

**RESOLUTION NO. R17-06**

**A RESOLUTION OF THE CITY COUNCIL APPROVING A  
PROFESSIONAL SERVICES CONTRACT AUTHORIZING THE PREPARATION  
OF A FINAL MASTER PLAN FOR THE CITY'S RIVERSIDE PARK.**

BE IT RESOLVED by the City Council of the City of Laurel, Montana:

Section 1: Approval. The Professional Services Contract ("Contract") that provides for the creation and production of a Final Master Plan for Riverside Park, a copy attached hereto, is hereby approved. The services and total compensation for such services shall not exceed \$50,000 to be paid incrementally pursuant to the Scope of Services and Payment Schedule both attached to the Contract hereto and labeled Exhibits A and B.

Section 2: Execution. The Mayor and City Clerk of the City of Laurel are hereby given authority to execute the Professional Services Contract and any additional documents/agreements required to effectuate this Resolution on behalf of the City.

Introduced at a regular meeting of the City Council on March 7, 2017, by Council Member Stokes.


PASSED and ADOPTED by the City Council of the City of Laurel, Montana, this 7<sup>th</sup> day of March.

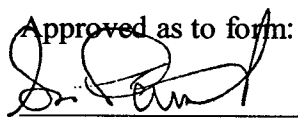
APPROVED by the Mayor this 7<sup>th</sup> day of March, 2017.

CITY OF LAUREL

  
\_\_\_\_\_  
Mark A. Mace, Mayor

ATTEST:

  
\_\_\_\_\_  
Bethany Keeler, Clerk/Treasurer

Approved as to form:  
  
\_\_\_\_\_  
Sam S. Painter, Civil City Attorney

## PROFESSIONAL SERVICES CONTRACT

This Contract is entered into this 7<sup>th</sup> day of March, 2017, by and between Beartooth Resource Conservation and Development Area, Inc., with a mailing address of PO Box 180, Joliet, MT 59041, herein referred to as the CRDC; The City of Laurel, with a mailing address of PO Box 10, Laurel, MT 59044, herein referred to as Client; and Great West Engineering, Inc. with a mailing address of 2501 Belt View Drive, Helena, Montana, 59604, herein referred to as the "Contractor,"

Witnesseth:

WHEREAS, the Montana Department of Commerce, herein referred to as "the Department," has awarded the CRDC grant funds under the Big Sky Economic Development Trust Fund (BSTF) for purposes of the completion of a Master Plan for Riverside Park on behalf of the Client; and

WHEREAS, the CRDC and Client desire to engage the Contractor to render certain services related to the completion of the above described project; and

WHEREAS, the CRDC and Client have complied with state and federal procurement requirements regarding the selection of contractors; and

WHEREAS, the CRDC and Client desire to enter into an agreement with the Contractor as hereinafter provided to assure the effective management of the project;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. EMPLOYMENT OF CONTRACTOR. The CRDC and Client agree to engage the Contractor, and the Contractor agrees to provide the services as outlined in the Scope of Work attached as Exhibit A.
2. INDEPENDENT CONTRACTOR. It is understood by the parties hereto that the Contractor is an independent contractor and that neither its principals nor its employees, if any, are employees of the CRDC or Client for purposes of tax, retirement system, or social security (FICA) withholding. It is further understood that pursuant to section 39-71-401, MCA, the Contractor has obtained, and will maintain at its expense for the duration of this Contract, coverage in a workers' compensation plan for its principals and employees for the services to be performed hereunder.
3. LIAISON. The CRDC's designated liaison with the Client is Sue Taylor, Economic Development Director, or her successor, the Client's designated liaison between the CRDC and Contractor is Heidi Jensen, Chief Administrative Officer, City of Laurel, or her successor. The Contractor's designated liaison with the Client is Jerry Grebenc, Senior Planner, Great West Engineering, Inc.
4. EFFECTIVE DATE AND TIME OF PERFORMANCE. This Contract takes effect on March 7, 2017. The services to be performed by the Contractor will be completed no later than January 30, 2018.

5. **SCOPE OF SERVICES.** The Contractor will perform the services as outlined in the Scope of Services attached as Exhibit A.

It is understood and agreed by the parties that the services of the Contractor do not include any of the following: the disbursement or accounting of funds distributed by the CRDC's financial officer, legal advice, fiscal audits or assistance with activities not related to the project.

6. **COMPENSATION.** For the satisfactory completion of the services to be provided under this Contract, the CRDC will pay the Contractor a sum not to exceed \$50,000.00 (Fifty thousand dollars) as in the manner set forth in the attached Exhibit B, which by this reference is made a part of this contract. Each specific service the Contractor will provide under this contract, and the maximum amount that the CRDC will pay the Contractor for each of these services, is set forth in the attached Exhibit B. The Contractor may submit monthly requests for payment, based on actual work performed, which must be accompanied by an itemized invoice describing the services furnished, the number of hours worked to accomplish each item, the amount being billed for each item, a description of any other eligible expenses incurred during the billing period, including receipts as appropriate, and the total amount being billed.
7. **CONFLICT OF INTEREST.** The Contractor covenants that it presently has no interest and will not acquire any interest, direct or indirect, in the BSTF project which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants that, in performing this Contract, it will employ no person who has any such interest.
8. **MODIFICATION AND ASSIGNABILITY OF CONTRACT.** This Contract contains the entire agreement between the parties, and no statements, promises, or inducements made by either party, or agents of either party, which are not contained in the written Contract, are valid or binding. This Contract may not be enlarged, modified or altered except upon written agreement signed by all parties hereto. The Contractor may not subcontract or assign its rights, including the right to compensation, or duties arising hereunder without the prior written consent of the CRDC. Any subcontractor or assignee will be bound by all of the terms and conditions of this contract.
9. **CONDITIONAL AGREEMENT.** It is expressly understood by the parties hereto that this Contract is dependent and conditioned upon the receipt of the funds from the Department and that in the event that said funds are not provided, the CRDC incurs no responsibilities or liabilities under this Contract.
10. **INSURANCE.**
- a) **General Requirements.** The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns,

or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

- b) Primary Insurance. The Contractor's insurance coverage shall be primary insurance as respect to the Department, the CRDC, the Client, and their officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the Department, the CRDC, the Client, and their officers, officials, employees, or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.
- c) Commercial General Liability. The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or subcontractors. The State, the CRDC, the Client, and their officers, officials, employees, and volunteers are to be covered and listed as additional insured's; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations; premises owned, leased, occupied, or used.
- d) Certificate of Insurance/Endorsements. Insurance must be placed with an insurer with a Best's rating of no less than A-. The CRDC (PO Box 180, Joliet, MT 59041) and Client (PO Box 10, Laurel, MT 59044), must receive all required certificates and endorsements within 10 days from execution of this Contract. The Contractor must notify the CRDC and Client immediately of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc. The CRDC and Client reserve the right to require complete copies of insurance policies at all times.

11. COMPLIANCE WITH WORKERS' COMPENSATION ACT. The Contractor accepts responsibility for supplying, and requiring all subcontractors to supply, the CRDC and Client with proof of compliance with the Montana Workers' Compensation Act while performing work for the State of Montana. (Mont. Code Ann. §§ 39-71-401, 39-71-405, and 39-71-417.) Neither the Contractor nor its employees are employees of the CRDC or Client. The proof of insurance/exemption must be in the form of workers' compensation insurance, an independent contractor exemption, or documentation of corporate officer status and must be received by the CRDC and Client within 10 working days of the execution of this Contract, and must be kept current for the entire term of the contract.

**CONTRACTS WILL BE TERMINATED PURSUANT TO THE PROVISIONS OF SECTION 12 TERMINATION OF CONTRACT IF THE CONTRACTOR FAILS TO PROVIDE THE REQUIRED DOCUMENTATION WITHIN THE ALLOTTED TIME FRAME.**

Coverage may be provided through a private carrier or through the State Compensation Insurance Fund (406) 444-6500. An exemption can be requested through the Department of Labor and Industry, Employment Relations Division (406) 444-1446. Corporate officers must provide documentation of their exempt status.

12. TERMINATION OF CONTRACT. This Contract may only be terminated in whole or in part as follows:

- a) Termination Due to Loss or Reduction of Funding. The CRDC, at its sole discretion, may terminate or reduce the scope of this Contract if available funding sources are eliminated or reduced for any reason. If a termination or modification is so required, the CRDC may, if sufficient program funds are available, compensate the Contractor for eligible services rendered and actual, necessary, and eligible expenses incurred as of the revised termination date. The CRDC will notify the Contractor and Client of the effective date of the termination or modification of this Contract and, if a reduction in funding is required, will provide the Contractor and Client with a modified Project budget and modified scope of work prior to commencement of the balance of work.
- b) Termination for Cause with Notice to Cure Requirement. The CRDC may terminate this Contract for failure of the Contractor, its contractors, or subcontractors to perform or comply with any of the services, duties, terms or conditions contained in this Contract after giving the Contractor written notice of the stated failure. The written notice will demand performance of the stated failure within a specified period of time of not less than thirty (30) days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.
- c) Effect of Termination. In the event of termination due to the Contractor's, its contractors', or subcontractors' failure to perform or comply with any of the services, duties, terms, or conditions of this Contract, any costs incurred will be the responsibility of the Contractor. However, at its sole discretion, the CRDC and Client may approve requests by the Contractor for reimbursement of expenses incurred. The CRDC's decision to authorize payment of any costs incurred or to recover expended Program funds will be based on a consideration of the extent to which the expenditure of those funds represented a good faith effort of the Contractor to comply with the any of those services, duties, terms, or conditions of this Contract, and on whether the failure to comply with any of those services, duties, terms, or conditions resulted from circumstances beyond the Contractor's control.

13. COMPLIANCE WITH LAWS.

- a) The Contractor must, in performance of work under this Contract, fully comply with all applicable federal, state, rules, policies, and regulations, concerning, but not limited to, human rights, civil rights, employment law, Affordable Care Act and labor law. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision.
- b) The Contractor shall promptly refer to the CRDC and Client any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted any false claim or has committed any criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this Contract.

14. DOCUMENTS INCORPORATED BY REFERENCE. The CRDC's application to the Department for funding, dated October 26, 2016 and all applicable federal and state statutes and regulations are incorporated into this Contract by this reference and are binding upon the Contractor.
15. EQUAL EMPLOYMENT OPPORTUNITY. Any hiring of employees by the Contractor under this Contract will be on the basis of merit and qualification, and the Contractor will not discriminate against any person on the basis of race, color, religion, creed, sex, national origin, age, disability, marital status, or political belief. As used herein, "qualifications" means qualifications that are generally related to competent performance of the particular occupational task.
16. OWNERSHIP AND PUBLICATION OF MATERIALS. All reports, information, data, and other materials prepared by the Contractor pursuant to this Contract are the property of the CRDC, the Client and the Department which have the nonexclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. No material produced in whole or in part under this Contract may be copyrighted or patented in the United States or in any other country without the prior written approval of the CRDC, the Client, and the Department.

***Additionally, the following statement must be included with all materials developed wholly or in part by the funding provided by the Big Sky Economic Development Trust Fund Program:***

***"The funding for the Riverside Park Master Plan was provided in part by an award from the Montana Department of Commerce, Big Sky Economic Development Trust Fund Program."***

17. REPORTS AND INFORMATION. The Contractor will maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Contract and such other records as may be deemed necessary by the CRDC and Client to assure proper accounting for all project funds.
18. ACCESS TO RECORDS. It is expressly understood that the Contractor's records relating to this Contract will be available during normal business hours for inspection by the CRDC, the Client, the Department and, when required by law, the Montana Legislative Auditor and Legislative Fiscal Analyst.
19. PLACE OF PERFORMANCE, CONSTRUCTION, AND VENUE. The parties understand and agree that performance of this contract is within the Certified Regional Development Corporation region served by Beartooth RC&D and that in the event of litigation concerning it, venue is in the 13th Judicial District in and for the County of Yellowstone, State of Montana.

This Contract will be construed under and governed by the laws of the State of Montana.

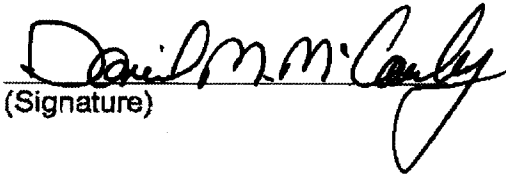
20. INDEMNIFICATION. The Contractor waives any and all claims and recourse against the CRDC and Client, including the right of contribution for loss and damage to persons or property arising from, growing out of, or in any way connected with or incidental to the

Contractor's negligent or wrongful performance of this contract except for liability arising out of concurrent or sole negligence of the CRDC, Client, or its officers, agents or employees. Further, the Contractor will indemnify and hold harmless the CRDC and Client against any and all claims, demands, damages, costs, expenses or liability arising out of the Contractor's negligent or wrongful performance of this Contract except for liability arising out of the concurrent or sole negligence of the CRDC, Client, or their officers, agents or employees.

21. **LEGAL FEES.** In the event either party incurs legal expenses to enforce the terms and conditions of this Contract, the prevailing party is entitled to recover reasonable attorney's fees and other costs and expenses, whether the same are incurred with or without suit.
22. **ELIGIBILITY.** The Contractor certifies that the Contractor's firm and the firm's principals are not debarred, suspended, voluntarily excluded, or otherwise ineligible for participation in State of Montana assisted contracts.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the 7th day of March, 2017.

CONTRACTOR  
Great West Engineering, Inc.

  
(Signature)

BY: Daniel M. McCauley, President  
Great West Engineering, Inc.

DATE: MARCH 8, 2017

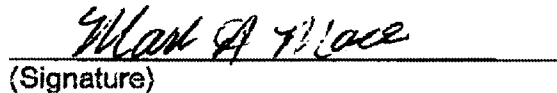
CRDC  
Beartooth Resource Conservation &  
Development Area, Inc.

  
(Signature)

BY: Sue Taylor, Economic Development Dir.  
Official Representative of Beartooth  
Resource Conservation & Development

DATE: 03/07/2017

CLIENT  
City of Laurel

  
(Signature)

BY: Mark A. Mace, Mayor, City of Laurel

DATE: 03/07/2017

## **Exhibit A: Scope of Services**

<b>Task</b>	<b>Estimated Cost</b>
<b>Professional Services</b>	
<p><b><u>KICK OFF MEETING AND SITE VISIT.</u></b></p> <ul style="list-style-type: none"> <li>• Conduct a kickoff meeting with the Chief Administrative Officer, Public Works Director, Planner and Parks Board to discuss the purpose of the master plan and the desired outcomes of the project and to identify initial opportunities and issues that Laurel residents would like to address. The City Council may appoint a citizen's advisory committee to provide guidance to Great West Engineering on the development of the master plan outside of public meetings. The City of Laurel's website and Facebook page will be utilized to assist with communication and distribution of draft documents.</li> <li>• Spend a half a day visiting Riverside Park to collect information and photographs about the important features and assets of the Park. The survey would occur during the initial trip to Laurel for the Kick-Off Meeting.</li> </ul>	\$3,005
<p><b><u>INFRASTRUCTURE &amp; FACILITY ANALYSIS.</u></b> 1) Assess existing uses, functionality, and essential improvements to park facilities; 2) Analyze vehicle parking and the traffic flow coming off Highway 310 in order to provide vehicle access to the facility more efficiently and safely; 3) Evaluate the water and sewer services serving the Park and determine the feasibility of year-round water and sewer services to the area; 4) Evaluate pedestrian and bike access to and within the park.</p>	\$11,770
<p><b><u>INTERVIEWS WITH KEY STAKEHOLDERS.</u></b> Spend a day interviewing key stakeholders (identified by the City) to gather information on existing opportunities, and needs at the park.</p>	\$1,293
<p><b><u>PUBLIC WORKSHOP - IDENTIFYING OPPORTUNITIES, ISSUES AND NEEDS.</u></b> Great West Engineering and the City will facilitate a public workshop to gather public input and guidance about the opportunities, issues and needs that the residents of Laurel feel are important. The meeting will include the development of economic goals and opportunities as a result of the Master Plan. Great West will develop an electronic survey for distribution via email to gather public input. Great West Engineering will compile the results of the meeting and surveys.</p>	\$4,075
<p><b><u>DEVELOP DRAFT MASTER PLAN</u></b></p> <ul style="list-style-type: none"> <li>• Based on public input, and with assistance from Great West Engineering, the advisory committee will develop a list of community goals, objectives, and policies for the master plan. The advisory committee will communicate the list of goals and objectives to Great West Engineering via conference call and email.</li> <li>• Implementation steps for achieving the draft goals &amp; objectives will be provided by the advisory committee. Great West will develop these steps into a description of the proposed improvements, cost estimates, and potential sources of funding. The advisory committee will communicate its list of preferred implementation measures to Great West Engineering via conference call and email.</li> </ul>	\$15,501



<ul style="list-style-type: none"> <li>• Prepare a draft master plan that includes an executive summary, description of the existing conditions, goals and objectives, maps, charts, photos and implementation measures, estimated costs and potential funding sources. The draft plan shall be distributed to the Chief Administrative Officer, Public Works Director, Planner, Parks Board, and Beartooth RC&amp;D for review and input. The draft will also be posted on the project website for access by the public.</li> </ul>	
<p><b>2<sup>nd</sup> COMMUNITY WORKSHOP.</b> Conduct a public workshop with the City to discuss the draft master plan with both the Chief Administrative Officer, Public Works Director, Planner, Parks Board and the public. Great West will facilitate the meeting and document the comments.</p>	\$2,577
<p><b><u>EDIT DRAFT MASTER PLAN AND DISTRIBUTION OF REVISED DRAFT.</u></b></p> <ul style="list-style-type: none"> <li>• Based on the input from workshop participants, the document will be revised.</li> <li>• The draft master plan will be made available to the public for review and comment. Distribution will be done in an electronic format for the public, and hard copies will be provided to the Chief Administrative Officer, Public Works Director, Planner, Parks Board and Beartooth RC&amp;D.</li> </ul>	\$3,857
<p><b><u>PUBLIC HEARING ON MASTER PLAN AND COMPLETION OF FINAL DRAFT.</u></b></p> <ul style="list-style-type: none"> <li>• The draft master plan will be formally presented to the public at a hearing of the City Council. Great West Engineering staff will attend the meeting, answer questions and assist with documenting public comment.</li> <li>• Based on the input received at the public hearing on the draft, a final report will be prepared for the review and approval of the city council. (??) Hard copies and 1 electronic copy of the final document will be supplied. Additional copies will be printed as directed. The cost for additional copies will be the actual cost of production.</li> </ul>	\$5,559
<p><b><u>CITY COUNCIL ADOPTION OF THE MASTER PLAN.</u></b> The final draft master plan will be formally adopted by the City Council. Great West Engineering staff will attend the meeting and answer questions regarding the document.</p>	\$2,363
<b>Total Professional Services Cost</b>	<b>\$50,000</b>

## **Exhibit B: Payment Schedule**

Approved project cost: \$ 50,000.00

Funding Sources, to be paid in equal amounts for each Contractor invoice:

Big Sky Economic Development Trust Fund	up to \$25,000
City of Laurel	up to \$25,000

The Contractor may submit monthly requests for payment to the Client, based on the actual work performed, which must be accompanied by the following:

- A written summary of activities, including any problems encountered during the billing period
- An itemized invoice describing the services furnished, the number of hours worked to accomplish each item and the amount being billed for each item. These services must match the tasks and estimated costs as detailed by Contractor in the Scope of Services.
- A description of any other eligible expenses incurred during the billing period, including receipts as appropriate
- Total amount being billed.

The Client may choose to pay the full invoice as it is due and submit proof of payment to CRDC and a Client-generated invoice in the amount of 50% of the Contractor invoice.

CDRC shall submit a request for payment within 5 business days of receipt of the Client invoice and proof of payment to the Department for the release of eligible funds and the Client will be reimbursed for the eligible portion of funds.

The Department will withhold 10% until all tasks outlined in the Scope of Services are complete, and the Department approves the final Master Plan for Riverside Park.