\$ 02586 DIS TECHNOLOGIES	920.00						
1	9056 03/05/22 Monthly Managed Services	126.88			1000 410550	300	101000	
2	9056 03/05/22 Monthly Managed Services	126.88			5210 430570	300	101000	
3	9056 03/05/22 Monthly Managed Services	126.87			5310 430670	300	101000	
4	9056 03/05/22 Monthly Managed Services	126.87			5410 430870	300	101000	
5	9056 03/05/22 Monthly Managed Services	72.50			1000 411050	300	101000	
6	9056 03/05/22 Monthly Managed Services	72.50			1000 460442	300	101000	
7	9056 03/05/22 Monthly Managed Services	54.37			1000 430200	300	101000	
8	9056 03/05/22 Monthly Managed Services	54.37			5210 430500	300	101000	
9	9056 03/05/22 Monthly Managed Services	54.38			5310 430600	300	101000	
10	9056 03/05/22 Monthly Managed Services	54.38			5410 430830	300	101000	
11	9056 03/05/22 Microsoft 365 Licenses	10.00			1000 410550	300	101000	
12	9056 03/05/22 Microsoft 365 Licenses	10.00			5210 430570	300	101000	
13	9056 03/05/22 Microsoft 365 Licenses	10.00			5310 430670	300	101000	
14	9056 03/05/22 Microsoft 365 Licenses	10.00			5410 430870	300	101000	
15	9056 03/05/22 Microsoft 365 Licenses	10.00			1000 411050	300	101000	
210661	00119 SHELBY VOLUNTEER FIRE DEPT	698.96						
1	03/05/22 CFD Chainsaw Safety Chaps	181.98			1000 420400	200	101000	
2	03/05/22 CFD Chaps/Helmets	516.98			1000 420400	200	101000	
210662	01780 MONTANA BROOM & BRUSH	940.35						
1	1542753 03/09/22 Roll Towel	58.94		33386	1000 460442	200	101000	
2	1544957 03/23/22 Liners/Bowl Cleaner/Sure Bet	177.70		33388	1000 460442	200	101000	
3	1544953 03/23/22 Liners/Comet/Tissue/Roll Towe	585.83*		33891	1000 460430	200	101000	
4	1542537 03/09/22 Roll Towel	29.47		33891	1000 430200	200	101000	
5	1542537 03/09/22 Roll Towel	29.47		33891	5210 430500	200	101000	
6	1542537 03/09/22 Roll Towel	29.47*		33891	5310 430600	200	101000	
7	1542537 03/09/22 Roll Towel	29.47		33891	5410 430840	200	101000	
210663	02068 VOICES OF MONTANA TOURISM	3,500.00						
1	03/15/22 TBID Support	3,500.00			7199 212500		101000	
210664	00134 MARIAS VALLEY GOLF & COUNTRY	6,000.00						
1	03/15/22 TBID Tournament Support	6,000.00			7199 212500		101000	
210665	00442 SHELBY AREA CHAMBER OF COMMERCE	549.88						
1	03/15/22 TBID Office Supplies/Zoom	549.88			7199 212500		101000	

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210666		00442 SHELBY AREA CHAMBER OF COMMERCE	90.00					
1	03/15/22	TBID Banquet Tickets	90.00			7199 212500		101000
210667		02090 CERTIFIED FOLDER DISPLAY SERVICE	1,762.77					
1	03/15/22	TBID Brochure Distribution	1,762.77			7199 212500		101000
210668		02590 SHELBY KIWANIS	500.00					
1	03/15/22	TBID Kite Festival Support	500.00			7199 212500		101000
210669		01805 SYSTEMS	47.50					
1	42101 03/04/22	0365 Licenses	9.50			1000 410550	300	101000
2	42101 03/04/22	0365 Licenses	9.50			5210 430570	300	101000
3	42101 03/04/22	0365 Licenses	9.50			5310 430670	300	101000
4	42101 03/04/22	0365 Licenses	9.50			5410 430870	300	101000
5	42101 03/04/22	0365 Licenses	9.50			1000 411050	300	101000
210670		02591 SCHROEDER CONTRACTING INC	3,000.00					
1	03/02/22	Guano Removal from Sign	2,300.00			1000 430200	300	101000
2	03/02/22	Pressure Washing Sign Interior	700.00			1000 430200	300	101000
210671		02335 CINTAS CORPORATION	89.97					
1	5099758788 03/15/22	Restock Medicine Cabinet	22.49		33766	1000 410550	200	101000
2	5099758788 03/15/22	Restock Medicine Cabinet	22.50		33766	5210 430570	200	101000
3	5099758788 03/15/22	Restock Medicine Cabinet	22.49		33766	5310 430670	200	101000
4	5099758788 03/15/22	Restock Medicine Cabinet	22.49		33766	5410 430870	200	101000
210672		02069 NATIONAL LAUNDRY CO	68.29					
1	54280 03/16/22	Red Shop Towels	17.07		33884	1000 430200	300	101000
2	54280 03/16/22	Red Shop Towels	17.08		33884	5210 430500	300	101000
3	54280 03/16/22	Red Shop Towels	17.07		33884	5310 430600	300	101000
4	54280 03/16/22	Red Shop Towels	17.07		33884	5410 430840	300	101000
210673		01713 FRONTLINE AG SOLUTIONS LLC	983.23					
1	912686 03/16/22	Service 2017 Z950M Mower	983.23*		33883	1000 460430	300	101000
210674		02551 TRIPLE TREE ENGINEERING INC	6,345.00					
1	21-71-003 03/12/22	Lift Station Bypass	6,345.00			5310 430601	950 2287	101000
210675		02551 TRIPLE TREE ENGINEERING INC	5,277.50					
1	21-1-008 03/12/22	Rail Safety	5,277.50			1000 470120	790	101000

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210676	01215 SCHOOL DISTRICT #14	141.42						
1	03/08/22 1/2 Genie Repairs	141.42			1000 460442	300	101000	
210677	00083 MARIAS HEALTHCARE	150.00						
1	02/17/22 DOT Physical Stratton	37.50			1000 430200	300	101000	
2	02/17/22 DOT Physical Stratton	37.50			5210 430500	300	101000	
3	02/17/22 DOT Physical Stratton	37.50			5310 430600	300	101000	
4	02/17/22 DOT Physical Stratton	37.50			5410 430830	300	101000	
210678	00213 HIGHLINE COMMUNICATIONS	60.00						
1	82632 03/03/22 CFD Repair Radio	60.00		33723	1000 420400	300	101000	
210679	02045 NAPA AUTO PARTS	46.40						
1	169313 02/16/22 RFD Filter	12.85*		33724	1000 420401	200	101000	
2	169605 02/23/22 RFD Filter	33.55*		33724	1000 420401	200	101000	
210680	01866 SHELBY PAINT AND HARDWARE	580.05						
1	15653 03/22/22 Batteries	10.99		33387	1000 460442	200	101000	
2	15561 02/23/22 Gloves	18.99*		33888	5310 430600	200	101000	
3	72767 02/24/22 Pins	2.66*		33888	1000 460430	200	101000	
4	72779 03/01/22 Batteries	15.99		33888	1000 460445	200	101000	
5	73213 03/02/22 Cat Litter	1.87		33888	1000 430200	200	101000	
6	73213 03/02/22 Cat Litter	1.88		33888	5210 430500	200	101000	
7	73213 03/02/22 Cat Litter	1.87*		33888	5310 430600	200	101000	
8	73213 03/02/22 Cat Litter	1.87		33888	5410 430830	200	101000	
9	72802 03/07/22 Ext Cord/Shop Towels/Pipe Wrap	58.94		33888	5210 430500	200	101000	
10	72814 03/08/22 Paint/Covers/Tape/Dawn Soap	71.44		33888	1000 460445	200	101000	
11	72828 03/10/22 Light Bulbs	263.61		33888	1000 460442	200	101000	
12	72841 03/14/22 Batteries	10.49		33888	1000 430200	200	101000	
13	72841 03/14/22 Batteries	10.49		33888	5210 430500	200	101000	
14	72841 03/14/22 Batteries	10.49*		33888	5310 430600	200	101000	
15	72841 03/14/22 Batteries	10.49		33888	5410 430840	200	101000	
16	72854 03/16/22 Gallon Paint	47.99		33888	1000 460445	200	101000	
17	72862 03/17/22 Montana Flag	9.99		33888	1000 430200	200	101000	
18	72862 03/17/22 Montana Flag	10.00		33888	5210 430500	200	101000	
19	72862 03/17/22 Montana Flag	10.00*		33888	5310 430600	200	101000	
20	72862 03/17/22 Montana Flag	10.00		33888	5410 430830	200	101000	
210681	999998 LORETTE MARIE CARTER	111.46						
	W2ASACT Workshop - Great Falls, MT							
1	03/23/22 Mileage/Meals Carter	111.46			1000 411050	370	101000	

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Line #	Check Invoice #/Inv Date/Description	Line \$		PO #	Fund Org Acct	Object Proj	Account		
210682	00117 QUILL CORPORATION	261.02							
1	23963372 03/22/22 Sharpie Twin Tip/Ledger Pape	22.40		33768	1000 410550	200	101000		
2	23963372 03/22/22 Sharpie Twin Tip/Ledger Pape	22.41		33768	5210 430570	200	101000		
3	23963372 03/22/22 Sharpie Twin Tip/Ledger Pape	22.40		33768	5310 430670	200	101000		
4	23963372 03/22/22 Sharpie Twin Tip/Ledger Pape	22.40		33768	5410 430870	200	101000		
5	24030000 03/24/22 Copy Paper	16.95		33768	1000 410550	200	101000		
6	24030000 03/24/22 Copy Paper	16.95		33768	5210 430570	200	101000		
7	24030000 03/24/22 Copy Paper	16.95		33768	5310 430670	200	101000		
8	24030000 03/24/22 Copy Paper	16.95		33768	5410 430870	200	101000		
9	24089421 03/28/22 Hand Soap	1.61		33769	1000 411202	200	101000		
10	24089421 03/28/22 Hand Soap	1.62		33769	5210 430520	200	101000		
11	24089421 03/28/22 Hand Soap	1.62		33769	5310 430620	200	101000		
12	24089421 03/28/22 Hand Soap	1.62		33769	5410 430820	200	101000		
13	24089324 03/28/22 Thermal Rolls/Copy Paper	97.14		33769	1000 460442	200	101000		
210683	-98208E 00144 POSTMASTER	6.80							
1	305 03/23/22 Schmidt Notice to Abate	6.80			1000 420500	300	101000		
210684	28359S 00144 POSTMASTER	380.91							
1	03/28/21 4/22 Newsletter - 1174	95.22			1000 410240	310	101000		
2	03/28/21 4/22 Newsletter - 1174	95.23			5210 430514	310	101000		
3	03/28/21 4/22 Newsletter - 1174	95.23			5310 430614	310	101000		
4	03/28/21 4/22 Newsletter - 1174	95.23			5410 430814	310	101000		
210685	28360S 02584 VISA	672.14							
1	708 03/02/22 Postage Austin Community Decay	7.00			1000 420500	300	101000		
2	03/09/22 MT Rural Water Registrations	618.00*			5210 430500	370	101000		
3	755 03/17/22 Postage Campbell Abate	6.80			1000 420500	300	101000		
4	2065770295 03/18/22 shelbymt.com Domain Renewa	10.08			1000 410550	300	101000		
5	2065770295 03/18/22 shelbymt.com Domain Renewa	10.09			5210 430570	300	101000		
6	2065770295 03/18/22 shelbymt.com Domain Renewa	10.09			5310 430670	300	101000		
7	2065770295 03/18/22 shelbymt.com Domain Renewa	10.08			5410 430870	300	101000		
210686	999998 MATTHEW E JAMES	102.96							
	Rural Water Conference - Great Falls, MT								
1	03/29/22 Mileage James	102.96*			5210 430500	370	101000		
210687	00653 GREAT WEST ENGINEERING	1,230.50							
1	26088 03/27/22 Wastewater PER	1,230.50*			5310 430600	350	101000		

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* ... Over spent expenditure

Claim Line #	Check	Vendor #/Name/ Invoice #/Inv Date/Description	Document \$/ Line \$	Disc \$	PO #	Fund Org Acct	Object Proj	Cash Account
210688		00653 GREAT WEST ENGINEERING	374.00					
1	26087	03/27/22 Bitterroot School Demo Grant	374.00			1000 411050	300	101000
210689		00653 GREAT WEST ENGINEERING	28,249.52					
1	26090	03/27/22 Airport Tank Transmission Main	28,249.52			5210 430501	950 2286	101000
210690		00653 GREAT WEST ENGINEERING	12,810.75					
1	26089	03/27/22 Storm Water South Side	12,810.75			5720 430246	950 2288	101000
210691		01758 ROBERT W HERMANCE	3,000.00					
1	032322	03/23/22 Annual Service Contract	1,500.00			1000 411201	300	101000
2	032322	03/23/22 TBID Annual Service Contract	1,500.00			7199 212500		101000
210692		02592 WASTE TEK SOLUTIONS	5,696.44					
1	878	03/21/22 Hospital Compactor Update	5,696.44		33886	5410 430830	300	101000
210693		02593 TW ENTERPRISES INC	1,010.34					
1	54366	10/31/21 Generator Repairs	252.58		33887	1000 430200	369	101000
2	54366	10/31/21 Generator Repairs	252.59		33887	5210 430500	369	101000
3	54366	10/31/21 Generator Repairs	252.59		33887	5310 430600	369	101000
4	54366	10/31/21 Generator Repairs	252.58		33887	5410 430830	300	101000
210694		02294 KANEFF EXCAVATING	5,500.00					
1	03/15/22	Tear Down/Backhoe 818 9th Ave	3,500.00*			1000 470270	300	101000
2	02/17/22	1/2 Demo 215 1st Ave SE	2,000.00*			1000 470270	300	101000
210695	-98207E	02594 TYLER TECHNOLOGIES INC	250.00					
1	IDM000B7XN	03/29/22 Yearly iDoc Pass	62.50			1000 410550	300	101000
2	IDM000B7XN	03/29/22 Yearly iDoc Pass	62.50			5210 430570	300	101000
3	IDM000B7XN	03/29/22 Yearly iDoc Pass	62.50			5310 430670	300	101000
4	IDM000B7XN	03/29/22 Yearly iDoc Pass	62.50			5410 430870	300	101000
210696	-98206E	01545 AMAZON.COM	55.98					
1	1127480696	03/29/22 Outdoor Brochure Holder	55.98*			1000 460430	200	101000
210697		00049 TRACTOR & EQUIPMENT CO	1,098.78					
1	414508	03/30/22 Elements	1,098.78			5410 430840	200	101000
210698		00047 BEN TAYLOR INC	4,847.04					
1	32587	03/29/22 3/22 Fuel	159.83			1000 430200	230	101000
2	32587	03/29/22 3/22 Fuel	365.63			5410 430840	230	101000
3	32587	03/29/22 3/22 Fuel	27.20			1000 430200	230	101000
4	32587	03/29/22 3/22 Fuel	277.45			5210 430500	230	101000
5	32587	03/29/22 3/22 Fuel	175.91			1000 430200	230	101000

03/31/22
09:55:34

CITY OF SHELBY
Claim Details
For the Accounting Period: 3/22

Page: 11 of 13
Report ID: AP100

* ... Over spent expenditure

Claim	Vendor #/Name/		Document \$/	Disc \$				Cash
Line #	Check	Invoice #/Inv Date/Description	Line \$		PO #	Fund Org Acct	Object Proj	Account
6	32587	03/29/22 3/22 Fuel	217.59			1000 430200	230	101000
7	32587	03/29/22 3/22 Fuel	126.43			1000 420500	230	101000
8	32587	03/29/22 3/22 Fuel	71.79			1000 430200	230	101000
9	32587	03/29/22 3/22 Fuel	82.35			1000 430200	230	101000
10	32587	03/29/22 3/22 Fuel	79.58			1000 460430	230	101000
11	32587	03/29/22 3/22 Fuel	416.01			1000 430200	230	101000
12	32587	03/29/22 3/22 Fuel	856.54			5410 430830	230	101000
13	32587	03/29/22 3/22 Fuel	302.66			2500 430200	230	101000
14	32587	03/29/22 3/22 Fuel	212.10			2500 430200	230	101000
15	32587	03/29/22 3/22 Fuel	99.58			1000 430200	230	101000
16	32587	03/29/22 3/22 Fuel	243.73			1000 430200	230	101000
17	32587	03/29/22 3/22 Fuel	243.90			1000 430200	230	101000
18	32587	03/29/22 3/22 Fuel	86.79			5310 430600	230	101000
19	290691	03/01/22 Green Marking Paint	12.98			1000 430200	200	101000
20	290601	03/01/22 Bolts/Washers	1.75*			1000 460430	200	101000
21	290620	03/01/22 Baseboard Therm/Heater	50.98			5210 430500	200	101000
22	290627	03/01/22 Heat Only Thermostat	23.99			5210 430500	200	101000
23	292402	03/22/22 Blaze Orange Spray	37.74			5410 430840	200	101000
24	291015	03/02/22 Sump Pump	206.99*			5310 430600	200	101000
25	292473	03/23/22 Wetjet Refill	10.99*			5310 430600	200	101000
26	290999	03/02/22 Bulk Iron/Wire Brush/Tape Meas	18.16			1000 430200	200	101000
27	290999	03/02/22 Bulk Iron/Wire Brush/Tape Meas	18.16			5210 430500	200	101000
28	290999	03/02/22 Bulk Iron/Wire Brush/Tape Meas	18.16*			5310 430600	200	101000
29	290999	03/02/22 Bulk Iron/Wire Brush/Tape Meas	18.16			5410 430840	200	101000
30	291092	03/03/22 Green Marking Paint	6.49			1000 430200	200	101000
31	291092	03/03/22 Green Marking Paint	6.49			5210 430500	200	101000
32	291092	03/03/22 Green Marking Paint	6.49*			5310 430600	200	101000
33	291092	03/03/22 Green Marking Paint	6.49			5410 430840	200	101000
34	292324	03/21/22 Bolt Cutter	11.74			1000 430200	200	101000
35	292324	03/21/22 Bolt Cutter	11.75			5210 430500	200	101000
36	292324	03/21/22 Bolt Cutter	11.75*			5310 430600	200	101000
37	292324	03/21/22 Bolt Cutter	11.75			5410 430840	200	101000
38	291067	03/03/22 Gloves	7.49			1000 430200	200	101000
39	291067	03/03/22 Gloves	7.50			5210 430500	200	101000
40	291067	03/03/22 Gloves	7.50*			5310 430600	200	101000
41	291067	03/03/22 Gloves	7.50			5410 430840	200	101000
42	290495	03/01/22 Nose Plier	4.99			1000 430200	200	101000
43	290495	03/01/22 Nose Plier	5.00			5210 430500	200	101000
44	290495	03/01/22 Nose Plier	5.00*			5310 430600	200	101000
45	290495	03/01/22 Nose Plier	5.00			5410 430840	200	101000
46	291364	03/08/22 Grit Zirco/Wh 7181/Rec B	39.94			1000 430200	200	101000
47	291364	03/08/22 Grit Zirco/Wh 7181/Rec B	39.94			5210 430500	200	101000
48	291364	03/08/22 Grit Zirco/Wh 7181/Rec B	39.94*			5310 430600	200	101000
49	291364	03/08/22 Grit Zirco/Wh 7181/Rec B	39.94			5410 430840	200	101000
50	292553	03/24/22 Chick Dry Cat	6.24			1000 430200	200	101000

03/31/22
09:55:34

CITY OF SHELBY
Claim Details
For the Accounting Period: 3/22

Page: 12 of 13
Report ID: AP100

* ... Over spent expenditure

Claim	Vendor #/Name/	Document \$/	Disc \$					Cash
Line #	Check Invoice #/Inv Date/Description	Line \$		PO #	Fund Org Acct	Object Proj	Account	
51	292553 03/24/22 Chick Dry Cat	6.25			5210 430500	200	101000	
52	292553 03/24/22 Chick Dry Cat	6.25*			5310 430600	200	101000	
53	292553 03/24/22 Chick Dry Cat	6.25			5410 430840	200	101000	
54	292054 03/17/22 Zinc Spr Snap	2.38			1000 430200	200	101000	
55	292054 03/17/22 Zinc Spr Snap	2.40			5210 430500	200	101000	
56	292054 03/17/22 Zinc Spr Snap	2.40*			5310 430600	200	101000	
57	292054 03/17/22 Zinc Spr Snap	2.40			5410 430840	200	101000	
58	734474 03/22/22 Nuto 68	16.67			1000 430200	200	101000	
59	734474 03/22/22 Nuto 68	16.66			5210 430500	200	101000	
60	734474 03/22/22 Nuto 68	16.66*			5310 430600	200	101000	
61	734474 03/22/22 Nuto 68	16.66			5410 430840	200	101000	
210699	00091 CLIFF'S TOWING	100.00						
1	7247 12/14/21 Tow 81 Ford	100.00			1000 420500	300	101000	
# of Claims		62	Total:	196,701.50				
Total Electronic Claims		2,066.85	Total Non-Electronic Claims	194634.65				

03/31/22

09:55:34

CITY OF SHELBY
Fund Summary for Claims
For the Accounting Period: 3/22

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Fund/Account	Amount
1000 GENERAL	
101000 Cash-Operating	\$70,303.66
2400 STREET LIGHTING DISTRICT NO. 35	
101000 Cash-Operating	\$3,881.08
2500 STREET MAINTENANCE DISTRICT NO. 1	
101000 Cash-Operating	\$514.76
5210 WATER UTILITY	
101000 Cash-Operating	\$42,988.04
5310 SEWER UTILITY	
101000 Cash-Operating	\$17,271.54
5410 SOLID WASTE UTILITY	
101000 Cash-Operating	\$35,029.02
5720 STORM DRAINAGE	
101000 Cash-Operating	\$12,810.75
7199 TOURISM BUSINESS IMPROVEMENT DIST (TBID)	
101000 Cash-Operating	\$13,902.65
Total:	\$196,701.50

Building Inspector Report March 2022

3/1/2022

Permit	Date	Zone	Name	Addition	Block	Lot	Address	Permit For	Evaluation	FEE
4440	3/22/2022	HB	Northern MT Storage	Nasset Minor	-	1	1135 Oilfield Ave	20'x200' storage bldg	126,000.00	1,140.00
1 Permits issued this Month									\$ 126,000.00	\$ 1,140.00
									Job Evaluation Totals	TOTALS

FISCAL YTD TOTALS	
Number of Permits	8
Permit Fees	\$ 5,042.00
Total Job Values	\$ 641,000.00

SHELBY PARKS & REC MEETING

March 28, 2022

In attendance: Gary McDermott, Pat Frydenlund, Lyle Kimmet, Eric Tokerud, Jessi La Tray and Lorette Carter, reporting.

Civic Center:

Jessi reported the following:

Upcoming Events:

- Blood Draw ~ March 31st (Hi-fit class will move to 7:00pm)
- Indoor Circus ~ May 18th
- Midget Wrestling ~ No date was established as the group is looking for an event center that seats 500 people.

Jessi is looking for a leg press for the weight room. Jade will get ordered immediately.

A private contractor working with the Veterans Administration is looking to rent two rooms in the facility once a month to offer veteran health screenings. Jessi has offered the racquetball courts for this monthly event. She would charge the same as birthday parties ~ \$20.00/hour to the group.

The group discussed the Tai Chi class and potential to offer a Chair Tai Chi class that gives a fitness option for older residents. Eric suggested the instructor offer a demo at the Senior Center to encourage seniors to join the class.

Jessi also reported a military veteran asked if there were discounts for veterans. The group discussed the pay structure and Lorette offered to bring this conversation to the weekly department meeting.

Maintenance items still to be completed at the Civic Center include the following:

- Stair treads – throughout the facility;
- Baseboards and tile in the balcony of the racquetball courts; and
- Finish painting the baseboard in the gym;

City Facilities:

Roadrunner Recreation Trail/Mountain Bike Trail: The mountain bike trail signs and access signs will be installed as soon as Rob has the time. A brochure box has been ordered and will be installed in the Lake Shel-oole Campground. The old Lake Shel-oole directional sign across from the Lewis & Clark Campground will be replaced this spring/summer.

Krysko Skate Park/Meadowlark Park: The city continues to wait on the Land Water Conservation Fund award to purchase and install a play structure in Meadowlark Park and add

trash cans, benches and picnic table. The city is still considering the potential for public restrooms at Meadowlark Park.

Lorette will ask the Fire Department to wash down the bowls of the Skate Park and flush the storm water drains to keep them clear.

Swimming Pool: The boiler has been ordered for the pool. The city is looking for a new pool manager for this summer. The groups discussed outreach to several individuals. Jessi has contact information on a person who might be interested in teaching water aerobics this summer. She will get her contact information to Lorette.

Kristen Russell was unable to attend, but sent the following message on behalf of the Shelby Swim Team:

I apologize, I will not be able to make the Parks and Rec Committee meeting tonight.

Would you be willing to please pass along that we are planning to have the Shelby Swim Meet on the weekend of June 11-12? We would plan to start practice the week of June 6th at the latest, and whether we have practice the last week of school (May 31-June 3) will probably depend on coaches and whether the pool is ready I would assume.

We are hoping to have swim team sign-ups in late April, and we will work to coordinate with Jessi LaTray for families to purchase passes at that time.

We haven't talked about any practice time changes, so I'm assuming at this point we would have the same times as last year. If that changes as we discuss with coaches, I will discuss with the city or new pool manager when one is hired.

Thanks again to the City of Shelby and Parks and Rec Committee for your ongoing commitment to our Shelby Water Otters, and support of all the kids in our community that participate!

Shelby Park System: It is getting time to open applications for the summer parks crew. In past summers, the city has hired 3-4 people for maintaining our parks and public spaces. Lyle mentioned seeking out Pat Kline to help in our parks and public spaces again. Lorette will visit with Jade on this.

Lake Shel-ooole Baseball Fields: Lorette will reach out to Dave and Tina Stevenson on the Lake Shel-ooole ballfield facilities. Gary suggested we hire a contractor to complete bathroom repairs if necessary. Lorette will speak with Terry on developing a list of needed repairs.

Shelby Tennis Courts: Lorette will follow up with Jack on the tennis court nets.

Lake Shel-ooole Fishing Dock: Lorette will follow up with Jack on making sure the fishing dock is ready for summer fishing.

The March newsletter will include an Adopt A Park article encouraging organizations, church groups and businesses to adopt a park in which to complete beautification projects throughout the summer months.

Historic Shelby High: No new information.

Champions Park: Jack has checked the bollards at Champions Park. He will reach out to electrician, Pat Barber with questions as the light bulbs were all burnt out. Lorette noted the bulbs have been sitting in the City Hall closet for 10 years when the bollards were first installed. Jack will need to order new bulbs.

TREE BOARD

MUFCA: The Montana Urban Forestry Community Association has hired a tree removal specialist to complete the removal of the 6 Green Ash trees in the boulevard of the Bitterroot School this week. City staff will haul the wood to the landfill.

Tree Planting: The Arbor Day and Urban Forestry Grant Program trees were ordered with low bidder, Trans Tree. Dave of Transa Tree is having trouble finding the trees the city ordered. He will seek other sources, but if he is unable to secure the trees, the city will need to go to the next lowest bidder – Forde Nursery. The anticipated planting schedule is late May – early June. The family of Greg Taylor has also ordered a tree which will be planted in Champions Park.

Arbor Day: Arbor Day will be celebrated Friday, April 29th. Lorette has reached out to the Shelby School District to partner with the city again on community service projects throughout Shelby. The groups have cleaned parks, Main Street and along the trail over the last 15 years.

Lorette has also sought help with painting sidewalk curbs in front of fire hydrants and visibility corners. The Sober Life Group will be helping the city in May. The city hopes to get other groups involved.

New Business:

Facility Use Agreements: Copies of the Civic Center Facility Use Agreement and Historic Shelby High Use Agreement were included in the minutes. There have been a couple instances of people taking chairs/tables out of the Civic Center without the knowledge of Jessi, Facility Manager. Lorette will send the Civic Center Facility Use Agreement to the City Shop, Shelby Fire Department and Shelby Area Chamber of Commerce to make them aware of the process.

RIDE THE HILLS Kick Off Event ~ The Hills Mountain Bike Trail: Pat suggested the city plan a fun grand opening/kick-off event for the new mountain bike trail. Lorette will reach out to Alan Bridge and Jade on planning an event for early this summer. She will also get trail brochures to Scheels bike shop and The Knicker Biker bike shop in Great Falls.

With no further business, the next meeting is scheduled for Monday, April 25, 2022.

**CITY OF SHELBY
HISTORIC SHELBY HIGH
FACILITY USE AGREEMENT**

THIS FACILITY USE AGREEMENT, made and entered into this _____ day of _____, 20____, by and between the following:

THE CITY OF SHELBY, a Montana municipal corporation, 112 1st St S, Shelby, Montana 59474, hereinafter designated as CITY,
and

_____, Phone # _____
WITNESSETH;

WHEREAS, the CITY owns a certain premise which is suitable for the LESSEE; and

WHEREAS, the LESSEE use is for _____; and

WHEREAS, the CITY desires to allow use of certain city premises, as described below, to the LESSEE.

NOW, THEREFORE, in consideration of the use by the LESSEE of the same premises, the mutual covenants, promises and representations herein made, the Parties agree as follows:

1. TERM DATES: _____ to _____.
DAYS OF WEEK: _____.
TIME PERIOD EACH DAY: _____.
2. PREMISES: Building Name &/or Area: Historic Shelby High gymnasium
Address: 333 6th Avenue South
3. USE: Said premises shall be used exclusively by the LESSEE during the above period except when the CITY and LESSEE can coordinate and schedule events that will not interfere with the LESSEE'S uses. Such uses shall be submitted to the City Council in writing for approval at least fourteen (14) days prior to the proposed event. Approval or disapproval of the proposed use shall be the responsibility of the City Council.
4. EXAMINATION: LESSEE shall carefully examine the premises and all of its facilities and equipment, know the condition thereof, agree to accept the same in the condition which they are now, and agree to return the same in their present condition except for ordinary and reasonable wear and tear, damage by the elements, and damages whereof the CITY is compensated by insurance or otherwise.
5. CONSIDERATION: The consideration from LESSEE to the CITY shall be as follows:

_____ Facility User Fee – determined by City Hall	Date: _____
_____ \$20.00 Key Deposit Paid Cash_____/Check # _____	Date: _____
_____ City Hall approves issue of key	Date: _____
_____ City personnel inspects facility/area	Date: _____
_____ Key Collected and Deposit \$ RETURNED	Date: _____
_____ Key Collected and Deposit \$ KEPT	Date: _____

LESSEE shall clean up and deposit all trash and litter from the premises. Clean the restrooms as often as needed to provide clean, sanitary restrooms for public use. The CITY will empty the dumpsters serving the premises.

6. IMPROVEMENTS: Any improvements made by LESSEE to the area covered by this AGREEMENT shall become the property of the CITY unless otherwise stipulated in the terms of this AGREEMENT.
7. ASSIGNMENT: This AGREEMENT is not assignable by the LESSEE in whole or in part without the prior written approval of the City Attorney for the City of Shelby.
8. NON-DISCRIMINATION: The undersigned, either as an individual or on behalf of a group or organization, hereby agrees that this facility shall not be used in any manner that would discriminate against any person or persons on the basis of sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin.
9. INDEMNIFICATION / INSURANCE: The LESSEE shall indemnify the CITY and hold it harmless from and against all claims, damages, losses and expenses arising out of or resulting from the LESSEE'S negligent acts or omissions or those of a sub-contractor, agent or anyone directly or indirectly employed by the LESSEE.

The LESSEE shall carry **minimum** liability insurance in the amount of **Seven Hundred and Fifty Thousand and No/100 Dollars (\$750,000) for each accident, and One Million Five Hundred Thousand and no/100 Dollars (\$1,500,000) aggregate (MCA Section 2-9-108(1) (1997)).** The LESSEE shall provide the City a Certificate of Insurance made out to the City of Shelby and naming the City of Shelby as an additional insured party.

10. RIGHT OF INSPECTION: The CITY shall have the right to inspect the premises at all times during the term of this Lease. Items not meeting the terms of this lease will be called to the attention of the LESSEE.
11. CONCESSION STAND: Any concession stand will meet all City Health, Fire and Building Codes.
12. UTILITIES: The CITY shall be responsible for the water service for the premises.
13. BREACH: Should this Agreement be violated, a notice thereof in writing shall be issued; and if said breach is not corrected within seven (7) working days of said notice, this Agreement may be terminated at the option of the Party wronged without further notice; provided, however, that this clause shall not necessitate the termination of this Agreement, nor shall it prevent the issuance of any other remedy at law or in equity.
14. ATTORNEY'S FEES AND COSTS: In the event it becomes necessary for either Party to this Agreement to retain an attorney to enforce any of the terms or conditions of the Agreement, then the prevailing Party shall be entitled to a reasonable attorney's fee and costs.
15. AMENDMENTS AND MODIFICATION: The Parties hereby agree that any amendments or modifications to this Agreement or any provisions herein shall be made in writing and executed in the same manner as the original document and shall, after execution, become a part of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement this _____
day of _____, 20____.

OWNER:

CITY OF SHELBY,
A Montana Municipal Corporation

By: _____
Gary McDermott, Mayor

ATTEST:

By: _____

ORGANIZATION:

LESSEE

By: _____
Title: _____

Special Event Coverage

The MMIA and the Independent Insurance Agents of Montana (IIAM) have worked together to provide access to Special Events Liability Coverage for events held on municipal property in Montana that are sponsored by a private individual or organization. This program offers easy and affordable, short-term coverage for a wide variety of events. To obtain coverage, please contact a local Montana agent to review the event details and set up the coverage. Please allow a minimum of 5 business days prior to the event for coverage to be offered.

Shelby, MT

Leavitt Great West Insurance Travis Clark (406) 434-5201 travis-clark@leavitt.com

For questions, contact the MMIA at 1-800-635-3089

CITY OF SHELBY Shelby Park System

FACILITY USE AGREEMENT

THIS FACILITY USE AGREEMENT, made and entered into this _____ day of _____, 20____, by and between the following:

THE CITY OF SHELBY, a Montana municipal corporation, 112 1st St S, Shelby, Montana 59474, hereinafter designated as CITY,
and

_____, Phone # _____
WITNESSETH;

WHEREAS, the CITY owns a certain premise which is suitable for the LESSEE; and

WHEREAS, the LESSEE use is for _____; and

WHEREAS, the CITY desires to allow use of certain city premises, as described below, to the LESSEE.

NOW, THEREFORE, in consideration of the use by the LESSEE of the same premises, the mutual covenants, promises and representations herein made, the Parties agree as follows:

1. TERM DATES: _____ to _____.
DAYS OF WEEK: _____.
TIME PERIOD EACH DAY: _____.
2. PREMISES: Public Area or Park: _____
Location: _____
3. USE: Said premises shall be used exclusively by the LESSEE during the above period except when the CITY and LESSEE can coordinate and schedule events that will not interfere with the LESSEE'S uses. Such uses shall be submitted to the City Council in writing for approval at least fourteen (14) days prior to the proposed event. Approval or disapproval of the proposed use shall be the responsibility of the City Council.
4. EXAMINATION: LESSEE shall carefully examine the premises and all of its facilities and equipment, know the condition thereof, agree to accept the same in the condition which they are now, and agree to return the same in their present condition except for ordinary and reasonable wear and tear, damage by the elements, and damages whereof the CITY is compensated by insurance or otherwise.
5. CONSIDERATION:
LESSEE shall clean up and deposit all trash and litter from the premises. Clean the restrooms as often as needed to provide clean, sanitary restrooms for public use. The CITY will empty the dumpsters serving the premises.
6. IMPROVEMENTS: Any improvements made by LESSEE to the area covered by this AGREEMENT shall become the property of the CITY unless otherwise stipulated in the terms of this AGREEMENT.

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8. NON-DISCRIMINATION: The undersigned, either as an individual or on behalf of a group or organization, hereby agrees that this facility shall not be used in any manner that would discriminate against any person or persons on the basis of sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin.
9. INDEMNIFICATION / INSURANCE: The LESSEE shall indemnify the CITY and hold it harmless from and against all claims, damages, losses and expenses arising out of or resulting from the LESSEE'S negligent acts or omissions or those of a sub-contractor, agent or anyone directly or indirectly employed by the LESSEE.

The LESSEE shall carry **minimum** liability insurance in the amount of **Seven Hundred and Fifty Thousand and No/100 Dollars (\$750,000) for each accident, and One Million Five Hundred Thousand and no/100 Dollars (\$1,500,000) aggregate (MCA Section 2-9-108(1) (1997)).** The LESSEE shall provide the City a Certificate of Insurance made out to the City of Shelby and naming the City of Shelby as an additional insured party.

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14. ATTORNEY'S FEES AND COSTS: In the event it becomes necessary for either Party to this Agreement to retain an attorney to enforce any of the terms or conditions of the Agreement, then the prevailing Party shall be entitled to a reasonable attorney's fee and costs.
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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement this _____
day of _____, 20____.

OWNER:

CITY OF SHELBY,
A Montana Municipal Corporation

By: _____
Gary McDermott, Mayor

ATTEST:

By: _____

ORGANIZATION:

LESSEE

By: _____
Title: _____

Special Event Coverage

The MMIA and the Independent Insurance Agents of Montana (IIAM) have worked together to provide access to Special Events Liability Coverage for events held on municipal property in Montana that are sponsored by a private individual or organization. This program offers easy and affordable, short-term coverage for a wide variety of events. To obtain coverage, please contact a local Montana agent to review the event details and set up the coverage. Please allow a minimum of 5 business days prior to the event for coverage to be offered.

Shelby, MT

Leavitt Great West Insurance Travis Clark (406) 434-5201 travis-clark@leavitt.com

For questions, contact the MMIA at 1-800-635-3089

Recreation Passes

Monthly pass prices are pro-rated by the day of purchase.

Pass	Civic Center or Pool Fee	Civic Center and Pool Fee
Family	45.00	60.00
Adult (18 & over)	40.00	55.00
Student (9-17)	35.00	50.00
Child (3-8)	30.00	45.00
Civic Center Walking Pass is \$30.00 annually		
Shelby Swimming Pool early morning pass is \$60.00 annually		

Shelby Civic Center Rental Agreement

669 Park Avenue

(406) 434-5114

www.shelbymt.com

Name: _____

Address: _____

Phone: _____

Date & Time Requested:

Date From: _____

Time: _____

Date To: _____

Time: _____

Purpose or Function: _____

Rental Fees (See Facility Check -in & Inspection): _____

Date Paid: _____

Number Expected to Attend Function: _____

Cleaning Fee/Deposit Requirements Reviewed: Yes _____ No _____

***I agree to comply with all City of Shelby requirements for rental and usage of this building.
Determination of forfeiture of all deposits will be made at the discretion of the City of Shelby
representative upon inspection.***

Renter Signature

Date

City Representative

Date

Cleaning Checklist

If a janitorial fee is waived and/or cleaning deposit submitted, please follow the checklist and check items as completed. A City of Shelby representative will need to complete a final inspection for approval and return of deposit.

Task	Check Off	Inspection Initial
Kitchen		
Clean/sanitize counters		
Clean/sanitize sinks		
Empty/wash coffee pots; unplug; and put away		
Clean inside & outside of microwave		
Clean stove		
Clean all food splatters on appliances, walls, etc....		
Empty/clean (if necessary) refrigerators		
Sweep and mop floors		
Empty garbage cans and replace liners		
Let staff know to replace paper towel (if needed)		
Replace window cover		
Turn off lights & lock kitchen facility		
Bathrooms		
Clean sinks & counters		
Clean toilets		
Sweep & mop floors		
Empty garbage cans & replace liners		
Let office know to replace paper towel & toilet paper (if needed)		
Turn off lights & fan		
Gym		
Return all tables & chairs to storage		
Sweep and wet mop gym floor/hallways		
Empty garbage cans & replace liners		
Entry way sweep/mop (if necessary) and vacuum rugs		
Ensure doors are locked and lights turned off		
Signature of City of Shelby representative on final inspection.		

If paying the janitorial fee, we still ask you pick up all garbage; put away tables/chairs; and replace kitchen window cover after your event. We also ask you complete a walkthrough of the facility for safety and maintenance issues before leaving and locking the facility. If you need assistance, please notify personnel at the facility; contact Shelby City Hall (434-5222); or call the Office of Public Safety at 434-5585 as they will contact City of Shelby on-call personnel after hours.

Thank you in helping keep our community facility clean, well maintained and an asset to our community.

CITY OF SHELBY

FACILITY USE AGREEMENT

THIS FACILITY USE AGREEMENT, made and entered into this _____ day of _____, 20____, by and between the following:

THE CITY OF SHELBY, a Montana municipal corporation, 112 1st St S, Shelby, Montana 59474, hereinafter designated as CITY,
and

_____, Phone # _____
WITNESSETH;

WHEREAS, the CITY owns a certain premise which is suitable for the LESSEE; and

WHEREAS, the LESSEE use is for _____; and

WHEREAS, the CITY desires to allow use of certain city premises, as described below, to the LESSEE.

NOW, THEREFORE, in consideration of the use by the LESSEE of the same premises, the mutual covenants, promises and representations herein made, the Parties agree as follows:

1. TERM DATES: _____ to _____.
DAYS OF WEEK: _____.
TIME PERIOD EACH DAY: _____.
2. PREMISES: Building Name &/or Area: _____
Address: _____
3. USE: Said premises shall be used exclusively by the LESSEE during the above period except when the CITY and LESSEE can coordinate and schedule events that will not interfere with the LESSEE'S uses. Such uses shall be submitted to the City Council in writing for approval at least fourteen (14) days prior to the proposed event. Approval or disapproval of the proposed use shall be the responsibility of the City Council.
4. EXAMINATION: LESSEE shall carefully examine the premises and all of its facilities and equipment, know the condition thereof, agree to accept the same in the condition which they are now, and agree to return the same in their present condition except for ordinary and reasonable wear and tear, damage by the elements, and damages whereof the CITY is compensated by insurance or otherwise.
5. CONSIDERATION: The consideration from LESSEE to the CITY shall be as follows:

_____ Facility User Fee	
_____ \$100 Key Deposit Paid Cash___/Check #_____	Date: _____
_____ \$_____ Cleaning Deposit Paid	Date: _____
_____ City Supt approves issue of key (Shel-oolle bathrooms)	Date: _____
_____ Water is turned on to facility/area	
_____ City Superintendent inspects facility/area	Date: _____
_____ Key Collected and Deposit \$ RETURNED	Date: _____
_____ Key Collected and Deposit \$ KEPT	Date: _____

LESSEE shall clean up and deposit all trash and litter from the premises. Clean the restrooms as often as needed to provide clean, sanitary restrooms for public use. The CITY will empty the dumpsters serving the premises.

6. IMPROVEMENTS: Any improvements made by LESSEE to the area covered by this AGREEMENT shall become the property of the CITY unless otherwise stipulated in the terms of this AGREEMENT.
7. ASSIGNMENT: This AGREEMENT is not assignable by the LESSEE in whole or in part without the prior written approval of the City Attorney for the City of Shelby.
8. NON-DISCRIMINATION: The undersigned, either as an individual or on behalf of a group or organization, hereby agrees that this facility shall not be used in any manner that would discriminate against any person or persons on the basis of sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin.
9. INDEMNIFICATION / INSURANCE: The LESSEE shall indemnify the CITY and hold it harmless from and against all claims, damages, losses and expenses arising out of or resulting from the LESSEE'S negligent acts or omissions or those of a sub-contractor, agent or anyone directly or indirectly employed by the LESSEE.

The LESSEE shall carry **minimum** liability insurance in the amount of **Seven Hundred and Fifty Thousand and No/100 Dollars (\$750,000) for each accident, and One Million Five Hundred Thousand and no/100 Dollars (\$1,500,000) aggregate (MCA Section 2-9-108(1) (1997))**. The LESSEE shall provide the City a Certificate of Insurance made out to the City of Shelby and naming the City of Shelby as an additional insured party.

10. RIGHT OF INSPECTION: The CITY shall have the right to inspect the premises at all times during the term of this Lease. Items not meeting the terms of this lease will be called to the attention of the LESSEE.
11. CONCESSION STAND: The concession stand will meet all City Health, Fire and Building Codes.
12. UTILITIES: The CITY will turn on water lines and plumbing in the spring and drain and disconnect the same in the fall. The CITY shall be responsible for the water service for the premises.
13. BREACH: Should this Agreement be violated, a notice thereof in writing shall be issued; and if said breach is not corrected within seven (7) working days of said notice, this Agreement may be terminated at the option of the Party wronged without further notice; provided, however, that this clause shall not necessitate the termination of this Agreement, nor shall it prevent the issuance of any other remedy at law or in equity.
14. ATTORNEY'S FEES AND COSTS: In the event it becomes necessary for either Party to this Agreement to retain an attorney to enforce any of the terms or conditions of the Agreement, then the prevailing Party shall be entitled to a reasonable attorney's fee and costs.
15. AMENDMENTS AND MODIFICATION: The Parties hereby agree that any amendments or modifications to this Agreement or any provisions herein shall be made in writing and executed in the same manner as the original document and shall, after execution, become a part of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement this _____
day of _____, 20____.

OWNER:

CITY OF SHELBY,
A Montana Municipal Corporation

By: _____
Gary McDermott, Mayor

ATTEST:

By: _____

ORGANIZATION:

LESSEE

By: _____
Title: _____

Special Event Coverage

The MMIA and the Independent Insurance Agents of Montana (IIAM) have worked together to provide access to Special Events Liability Coverage for events held on municipal property in Montana that are sponsored by a private individual or organization. This program offers easy and affordable, short-term coverage for a wide variety of events. To obtain coverage, please contact a local Montana agent to review the event details and set up the coverage. Please allow a minimum of 5 business days prior to the event for coverage to be offered.

Shelby, MT

Leavitt Great West Insurance Travis Clark (406) 434-5201 travis-clark@leavitt.com

For questions, contact the MMIA at 1-800-635-3089

RESOLUTION NO. 2049

RESOLUTION TO AUTHORIZE SUBMISSION OF MCEP APPLICATION
STORM WATER IMPROVEMENTS

WHEREAS, the City of Shelby is applying to the Montana Department of Commerce for financial assistance from the Montana Coal Endowment Program (MCEP) to complete storm water drainage improvements on the north side of Shelby;

WHEREAS, the City of Shelby has the legal jurisdiction and authority to construct, finance, operate and maintain the storm water system;

That the City of Shelby agrees to comply with all State laws and regulations and the requirements described in the MCEP Application Guidelines and those that will be described in the MCEP Project Administration Manual;

That the City of Shelby commits to provide the amount of matching funds as proposed in the TSEP application; and

That Gary McDermott, Mayor is authorized to submit this application to the Montana Department of Commerce, on behalf of the City of Shelby, to act on its behalf and to provide additional information as may be required.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHELBY,
MONTANA, AND APPROVED BY THE MAYOR THIS 4th DAY OF APRIL, 2022.

GARY McDERMOTT, MAYOR

ATTEST:

JADE GOROSKI, FINANCE OFFICER

RESOLUTION NO. 2050

RESOLUTION TO ACCEPT THE DETERMINATION THAT A CATEGORICAL
EXCLUSION IS APPROPRIATE FOR THE CITY OF SHELBY STORM WATER
DRAINAGE IMPROVEMENT PROJECT.

WHEREAS, the City of Shelby has completed the assessment to identify potential environmental impacts to the improvements to the storm water drainage system.

WHEREAS, the draft Environmental Assessment was made available for public comment and the findings were presented and reviewed at a public meeting;

WHEREAS, no substantive public comment was received;

WHEREAS, the City of Shelby has determined that the storm water drainage improvement project will not significantly affect the quality of the human environment and accordingly the City of Shelby has determined an Environmental Impact Statement (or Environmental Assessment and EIS, if project is Categorical Exclusion); is not necessary;

NOW, THEREFORE, BE IT RESOLVED by the Shelby City Council as follows:

That the City of Shelby, Montana adopts the final Environmental Assessment for the storm water drainage improvement project.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHELBY,
MONTANA, AND APPROVED BY THE MAYOR THIS 4th DAY OF APRIL, 2022.

GARY McDERMOTT, MAYOR

ATTEST:

JADE GOROSKI, FINANCE OFFICER

Cut Bank Area Chamber of Commerce

P.O. Box 1243 Cut Bank, MT 59427 (406)873-4041
www.cutbankchamber.com cutbankchamber@gmail.com



March 13, 2022

Shelby City Council,

Greetings from the Cut Bank Area Chamber of Commerce! We would like to extend an invitation to you to attend our 73rd Annual Cut Bank Area Chamber of Commerce Banquet on Saturday, April 9, 2022. This year's "Masquerade Ball" themed banquet will be held at the Joe Meagher Memorial Civic Center on Railroad Street. The no-host social hour begins at 6 p.m. and dinner will follow at 7 p.m. Tickets are \$35 each or \$300 for a reserved table for 8, which includes 8 drink tickets. You can purchase tickets by calling our Banquet Committee Chair Rachel Dosch at (406) 561-5721 or emailing cutbankchamber@gmail.com.

We are excited to have The Max perform at this years' banquet. We feel like the banquet is an event that Cut Bank and the surrounding communities look forward to each year. After canceling the Banquet in 2020 and 2021, we are excited to bring it back! In addition to being our biggest fundraiser for the Chamber, our Banquet has turned into one of the biggest social events of the year in Cut Bank.

The banquet will also feature the announcement of this year's Citizen of the Year Award, Business of the Year Award, as well as a silent auction, and a delicious Italian style dinner and desserts.

We hope you can attend and enjoy a fun-filled evening.

Sincerely,

Nate Kavanagh
President
Cut Bank Area Chamber of Commerce

CITY OF SHELBY

112 First Street South
Shelby, MT 59474
Telephone: (406) 434-5222
FAX: (406) 434-2039
www.shelbymt.com



Mayor: Gary McDermott
Council: Joe Flesch, Sanna Clark, Jayce Yarn,
Lyle Kimmet, Bill Moritz, Patrick Frydenlund
Attorney: William E. Hunt, Jr.
City Supt.: Jack Johannes
Building Inspector: Rob Tasker
Community Development: Lorette Carter
Finance Officer: Jade Goroski
Judge: Joe Rapkoch

March 29, 2022

Marilyn Sheldon
420 Sheridan Avenue
Shelby, MT 59474

RE: Community Decay & Weed Notice ~ 670 Oilfield Avenue/424 Sheridan Avenue

The City of Shelby is taking an active approach in addressing the blight in neighborhoods within Shelby. As per Title 4 – Chapter 6: Community Decay - the purpose is to *regulate, control and prohibit conditions that contribute to community decay with public view in the City of Shelby. As well, Chapter 4 – Weed Control.* Both can be found on the city's website at www.shelbymt.com.

Concern has been voiced from various citizens on the condition of your properties located at 670 Oilfield Avenue and 424 Sheridan Ave. We ask you address the condition of the properties, accumulation of garbage and discarded items in the yards and overgrown vegetation on the property. The accumulation on your property is unsafe, a health risk and fire hazard and **must be addressed**. We understand you have inquired about the demolition program and the city is willing to work with you on this.

We appreciate you working with us to improve our neighborhoods and beautify Shelby.

Thank you,
City of Shelby

Cc: Gary McDermott, Mayor
Shelby City Council

Jade Goroski

From: Abigail St. Lawrence <abigail@stlawrencelawfirm.com>
ent: Wednesday, March 30, 2022 3:40 PM
To: Bill Hunt
Cc: Gary McDermott; Jade Goroski
Subject: FW: Final Order - City of Shelby Applications
Attachments: OAH_30117451-30114262-30116656-41P_FO (2022-03-30).pdf

Gents-

At long last, attached is the final order from the DNRC granting all three applications. Congratulations! You may proceed as planned, as the attached order is a final order.

That said, you'll note that Kevin does have 30 days to file a petition for judicial review in district court (either in Toole or Lewis & Clark Counties) or with the Montana Water Court. Given Kevin's counsel's track record, I fully anticipate they will file for judicial review and will also attempt to obtain a preliminary injunction prohibiting Shelby from implementing the permits during the pendency of the judicial review. I will, of course, oppose any such effort at an injunction. The judicial review process does move along a bit more quickly than typical litigation, as it is a review of the record and there is no discovery. Kevin will file a petition (and possibly a motion for preliminary injunction), we'll file an answer (and opposition to the motion if needed), and the court will set a briefing schedule.

The attached order is well done. The hearing examiner does open a tiny bit the window on adverse effect for the change applications in Paragraphs 32-33, but then states that even if purely financial impact were considered adverse effect in change applications, Kevin provided no evidence to verify such impact (see Paragraph 34). Kevin may also try to seize on the statements in Paragraphs 40-41 regarding possessory interest, but the hearing examiner makes clear that the record as a whole (including the testimony provided at hearing) shows Shelby met its burden of proof. I can see Kevin trying to argue that because the initial application didn't meet the burden, the hearing examiner should find Shelby didn't meet the criteria of possessory interest, but the entire point of a contested case hearing is to allow the applicant to respond to anything the objector brings and to supplement the record.

The bottom line is that the final order is well-done and that Shelby may implement the water use plan as anticipated by the applications. The deadline for a petition for judicial review is April 29th. I'll let you know if/when that arrives. But for now, congratulations.

-Abby

Abigail St. Lawrence
Attorney at Law
(406) 797-7220
PO Box 664
Butte, MT 59703

This message may contain confidential privileged material, including attorney-client communications and attorney work product. This electronic transmission does not constitute a waiver of privilege. Please contact sender immediately if you have received this message in error. Thank you.

om: "Price, Jamie" <jsprice@mt.gov>
Date: Wednesday, March 30, 2022 at 8:57 AM
To: "Abigail St. Lawrence" <abigail@stlawrencelawfirm.com>, "Connors, Jack" <jconnors@doneylaw.com>

Cc: Lee Joiner <ljoiner@doneylaw.com>, Jeri Hoffman <jhoffman@doneylaw.com>

Subject: Final Order - City of Shelby Applications

Attached please find a copy of the *Findings of Fact and Conclusions of Law and Final Order* in the matter of permit application no. 41P-30117451 and change applications nos. 41P-30114262 and 41P-30116656 by City of Shelby.

A hard copy of this Order is also being mailed to you.

Sincerely,

Jamie Price, OAH Hearings Assistant
Dept. of Natural Resources and Conservation
(406) 444-6615; jsprice@mt.gov

This electronic mail transmission may contain **confidential or privileged** information. If you believe that you have received this message in error, please notify the sender immediately by reply transmission and delete the message without copying or disclosing it.

Office of Administrative Hearings
Department of Natural Resources and Conservation
1539 Eleventh Avenue
P.O. Box 201601
Helena, MT 59620-1601
Phone: (406) 444-6615

BEFORE THE DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

IN THE MATTER OF APPLICATION FOR)
BENEFICIAL WATER USE PERMIT NO. 41P-)
30117451 BY CITY OF SHELBY)

IN THE MATTER OF CHANGE APPLICATION)
NO. 41P-30114262 BY CITY OF SHELBY)

IN THE MATTER OF CHANGE APPLICATION)
NO. 41P-30116656 BY CITY OF SHELBY)

FINDINGS OF FACT AND CONCLUSIONS
OF LAW AND FINAL ORDER

On November 10, 2021, and November 16, 2021, I conducted hearings related to the above-captioned applications. For the reasons set forth below, I hereby overrule the valid objections filed by the Town of Kevin (Objector) to each of the three above-captioned applications and GRANT City of Shelby's (Applicant) applications on the terms and conditions set forth in the Department of Natural Resources and Conservation's (DNRC) Preliminary Determinations to Grant (PDG or PDGs) each application. This Order must be read in conjunction with the associated PDGs, which are incorporated herein by reference.

BACKGROUND AND PROCEDURAL HISTORY

On December 21, 2020, DNRC issued PDGs regarding the three above-captioned applications filed by Applicant. In application 41P 30117451 (Permit Application), Applicant sought the right to make a new appropriation for 205 gallons per minute (GPM) up to 331.6 acre-feet per year (AFY) for municipal use. Permit Application PDG at 1. The Permit Application is intended to complement Applicant's other two applications at issue in this case. Application 41P 30114262 seeks changes to Water Right Statements of Claim numbers 41P 192877 and 41P 192879, and Application 41P 30116656 seeks changes to Water Right Statements of Claim numbers 41P 192878, 41P 192880, 41P 192881, and 41P 192882, as well as to Beneficial Water Use Provisional Permit numbers 41P 4489, 41P 4490, and 41P 58129. Together, applications 41P

30114262 and 41P 30116656 (Change Applications) seek to change the use of up to 2.690 GPM for a total volume up to 1124.90 AFY. Change Applications PDG at 4. The PDGs were publicly noticed pursuant to §85-2-307, MCA, and Objector timely filed valid objections to all three applications. Specifically, DNRC determined that Objector was entitled to challenge the Permit Application PDG on the grounds of legal and physical availability of water, adverse effect, and possessory interest, and to challenge the Change Applications PDG on the grounds of adverse effect and possessory interest. DNRC Validity Determinations of May 11, 2021.

The contested case proceedings triggered by Objector's valid objections were assigned to Hearing Examiner David Vogler, who presided over various pre-hearing matters, including two pre-hearing motions filed by Objector. Specifically, in separate orders both dated November 3, 2021, Hearing Examiner Vogler denied Objector's contested motions to Compel and Exclude Certain Witnesses, and for Summary Judgment Regarding Place of Use. Shortly thereafter, this case was assigned to me for further proceedings in light of Hearing Examiner Vogler's impending retirement. On November 5, 2021, Objector filed an Emergency Motion to Certify to the Director and Stay Proceedings, which Applicant opposed. With hearings on the Permit Application and Change Applications already set for November 10, 2021, and November 16, 2021, respectively, I denied the motion to stay by Order of November 9, 2021, and in that same Order determined to hold the motion to certify in abeyance while I conducted the then-scheduled hearings. At the conclusion of the second hearing, I discussed the state of the record with the parties and incorporated by reference the application files maintained by DNRC and the evidence introduced in connection with each application into the record of the other applications.¹ I formalized this finding in a post-hearing Order I issued on December 7, 2021, in which I also denied Objector's Motion to Certify. The evidentiary record closed for all three of the above-captioned applications on January 7, 2022,² and as I indicated in that December 7 Order that I would, I now issue this

1. At both hearings, Objector moved to exclude portions of the DNRC application files from the record. I denied both objections. Trans. 1 at 6:6-11:2; Trans. 4 at 6:20-7:4. (Applicant had the recordings of the two hearings transcribed, served copies of the transcripts on Objector, and submitted copies to the Office of Administrative Hearings contemporaneously with filing its Proposed Findings of Fact and Conclusions of Law. I find the transcripts, which are broken into four volumes, three covering the hearing of November 10, 2021 (at which certain technical difficulties were experienced that caused the recordings to be broken up into multiple files), and the fourth of the hearing of November 16, 2021, to be accurate renditions of the recordings and will cite to them throughout this order instead of to the recordings.

2. On January 6, 2022, Objector filed an unopposed motion to supplement the record, seeking the inclusion of a letter and its enclosures that were referenced in an e-mail from James Slayton to Matt Miles, which e-mail is part of the file for Change Application 41P 30114262 at page 487. I had previously been under the impression that the letter and attachment were already included with the e-mail in that file, but since they apparently had been inadvertent omitted, I GRANT Objector's motion to supplement.

single Final Order, though where necessary I address aspects of the Permit Application and Change Applications separately.

LEGAL STANDARD

Under Montana law, an applicant for a new beneficial water use permit always retains the burden of proof to show by a preponderance of the evidence that the applicable criteria of § 85-2-311(1), MCA, are satisfied before DNRC may issue the applicant a new beneficial use permit. *Bostwick Properties v. DNRC*, 2013 MT 48, ¶ 18, 369 Mont. 150, 296 P.3d 1154 (2013).³ Consequently, in connection with the Permit Application, Applicant must show that:

- 1) there is water physically available at the proposed point of diversion in the amount that the applicant seeks to appropriate;
- 2) water can reasonably be considered legally available during the period in which the applicant seeks to appropriate, in the amount requested;
- 3) the water rights of a prior appropriator will not be adversely affected by the proposed new use;
- 4) the proposed means of diversion, construction, and operation of the appropriation works are adequate;
- 5) the proposed use of water is a beneficial use; and
- 6) the applicant has a possessory interest or the written consent of the person with the possessory interest in the property where the water is to be put to beneficial use.

Section 85-2-311(1)(a)-(e), MCA. Pursuant to § 85-2-307(2)(a)(ii), MCA, DNRC's PDG of the Permit Application reflects DNRC's preliminary determination that Applicant has proven those criteria by the requisite standard.

As with a permit application, an applicant for a change in use authorization always retains the burden of proof to show by a preponderance of the evidence that the applicable criteria of § 85-2-402(2), MCA, are satisfied before DNRC may issue the applicant a change authorization. *In re Royston*, 249 Mont. 425, 429, 816 P.2d 1054, 1057 (1991).⁴ Consequently, in connection with the Change Applications, Applicant must show that:

3. A permit applicant need only demonstrate that the criteria of § 85-2-311(1)(f)-(h), MCA, are satisfied if a valid objection raising those grounds is filed. § 85-2-311(2), MCA. No such valid objections were filed in connection with Applicant's Permit Application.

4. A change applicant need only demonstrate that the criteria of § 85-2-402(2)(f)-(g), MCA, are satisfied if a valid objection raising those grounds is filed. § 85-2-402(3), MCA. No such valid objections were filed in connection with Applicant's Change Applications.

- 1) the proposed change in appropriation right will not adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued;
- 2) the proposed means of diversion, construction, and operation of the appropriation works are adequate;
- 3) the proposed use of water is a beneficial use; and
- 4) the applicant has a possessory interest, or the written consent of the person with the possessory interest, in the property where the water is to be put to beneficial use.

Section 85-2-402(2)(a)-(d), MCA. Pursuant to § 85-2-307(2)(a)(ii), MCA, DNRC's PDG of the Change Applications reflects DNRC's preliminary determination that Applicant has proven those criteria by the requisite standard.

The issuance of DNRC's PDGs proposing to grant the three applications does not relieve Applicant of its obligation to prove that the applicable criteria are satisfied. It does, however, have the effect of shifting the burden of production to Objector to demonstrate that Applicant failed to satisfy its burden on the criteria at issue in the valid objections. Because Applicant retains the burden of proof as to the criteria, Applicant may present evidence at the contested case hearing to rebut relevant evidence pertaining to the objection that the Objector proffers at the hearing. *See generally, Montana Environmental Info. C'tr v. Montana Department of Environmental Quality*, 2005 MT 96, 112 P.3d 964 (2005). In that case, MEIC contested the issuance of a permit by MDEQ which was upheld after a contested case hearing. Upon judicial review, the District Court found that MEIC, as the challenging party, bore the burden of proof in the contested case hearing to show that the permit was improperly issued. Citing §§ 26-1-401 and 401, MCA, the Supreme Court found that the "party asserting a claim for relief bears the burden of producing evidence in support of that claim." *Id.* ¶ 2 (see § 26-1-401, MCA ("[t]he initial burden of producing evidence as to a particular fact is on the party who would be defeated if no evidence were given on either side. Thereafter, the burden of producing evidence is on the party who would suffer a finding against him in the absence of further evidence."); § 26-1-402, MCA ("[e]xcept as otherwise provided by law, a party has the burden of persuasion as to each fact the existence or nonexistence of which is essential to the claim for relief or defense he is asserting.")).

///

UNCONTESTED CRITERIA

Because no valid objections were filed as to the adequacy of the means of diversion and the beneficial nature of the proposed use of water for the Permit Application, and because there is no evidence in the record that would cause me to revisit DNRC's PDG as to those two criteria, I find that Applicant has met its burden as to those two criteria for the reasons set forth in the Permit Application PDG, whose relevant terms are incorporated herein by reference. Permit Application PDG at ¶¶ 60-87.

Similarly, because no valid objections were filed as to the adequacy of the means of diversion and the beneficial nature of the proposed use of water for the Change Applications, and because there is no evidence in the record that would cause me to revisit DNRC's PDG as to those two criteria, I find that Applicant has met its burden in regard to those two criteria for the reasons set forth in the Change Applications PDG, whose relevant terms are incorporated herein by reference. Change Applications PDG at ¶¶ 21-37, 50-53.

APPEARANCES AND WITNESSES

At both the Permit Application hearing on November 10, 2021, and the Change Applications hearing on November 16, 2021, Applicant was represented by counsel Abigail St. Lawrence, and Objector was represented by counsel Jack Connors. At the Permit Application hearing, Objector called as witnesses Town of Kevin Mayor Bob Fagan, Town of Kevin Councilperson Rick Rice, City of Shelby Finance Officer Jade Goroski, and City of Shelby Mayor Gary McDermott. Applicant called no witnesses at that hearing. At the Change Applications hearing, Objector called as witnesses Town of Kevin Mayor Bob Fagan and Town of Kevin Councilperson Rick Rice, and Applicant called City of Shelby Finance Officer Jade Goroski. Both parties cross-examined the others' witnesses at both hearings.

EXHIBITS

In addition to the administrative records maintained by DNRC for the Permit Application and the Change Applications, the transcripts of the hearings commissioned by Applicant, the video and audio recordings of the hearings, and the document identified in footnote 2 above, the record in these cases include the following exhibits offered by Objector that I admitted at the hearings:

- 1) **Exhibit O-A:** Water Reservation File 41P 71891 and update to file as per the scanned documents available on the DNRC website and the Water Supply Study for the City of

Shelby, Montana dated May 1984 by Thomas, Dean & Hoskins, Inc., Engineering Consultants;

- 2) **Exhibit O-B:** the Final Order *In the Matter of the Application for Beneficial Water Use Permit 41P-105759 by Sunny Brook Colony* dated May 23, 2001;
- 3) **Exhibit O-C:** a one-page map from Application No. 41P 30117451 with markings by Mayor Fagan and Councilperson Rice placed on the map during hearing testimony; and
- 4) **Exhibit O-D:** the administrative records of Applications. No. 41P 30072725 and 30072726 as the same are maintained by DNRC.

I also admitted Objector's **Exhibit O-M** *sua sponte* by Order of January 7, 2022, after a diligent search of the record by Hearings Assistant Jamie Price revealed that the document (a six-page memo from KLJ Engineering called Shelby Wellfield Improvements, Supply and Treatment Capacity, January 2020, as well as a cover e-mail, dated February 4, 2020, transmitting that memo from Rick Duncan to Matt Miles) had been inadvertently omitted from the official versions of DNRC's Change Application files. Objector had referenced that exhibit at the hearing on November 16, 2021 but had declined to proffer it for admission as the parties and I were all at that time under the mistaken impression that the document was already included in the administrative records maintained by DNRC for the Permit Application and the Change Applications. The remainder of the exhibits Objector proffered at the hearings were either withdrawn in the face of Applicant's objections or rejected by me as duplicative of materials already in the record. Applicant did not proffer any exhibits of its own for introduction at the hearings.

CONTESTED CRITERIA

I. Physical Availability -- Permit Application only.

Findings of Fact

1. In connection with the Permit Application, Applicant commissioned an aquifer test as well as drawdown and yield tests to assess the effects of the proposed new appropriation on the Marias River Alluvium Aquifer, which DNRC utilized as part of its analysis of the physical availability of water for the proposed new appropriation. Permit Application PDG at ¶¶ 12-24. DNRC determined that the aquifer interfaced with the Marias River and, consistent with DNRC practice as memorialized in an April 19, 2019, Technical Memorandum: Physical and Legal Availability of Groundwater, consequently expanded its physical availability analysis to include

water that could be induced to the proposed point of diversion due to the aquifer's hydraulic connection with the Marias River. *Id.* at ¶¶ 25-30. Based on its technical analysis, DNRC concluded that water was physically available for the proposed new appropriation. *Id.* at ¶ 31.

2. Objector has adduced no hydrologic data to countermand this conclusion. Rather, it points mainly to selective quotations from the record to justify its assertion that insufficient water is physically available to satisfy the proposed new appropriation in conjunction with existing water demands. See Objector's Proposed Findings of Fact and Conclusions of Law at 14-16, ¶¶ 63, 65-78. Yet a careful reading of Objector's citations in context illustrates that the physical availability limitations Objector posits in fact relate to issues with the capacity of the *wells* Applicant has had available at various points in time, not to shortfalls in the aquifer's ability to deliver water to the wellfield that serves as the Permit Application's proposed point of diversion. See, e.g., Exhibit O-M at 3, 7; Exhibit O-A at 19-20, 38-39.⁵

3. In further support of its contention of a lack of physical availability, Objector points to Permit Application hearing testimony from Mayor Fagan regarding a water shortfall Applicant experienced in 2021. Objector's Proposed Findings of Fact and Conclusions of Law at 14, ¶ 64. But the testimony cannot bear the weight Objector would assign it, as it again relates to factors other than the physical availability of water:

Q [Mr. Connors]: And is it your understanding of why [Applicant] ran out of water this year?

A [Mayor Fagan]: Yes.

Q: And how do you know [Applicant] ran out of water?

A: Simple fact it was all over the news....

Q: And did you ever talk to anyone who has personal knowledge of what occurred?

A: Yes, I have.

Q: And what did you learn?

A: They said their software went bad. They checked and it showed there was water in the tank but there wasn't.

Fagan Testimony, November 16, 2021, Trans. 1 at 45:16-46:6.

4. Testimony adduced by both Objector and Applicant at the Permit Application hearing from Mr. Goroski and by Objector from Mayor McDermott, both of whom had personal knowledge of

5. Section 2-4-623(4), MCA, provides that when parties submit proposed findings of fact and conclusions of law, as that parties in this case have done at my request, my "decision must include a ruling upon each proposed finding." The Montana Supreme Court has held that this provision "does not require a separate, express ruling on each required finding as long as the agency's decision and order in such proposed findings are clear[.]" *State ex rel. Montana Wilderness Association v. Board of Natural Resources and Conservation*, 200 Mont. 11, 40, 638 P.2d 734, 749 (1982) (citing *Montana Consumer Counsel v. Public Service Commission and Montana Power Co.*, 168 Mont. 180, 541 P.2d 770 (1975)). Thus, while I explicitly address certain of Objector's specific proposed findings in this Order, there are others that I implicitly reject as being inconsistent with the findings I lay out and the conclusions I draw therefrom.

the situation, amplified on Mayor Fagan's testimony. Applicant's 2021 water supply issue related to a glitch in the telemetry equipment monitoring the water level in Applicant's water storage tanks. That error caused the booster pumps that normally move water through Applicant's system from the wellfield to the storage tanks to stay off in a manner that let the storage tanks drop low enough to cause water supply problems. Goroski Testimony, November 10, 2021, Trans. 1 at 154:6-155:14, and Trans. 2 at 4:23-17:22; McDermott Testimony, November 10, 2021, Trans. 3 at 24:19-31:13.

5. Nothing in the record supports a finding that Applicant's 2021 water delivery issues were due to the physical lack of available water.

Conclusions of Law

6. DNRC's practice in reviewing groundwater applications of evaluating both aquifer and surface sources in assessing the physical availability of water when there is evidence of hydraulic connection between the two sources is consistent with Montana Supreme Court precedent. See *Montana Trout Unlimited v. DNRC*, 2006 MT 72, ¶¶ 40-42, 331 Mont. 483, 133 P.3d 224.

7. Objector has failed to satisfy its burden of production to provide credible evidence that Applicant has failed to prove by a preponderance of the evidence that water is physically available at the proposed point of diversion. I have no basis to disturb the conclusion in the Permit Application PDG that Applicant has met its burden as to this criterion. See Permit Application PDG at ¶¶ 32-35.

II. Legal Availability – Permit Application Only

Finding of Fact

8. The Permit Application PDG spells out the process DNRC undertook to analyze the net depletion the proposed new use might have on hydraulically connected surface water. Permit Application PDG at ¶¶ 36-42.

9. Based on this analysis, DNRC found as a matter of fact that water is legally available for the proposed new use. Permit Application PDG at ¶ 43.

10. Objector adduced no evidence at hearing calling into question the legal availability of water for the new use proposed in the Permit Application. Nor has it, in its post-hearing briefing or at any other point in this case, identified any record evidence capable of doing so. Objector does suggest that DNRC erred in its legal availability analysis by failing to include Applicant's existing

water rights in its analysis of legal demands. Objector's Proposed Findings of Fact and Conclusions of Law at 30, ¶ 36. But this contention is predicated heavily on Objector's assertion that water is not physically available for the proposed new use, *id.*, and I have found to the contrary for the reasons set forth above.

Conclusions of Law

11. Montana law provides that DNRC's legal availability analysis must consider the following factors:

- a. Identification of physical water availability;
- b. Identification of existing legal demands of water rights on the source of supply throughout the area of potential impact by the proposed use; and
- c. Analysis of the evidence on physical water availability and the existing legal demands of water rights, including but not limited to a comparison of the physical water supply at the proposed point of diversion with the existing legal demands of water rights on the supply of water.

Section 85-2-311(1)(a)(ii), MCA; *see also Clark Fork Coalition v. DNRC*, 2021 MT 44, ¶ 40, 403 Mont 225, 481 P.3d 198 (2021) ("the question of whether the quantum of water at issue is legally available is specifically a function of only two considerations—physical availability of that quantum of water at the point of proposed diversion, based on pertinent hydrological and geological evidence, and existing legal demands on the subject source of supply throughout the potentially impacted area") (internal quotations omitted).

12. Objector has failed to satisfy its burden of production to provide credible evidence that Applicant has failed to prove by a preponderance of the evidence that water is legally available at the proposed point of diversion. I have no basis to disturb the conclusion in the Permit Application PDG that Applicant has met its burden as to this criterion. *See* Permit Application PDG at ¶¶ 44-48.

III. Adverse Effect – All Applications

Finding of Fact

13. In the Permit Application PDG, DNRC explained that there are no water rights that would be adversely affected by Applicant's proposed new use and that, with the addition of two conditions imposed by DNRC in the Permit Application PDG, Applicant's plan for the proposed new use would be sufficient to avoid any adverse effects. Permit Application PDG at ¶¶ 50-52.

14. Based on this analysis, DNRC found as a matter of fact that, with the addition of the two conditions imposed by DNRC, the proposed new use would not cause any adverse effects. *Id.* at ¶ 52.

15. DNRC determined that Applicant demonstrated in the materials submitted in support of the Change Applications that its historical use of the water right statements of claim and provisional permits whose points of diversion and places of use Applicant seeks to change sums to a cumulative maximum amount of 2,895 GPM up to 1,124.90 AFY. Change Applications PDG at ¶¶ 3-8.

16. DNRC further determined that Applicant provided a plan demonstrating how water use as contemplated in the Change Applications would neither increase historical consumptive use nor cause adverse effect to other appropriators. *Id.* at ¶¶ 13-18.

17. Objector contends that the historical volume DNRC proposes to approve in the Change Applications PDG is overinflated because it “is based on a series of inaccurate and outdated estimates.” Objector’s Proposed Findings of Fact and Conclusions of Law at 17, ¶ 79. Objector introduced no evidence at the hearing in support of this proposition, but it points to record evidence indicating that the maximum use of 1,124.90 AFY was derived by using Applicant’s 1960 population of 4,107 people and multiplying that head count by an estimated use rate of 250 gallons per person per day (GPCPD). *Id.* at 17, ¶ 81 (citing Change Applications PDG at ¶ 4). Objector takes issue with this methodology, in part on the ground that Applicant’s population has decreased from that 1960 peak. *Id.* at ¶ 82 (citing the DNRC file for change application 41P 30072725 (Change File 41P 30072725), which is part of Exhibit O-D, at 205).⁶ Objector also believes that 250 GPCPD overstates Applicant’s actual intensity of water use. *Id.* at 17-18, ¶¶ 83-84 and 87-88 (record citations to Change File 41P 30072725 at 165, 205, and Exhibit O-M at 32 and 120).

18. While Objector may be correct about the decline in population within Applicant’s city limits from its 1960 peak, Objector ignores the fact that the total population Applicant now works to serve has increased well beyond 4,017 people. Change File 41P 30072725 at 205-206. Indeed, a primary objective of the Change Applications is to add additional communities to Applicant’s service area. See Change Applications PDG at 8-9, ¶ 10.

19. Objector’s invocation of GPCPD figures from Exhibit O-M appear similarly selective. The

6. In 2017, in change applications 41P 30072725 and 41P 30072726, Applicant applied to permanently change the points of diversion and temporarily change the places of use of the nine water rights that are also at issue in the Change Applications. DNRC granted those applications, though they have not yet been perfected. See Change Applications PDG at ¶ 2.

water reservation application, filed in 1989, focused on water use within Applicant's city limits "in addition to a small number of people living on the fringes of the city and to the users of water hauled from the city standpipe." Exhibit O-M at 1. There is no evidence in the record that allows me to meaningfully assess the probative value of the GPCPD statistics referenced in the water reservation application in relation to the analysis DNRC conducted to arrive at the historical use volumes it used in granting Applicant's 2017 change applications – that 2017 analysis being what DNRC relies on to justify the historical use figures it includes in the Change Applications PDG. See Change Applications PDG at 7-8, ¶¶ 4, 8.

20. Objector also asserts that "the PDGs are based on flawed assumptions and must be disregarded." Objector's Proposed Findings of Fact and Conclusions of Law at 22, ¶ 101. According to Objector, these flawed assumptions are that Applicant's use of water was presumed to be 100% consumptive and to have a constant year-round rate of use when neither has historically been the case. *Id.* at 20-21, ¶¶ 93-100. This claim is not credible. DNRC deployed these assumptions in the Permit Application PDG as part of its legal availability analysis. Permit Application PDG at 19, ¶¶ 38-39. In the context of an application for a new use, these are conservative assumptions designed to ensure that DNRC does not underestimate the additional demand a proposed new appropriation for municipal use might put on a source.⁷ They provide no basis for setting aside the Permit Application PDG. DNRC made no similar rate-of-use assumption in the Change Applications PDG, instead explaining that, pursuant to Applicant's plan, "[t]here is no change in the historic[al] timing of diversion...." Change Applications PDG at ¶ 16. Indeed, a primary reason that Applicant filed the two separate change applications DNRC granted in 2017 – a practice it has carried forward into the instant Change Applications – is because most but not all its water rights have year-round periods of use, so it divided the ones that did from the ones that didn't into separate change applications. See Change File 41P 30072725 at 262.

21. The only evidence Objector identifies to support its contention that DNRC erred in determining "that the diverted historic[al] volume for the diverted municipal use is 100% consumed[.]" Change Applications PDG at ¶ 16, is a reference at page 165 of the claim file for Change Application 41P 30116656 to information Applicant submitted as part of its water reservation application (in the record as Exhibit O-A) about a sewage lagoon system that discharged water to a tributary of the Marias River. Objector's Proposed Findings of Fact and

7. Determination of historical consumptive use is of course entirely inapposite to a new permit since there is no history of use with such an application.

Conclusions of Law at 21, ¶ 96.⁸ Yet the very paragraph of the claim file for Change Application 41P 30116656 from which Objector cherry picks this reference goes on to say that “most flow is depleted by evaporation in the lagoons or by evapo-transpiration [sic] by vegetation in Medicine Rock Coulee and that discharges generally do not reach the Marias River.” Change Application 41P 30116656 at 165. Given that the hydraulic connection between the wellfield from which Applicant diverts its water and a surface source is to the Marias River itself, Permit Application PDG at ¶¶ 26-28, and that the only witness who testified about return flows from Applicant’s sewage lagoon system conceded that his knowledge was based only on reading the same document to which Objector now cites,⁹ I find Objector’s assertion of error to be wholly unsupported by the evidence in the record.

22. The gravamen of Objector’s adverse effect objection, however, is that the granting of the above-captioned applications will lead to Objector being priced out of the water supply business, put at risk of having to abandon its water rights for protracted non-use, or both. Objector’s Proposed Findings of Fact and Conclusions of Law at 23, ¶¶ 110-111. That is, Objector asserts, the grant of the above-captioned applications will cause a chain reaction beginning with Applicant capturing the business of bulk water purchasers who might otherwise buy water from Objector, which will lead to a decline in Objector’s revenues, which will compromise Objector’s ability to utilize and maintain its water system, which will either require significant water rate hikes or could lead to Objector’s abandonment of its water rights. *Id.* at 22-23, ¶¶ 105-111 (citing generally to Mayor Fagan testimony from the hearing of November 10, 2021). “In summary,” Objector asserts, its “interests would be adversely affected if the [a]pplications were granted.” *Id.* at 24, ¶ 113.

23. Mayor Fagan was Objector’s primary witness to testify to this theory. See Fagan testimony, November 10, 2021, Trans. 1 at 69:18-77:2. This testimony was replete with words of conditionality - “maybe”, “if”, “would probably”, “might”, “good chance”, “time will tell”, “could happen.” *Id.* at 70:2-4; 72:19-21; 73:18; 74:8; 74:12; 75:16.

24. I am not persuaded that Objector’s interest in preserving its bulk water sale customer base is the sort of interest protected by the adverse effect criterion of § 85-2-311(1)(b) or § 85-2-402(2)(a), MCA. And even if I assume *arguendo* that it is, I find the connections Objector seeks to draw between the granting of the above-captioned applications and constraints on its ability to exercise its existing water rights to be overly speculative and attenuated.

8. Objector in fact claims that this is “the only evidence in the record on this point[.]” Objector’s Proposed Findings of Fact and Conclusions of Law at 21, ¶ 96.

9. Fagan testimony, November 16, 2021, Trans. 4, at 73:7-22.

Conclusions of Law

A. Permit Application PDG

25. Section 85-2-311, MCA, requires (among other things) an applicant for a new use permit to prove by a preponderance of the evidence that the proposed new use will not adversely affect a prior appropriator's water right(s). That subsection specifically explains that "adverse effect must be determined based on a consideration of an applicant's plan for the exercise of the permit that demonstrates that the applicant's use of the water will be controlled *so the water right of a prior appropriator will be satisfied.*" *Id.* at § 85-2-311(1)(b), MCA (emphasis added). The term "adverse effect" is not defined in the Montana Water Use Act, but DNRC has promulgated a rule guiding the discharge of its duties in administering the statutory language. ARM 36.12.1706. This rule requires a permit applicant to show that the "diversion and use of water and operation of the proposed project can be implemented and properly regulated *during times of water shortage* so that the water rights of prior appropriators will be satisfied." *Id.* at 36.12.1706(1) (emphasis added). The plain text of both the statute and the rule demonstrates that the primary, if not exclusive intent, of the adverse effects analysis is to ensure that a newly permitted use will not impair the ability of a senior appropriator to obtain the water necessary to satisfy its pre-existing right(s).

26. In the Permit Application PDG, DNRC determined that Applicant had satisfied its burden to prove by a preponderance of the evidence that none of the applications would cause adverse effects. Permit Application PDG at ¶¶ 50-59.

27. Objector's only argument against the Permit Application PDG on adverse effect grounds is that the development of that water in conjunction with a grant of the Change Applications will cause the parade of horrors identified in ¶ 20 above. This is not an allegation that approval of the Permit Application could deprive Objector of access to any water necessary to satisfy its more senior water rights. Moreover, even were the adverse effect criterion set forth in § 85-2-311(1)(b), MCA, construed to sweep more broadly than the risk of direct limitation of access to water, I do not see – and Objector has pointed me to no authority illustrating – how the sort of pecuniary impact it asserts as its basis for injury constitutes the sort of adverse effect capable of preventing an applicant from satisfying its burden of proof as to that criterion. Essentially, Objector would have me find that any new water development that might put a new user in competition with an existing user – to grow hay (as Applicant points out in its Proposed Findings of Fact and Conclusions of Law at 8-29, ¶ 34); to mine (since the development of new mineral resources might impact the prices for the commodities the prior user mines); to engage in commercial or

industrial uses that might introduce competing products into the marketplace; the litany could be endless – is sufficient to block an applicant from obtaining a new use permit. I decline this invitation.

28. Objector has failed to satisfy its burden of production to provide credible evidence that Applicant has failed to prove by a preponderance of the evidence that the water rights of a prior appropriator will not be adversely affected by a grant of the Permit Application. I have no basis to disturb the conclusion in the Permit Application PDG that Applicant has met its burden as to this criterion. See Permit Application PDG at ¶¶ 53-59.

B. Change Applications PDG

29. Section 85-2-402, MCA, requires (among other things) an applicant for a new change in use authorization to prove by a preponderance of the evidence that the proposed change will not adversely affect “the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued under part 3 [of Title 85, Chapter 2].” § 85-2-402(2)(a), MCA (emphasis added). DNRC has also promulgated a rule to guide its administration of that statute. ARM § 36.12.1903. That rule explains that “[l]ack of adverse effect for change applications is generally based on the applicant’s plan showing the diversion and use of water and operation of the proposed project will not exceed historic[al] use, and can be implemented and properly regulated.” *Id.* at § 36.12.1903(1).

30. In the Change Applications PDG, DNRC determined that Applicant had satisfied its burden to prove by a preponderance of the evidence that none of the applications would cause adverse effects. Change Applications PDG at ¶¶ 9-20, 39-49

31. To the extent that the zone of interests susceptible to adverse effects analysis is identical in the permit criteria and the change criteria (§ 85-2-311(1)(b) and § 85-2-402(2)(a), MCA), Objector has similarly failed to satisfy its burden of production to provide credible evidence that Applicant has failed to prove by a preponderance of the evidence that there will be no adverse effect to “use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued” by a grant of the Change Applications.

32. There may be enough differences between the language of § 85-2-311(1)(b) and § 85-2-402(2)(a), MCA, however, to give rise to the possibility that the latter statute contemplates a category of adverse effects on use broader than the inability of the non-applicant appropriator to

take water in priority in the same manner as they were entitled to prior to the grant of a change authorization. See, e.g., *City of Bozeman v. DNRC*, 2020 MT 214 at ¶ 15, 401 Mont. 135, 471 P.3d 46 (2020). Appellant in that case made an argument essentially similar in kind if not degree to the one advanced by Objector here. There, the adverse effect question arose regarding a change application filed by a private water provider that would have potentially put that private provider in competition with the City to serve a given customer base. See *id.* at ¶¶ 4-5. The Montana Supreme Court found that Bozeman lacked in the disputed service area a cognizable interest in water of the sort protected by § 85-2-402(2)(a), MCA, and resolved the case on that ground without reaching a conclusion on whether Bozeman having to contend with a competing water provider could be an adverse effect within the meaning of the statute. *Id.* at ¶ 15. But the opinion included a footnote which could be read to imply that the Court did not find the possibility of adverse effect based on competing service areas wholly beyond the pale. *Id.* at ¶ 15 n.2.

33. Although not directly controlling (not least because it was interpreting Montana's pre-1973 corpus of water law), *McIntosh v. Graveley*, 159 Mont. 72, 495 P.2d 186 (1972), is instructive here. In that case, one of the grounds on which an appropriator opposed another appropriator's change in use was that the change would increase the first appropriator's share of water commissioner costs. The Montana Supreme Court made quick work of this argument because "the expense of employing a water commissioner does not constitute the burden or detriment required to be proven by plaintiffs in order to prevail." *Id.* at 82, 495 P.2d at 192. If the expense of a water commissioner to distribute water among appropriators is not a credible ground on which to base an objection to a change, then what boils down to a complaint about the financial effects of competition seems even further afield. Thus, so long as I am correct that this principle is an accurate interpretation of Montana law, I may again conclude that Objector has failed to bear its burden of production.

34. But I do not need to ground my conclusion here on a holding that no sort of financial impact could ever qualify as an adverse effect under § 85-2-402(2)(a), MCA. This is so because Objector's theory in this case is so speculative, and relies on such an attenuated chain of hypothesized future occurrences, that I do not find the testimony adduced to support it remotely capable of satisfying Objector's burden of production as to the adverse effect criterion of the Change Applications. I have no basis to disturb the conclusion in the Change Applications PDG that Applicant has met its burden as to this criterion. See Change Applications PDG at ¶¶ 39-49.

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IV. Possessory Interest – All Applications

Finding of Fact

35. In the Permit Application PDG and the Change Applications PDG, DNRC provides the same three-sentence recitation regarding Applicant's satisfaction of the possessory interest requirement of the applicable statutes (§ 85-2-311(1)(e) and § 85-2-402(2)(d), MCA, respectively):

This application^[10] is for supply of water to the City of Shelby including Shelby South, Prison, Humic facility along with the communities of Devon, Dunkirk, Ethridge, and Big Rose Colony, City of Cut Bank, Oilmont, Galata and the Nine Mile system. The Applicant has established water service agreements through contracts and have provided copies to the Department. It is clear that the ultimate user will not accept the supply without consenting to the use of water. ARM 36.12.1802.

Permit Application PDG at ¶ 88; Change Applications PDG at ¶ 38.

36. This language does not state (though it certainly implies) that the water service agreements that Applicant has established through contracts are at least with Devon, Dunkirk, Ethridge, Big Rose Colony, City of Cut Bank, Oilmont, Galata, and the Nine Mile system. Yet copies of such agreements do not appear to be in the DNRC claim files specifically denominated for either the Permit Application or the Change Applications.

37. Versions of contracts between Shelby and at least Devon, Etheridge, and Big Rose are in the file for Change Application 41P 30072725. Exhibit O-D at 140-163. Mayor McDermott testified that Shelby also has contracts with the North Central Montana Regional Water Authority (NCRMWA), the City of Cut Bank, and Oilmont, though not with Galata. Trans. 3 at 7:10-8:2. Mayor McDermott's testimony also indicates that NCRMWA has agreements with both Shelby and Nine Mile such that at least some of the water Shelby might provide to NCRMWA ultimately goes to Nine Mile for delivery to end users. *Id.* at 7:16-23. Mr. Goroski testified similarly. Trans. 1 at 143:9-17 and 144:11-145:13.

38. DNRC's analysis of the possessory interest criterion in the Permit Application PDG and the Change Applications PDG is extremely cursory and its findings on this point in both PDGs are not substantiated by specific references to application materials or other information in the possession of the Department.

39. Objector contends that Applicant cannot satisfy the possessory use criteria of either § 85-2-311(1)(e) or § 85-2-402(2)(d), MCA, because there is no evidence in the record that Applicant

10. The Change Applications PDG begins (appropriately) with the words "These applications". Otherwise, the two paragraphs are entirely identical.

itself has a possessory interest in at least the places of use in Galata, Oilmont, and Nine Mile identified in the Permit Application and the Change Applications or that it has the written consent of the owners of those places of use. Objector's Proposed Findings of Fact and Conclusions of Law at 12-14, ¶¶ 50-61.

40. Applicant concedes that it does not have a possessory interest in all of the places of use identified in the Permit Application and the Change Applications or the written consent of all such owners. Applicant's Proposed Findings of Fact and Conclusions of Law at 21, ¶ 14. It asserts, however, that the totality of the evidence is that it will only provide water to willing end users. *Id.*

41. The water contract documents in the record and the testimony of Mayor McDermott and Mr. Goroski speak to the willingness of water providers to purchase water from Applicant to provide to their end users. There is no evidence in the record to indicate that Applicant will or can force delivery of water on the unwilling. Indeed, Objector's primary adverse effect theory is grounded on its concern that water customers will *voluntarily* turn to Applicant in preference to Objector to obtain water. See ¶ 22, *supra*.

Conclusions of Law

42. Objector is correct that there is no exception for municipalities to the possessory interest requirement set forth in §§ 85-2-311(1)(e) and 85-2-402(2)(d), MCA. See Objector's Proposed Findings of Fact and Conclusions of Law at 29, ¶ 28. Objector is wrong, however, that ARM 36.12.1802(1)(b) purports to provide one. Objector's Proposed Findings of Fact and Conclusions of Law at 29, ¶ 28. Rather, ARM 36.12.1802(1)(b) explains that a municipality may demonstrate compliance with the statutory possessory interest requirements if "it is clear that the ultimate user will not accept the supply [provided by the municipality] without consenting to the use of water on the user's place of use..." *Id.*

43. ARM 36.12.1802(1)(b) reflects a reasonable interpretation of the possessory use criterion on the facts of an application related to the provision of municipal water. The issuance of a rule of this sort is a proper exercise of DNRC's authority to promulgate rules to implement the provisions of §§ 85-2-311 and 85-2-402, MCA. See § 85-2-311(7); § 85-2-402(14), MCA. ARM 36.12.1802 was promulgated and adopted in 2004 as part of an extensive rulemaking effort regarding "correct and complete applications, department actions, and standards regarding water rights." 2004 MAR 24-12/16/04, p. 3036.

44. I am not satisfied that the analysis conducted in the Permit Application and Change Applications PDGs is sufficient to demonstrate that Applicant has satisfied its burden to prove by

a preponderance of the evidence that it has a possessory interest in all of the places of use identified in the above-captioned applications. But I do conclude that the evidence in the record, particularly as described in ¶¶ 36 and 40, *supra*, is sufficient for me to conclude that Applicant has indeed satisfied its burden as to this criterion.

CONCLUSION

Objector has failed to bear its burden of production as to any of the valid objections it filed in connection with the Permit Application and the Change Applications. Applicant has met its burden of proof to show by a preponderance of the evidence that it has satisfied all of the applicable criteria necessary to warrant a grant of the Permit Application and the Change Applications.

FINAL ORDER

Application for Beneficial Water Use Permit No. 41P 30117451 is GRANTED as proposed in the Permit Application PDG.

Change Application No. 41P 30114262 is GRANTED as proposed in the Change Application PDG.

Change Application No. 41P 30116656 is GRANTED as proposed in the Change Application PDG.

NOTICE

This *Final Order* is the Department's final decision in this matter. A Final Order may be appealed by a party who has exhausted all administrative remedies before the Department in accordance with the Montana Administrative Procedure Act (Title 2, Chapter 4, Mont. Code Ann.) by filing a petition in the appropriate court within 30 days after service of the order.

DATED this 30th day of March 2022.

/Original signed by Jay D. Weiner/
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CERTIFICATE OF SERVICE

This certifies that a true and correct copy of these FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER was served upon all parties listed below on this 30th day of March 2022 by first class United States mail and/or by electronic mail (e-mail).

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