

MINUTES

**McCall City Council
Regular Meeting
Legion Hall (McCall City Hall - Lower Level)
June 26, 2014**

Agenda

Call to Order and Roll Call
Approve the Agenda
Work Session
Pledge of Allegiance
Public Comment
Business Agenda
Consent Agenda
Executive Session
Open Session
Adjournment

CALL TO ORDER AND ROLL CALL

Mayor Aymon called the regular meeting of the McCall City Council to order at 5:32 p.m. Mayor Aymon, Councilor Giles, Councilor Swanson, and Councilor Witte all answered roll call. Councilor Scott was absent

City staff present was Gene Drabinski, City Manager; Bill Nichols, City Attorney; Linda Stokes, City Treasurer; Nathan Coyle, Airport Manager; Michelle Groenevelt, Community Development Director; Peter Borner, Public Works Director; Dennis Coyle, Parks and Recreation Director; Carol Coyle, Grant Coordinator; Eric McCormick, Golf Course Superintendent; Traci Malvich, Human Resources Manager; Justin Williams, Chief of Police; and BessieJo Wagner, City Clerk.

APPROVE THE AGENDA

Councilor Witte motioned to remove AB 14-125 Airport Hangar 208 Lease Amendment and Establishment of New Lease and AB 14-126 Alpine Village/Playlive Free Movie Night Request to Extend the Noise Ordinance from the agenda. Councilor Giles seconded the motion. In a voice vote all members votes aye and the motion carried.

WORK SESSION

Councilor Scott joined the meeting at 5:35 p.m.

AB 14-130 Revenue Bond Refunding Opportunity

Linda Stokes, City Treasurer, presented the revenue bond refunding opportunity to Council. She explained that staff was looking at refund possibilities for the City's Bonded Debt Service. There was potential to save approximately \$110,000 in the Sewer Fund and \$60,000 in the Water Fund through the life of the bonds. Mrs. Stokes explained the potential of combining the issuance with another jurisdiction. She provided Council a timeline of when the application should be completed and submitted.

There was general consensus from Council to move forward in obtaining a Municipal Advisor to refund the bond revenue.

Mayor Aymon questioned Chief Williams about ATV's on the roadway and what the requirements were. Chief Williams explained the rules of operating an ATV and on what roadways they were allowed.

Councilor Swanson asked about feedback regarding the Salmon River Brewery concerts. Gene Drabinski, City Manager, reported that he had not received any complaints.

Mayor Aymon led the audience in the Pledge of Allegiance at 6:08 p.m.

PUBLIC COMMENT

Mayor Aymon called for public comment at 6:09 p.m.

Hearing no comments, Mayor Aymon closed the public comment period.

BUSINESS AGENDA

AB 14-122 Golf Advisory Committee Member appointment – Paul Stover

Eric McCormick presented Paul Stover's letter of interest requesting appointment to the Golf Advisory Committee. He stated that staff recommended Council approve the appointment.

Councilor Scott moved to appoint Paul Stover to the Golf Advisory Committee. Councilor Swanson seconded the motion. In a voice vote, all members voted aye, and the motion carried.

AB 14-123 McCall Improvement Committee Annual Report

Carol Coyle, Grant Coordinator, introduced Sadie Noah, Chairperson of the McCall Improvement Committee. Ms. Noah presented the Committee's annual report to the City Council. Ms. Noah briefed Council on the McCall in Bloom program and the America in Bloom program, Attachment A.

AB 14-121 Surplus Property – Body Armor – Resolution 14-11 - Approval

Justin Williams, Chief of Police, presented Resolution 14-11 to Council. Chief Williams stated that the Madison County Sheriff's Office requested to purchase the body armor worn by a former employee of the McCall Police Department. He stated that the former employee accepted a position with Madison County Sheriff's Office. Chief Williams explained that the body armor was custom fit and made for individual officers and has a five year life. The police department prorated the cost of the vest to the remaining life of two years and determined the purchase price would be \$230.00 plus shipping charges.

There was a brief discussion about the shipping charges.

Councilor Swanson moved to adopt Resolution 14-11 authorizing the sale of the surplus personal body armor to Madison County Sheriff's office and authorize the Mayor to sign all necessary documents. Councilor Scott seconded the motion. Councilor Swanson, Councilor Scott, Mayor Aymon, Councilor Giles, and Councilor Witte all voted aye and the motion carried.

AB 14-124 Contract Award For: Park Street Road Reconstruction – Summer 2014

Peter Borner, Public Works Director, presented the Park Street Road Reconstruction contract award recommendation. He stated the project consisted of installing base material and asphalt along Park Street between Mission and 1st Streets, and adjoining driveway and road intersection approaches, Attachment B.

There was a brief discussion on the public feedback regarding the project.

Councilor Swanson moved to award the contract for the Park Street Road Reconstruction-summer 2014 contract to Valley Paving and Asphalt, Inc. and authorize the Mayor to sign all necessary documents. Councilor Witte seconded the motion. Councilor Swanson, Councilor Witte, Mayor Aymon, Councilor Giles, and Councilor Scott all voted aye and the motion carried.

AB 14-127 North Fork Payette River ("Lardo") Bridge Agreements

Michelle Groenevelt, Community Development Director, presented the North Fork Payette River Bridge agreements between Idaho Transportation Department and the City of McCall. She briefed council on the documents that needed approval and what each document was approving. The documents included a donation letter, a permanent easement, a Right of Way contract, and the De Minimus document. She highlighted some changes by ITD and noted the contractor had agreed to the changes, Attachment C.

There was a brief discussion on the status of the Rotary Park Construction. Peter Borner, Public Works Director, updated Council that ITD would pay for the sewer line relocation in its entirety.

Councilor Giles moved to approve the Donation Letter, Permanent Easement, and Right-of Way Contract, and the 4F De Minimus finding with corrections for the SH-55 North Fork Payette River Bridge and authorize the Mayor to sign all necessary documents. Councilor Witte seconded the motion. In a roll call vote Councilor Giles, Councilor Witte, Mayor Aymon, Councilor Scott, and Councilor Swanson all voted aye and the motion carried.

Councilor Witte was recused for the next item.

AB 14-120 SUB-14-01: Nelson Subdivision Final Plat (a minor amendment)-not a public hearing

Michelle Groenevelt, Community Development Director, presented the application for a minor final plat amendment that was submitted by Skiftun Land Surveying on behalf of Brian Nelson. Ms. Groenevelt stated the McCall Area Planning and Zoning Commission recommended approval and noted there were 3 conditions of approval. There was a brief discussion regarding the drainage on Mr. Nelson's property.

Councilor Scott moved to approve SUB-14-01, subject to the presented Findings and Conclusions, and authorize the Mayor to sign all necessary documents. Councilor Giles seconded the motion. In a roll call vote Councilor Scott, Councilor Giles, Mayor Aymon, and Councilor Swanson all voted aye and the motion carried.

Councilor Witte rejoined the Council.

AB 14-129 AIP 021 – Airport Sealcoat Project Bid Selection – Award of Construction Contract

Nate Coyle, Airport Manager, presented the Airport Sealcoat Project Bid Selection – Award of Construction Contract to Council. He stated that the project consisted of crack filling, seal coating, and remarking the runway, replacement of the rotating beacon, and crack filling and remarking of apron/taxiway surfaces. The Federal Aviation Administration (FAA) and Idaho Transportation Department agreed to the scope and intent of the project, and a grant application had been submitted to the FAA. Mr. Coyle stated that following selection of award, anticipated timeline for receipt of a grant offer from the FAA would be on or about July 15, 2014.

Mr. Coyle stated that all bids for the project were opened on June 19, 2014. He stated that construction activities for the project would begin in late September, 2014 and would potentially be completed by October 5, 2014. He also clarified that completion of the project may be later if a longer timeline is needed for receipt and installation of the rotating beacon.

Councilor Scott moved to award the contract for the Airport Sealcoat Project to Granite Excavation and authorize the Mayor to sign all necessary documents, pending receipt of FAA grant funding. Councilor Witte seconded the motion. In a roll call vote Councilor Scott, Councilor Witte, Mayor Aymon, Councilor Giles, and Councilor Swanson all voted aye and the motion carried.

AB 14-119 Three Touch Rule Discussion

BessieJo Wagner, City Clerk, presented the Three Touch Rule Discussion to Council. She stated that the City Council adopted the Governance Manual December 12, 2013. She explained that the Governance Manual addressed a decision making process referred to as the "Three Touch Rule" that was defined to assist the Council and staff with the time needed for adopting or changing public policy, ordinances, resolutions, or directives which will require a decision of the City Council or Administration. The rule also identifies the exceptions to the rule such as Quasi-judicial matters, any subject discussed in executive sessions, and routine contracts. Mrs. Wagner

stated that the purpose of the discussion was to ensure that Council and staff had the same understanding of what the “Three Touch Rule” applies to.

Mrs. Wagner stated that the Governance Manual clearly defined what qualifies for the “Three Touch Rule”. Mayor Aymon asked for clarification as to what counts for three touches. Mrs. Wagner stated that the Council needed to clarify that what the Council considered being a ‘touch’. Bill Nichols, City Attorney, suggested that the Council use the “Three Touch Rule” as a guide rather than a must do for all items. He stated that for ordinances that set regulations like a smoke free ordinance would have way more than three touches. Something that is simpler does not need as many touches. He stated that there were many cities that almost always follow the three readings rule on every ordinance. Mr. Nichols also clarified that some cities use the three readings as an opportunity to determine whether they will ultimately adopt it. He stated that is not typically a very effective way to approach an ordinance. He stated that other cities approach an ordinance much like the McCall City Council in that they review it several times and make changes prior to reading for adoption. He stated that there were no rules as to which way was best.

Council Member Witte clarified that when Council would be asked for approval on large expenditures, that the Council reviews the request more than once especially for big projects. Mr. Nichols cautioned Council to be careful on the “Three Touch Rule” in processing quasi-judicial matters and following the appropriate process. He stated that the Council needs to find a balance when approving projects and Council may want to consider continuing the item to the next meeting if they need more time to process the information.

Councilor Giles commented the he would have also liked more time to consider the approval of large expenditures. He also stated that he spoke with Michelle Groenevelt and Peter Borner that if they could let Council know a month or two weeks ahead of time on big projects, it would be helpful. Mayor Aymon asked Michelle Groenevelt, Community Development Director, if that would be possible. Ms. Groenevelt stated that it would be difficult as there is a defined process for going through the Planning and Zoning Commission and some parts of the project could change throughout the process. She also stated that some projects have extremely tight timelines. Mayor Aymon asked that if a big project comes to planning and zoning that may be controversial then maybe a heads up that it may be coming in front of Council could be helpful. Councilor Swanson suggested that the Council look at the planning and zoning agendas and minutes so they are aware of what is happening there.

Mr. Nichols stated that the problem is not with viewing the minutes of the Planning and Zoning Commission, which is a public document. He stated that the problem is when emails are sent out stating that there is a project that is being considered and then questions come up that the Council may have regarding the project, and then Council receives information regarding the particulars of the project before it comes to them. He continued that this would violate the rules that the project would need to come to them fresh without anyone on the Council being a part of the process before hand.

Michelle Groenevelt, Community Development Director, stated that part of the conversation with Councilor Giles was to have a work session for the Council to identify the projects that would require undergrounding utilities or possible water and sewer infrastructure work and what are the priorities for the funds needed to do the work.

There was a brief discussion on the three readings of an ordinance.

Upcoming Meetings Schedule Discussion

Clarified who would be present for the short term rental discussion. There was also clarification on the Salmon River Brewery request to extend the noise ordinance revisit.

There was a question as to when a meeting about the storage ponds and DEQ would happen as well as a discussion on the Sewer District meetings and the draft MOU. There was discussion on when the Council would hear about the MOU with the Sewer District. Gene Drabinski, City Manager, stated he would bring it up in his department report. He also stated that the District would see the MOU on the 15th, and then he would bring it back to council on the 24th of July. Mayor Aymon asked about scheduling the wastewater policy for an upcoming meeting and Mr. Nichols suggested doing it in the fall or before the next building season when building permit applications come in.

CONSENT AGENDA

Staff recommended approval of the following items:

1. Payroll Report for Period ending April 23, 2014
2. Warrant Registers
3. License Report

Councilor Witte moved to approve the Consent Agenda as presented. Councilor Scott seconded the motion. In a voice vote all members voted aye and the motion carried.

EXECUTIVE SESSION

At 7:14 p.m., Mayor Aymon moved to go into Executive Session for

- **Personnel – Pursuant to Idaho Code §67-2345(1) (b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student.**

Councilor Swanson seconded the motion. In a roll call vote, Mayor Aymon, Councilor Swanson, Councilor Giles, Councilor Scott, and Councilor Witte all voted aye and the motion carried.

Council discussed personnel issues.


RETURN TO OPEN SESSION

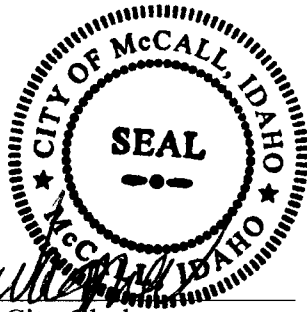
At 8:00 p.m., Mayor Aymon moved to return to Open Session. Councilor Swanson seconded the motion. In a voice vote, all voted aye and the motion carried.

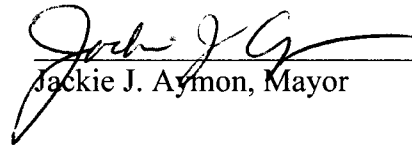
ADJOURNMENT

Without further business, the Mayor adjourned the meeting at 8:01p.m.

ATTEST:


BessieJo Wagner, City Clerk




Jackie J. Aymon, Mayor

AB 14-123 McCall Improvement Committee Annual Report to the City Council June 26, 2014

The McCall Improvement Committee (MIC) is a group of residents and business owners dedicated to ***“improving the economy of McCall by enhancing the built environment.”*** The MIC was established in 2000 and continues to be a very active and vital City committee. What may not be known is that the MIC was the entity that helped spur the advancement of public art in McCall, as well as the promotion and development of pathways. The MIC works closely with the Parks and Recreation Department on community beautification and improvement projects.

2013/14 Accomplishments

2013 McCall in Bloom program

The MIC chose not to enter McCall in the 2013 America in Bloom contest, primarily because of the Third St. Corridor project, and their desire to see that completed prior to the AIB judges’ visit. The Committee put its energy into the 2013 McCall in Bloom (MIB) contest and their efforts yielded the highest level of participation to date. Participation in the McCall in Bloom program has increased 400% since its inception in 2010. This year marks the fifth year of the MIB contest, and community residents and businesses have come to anticipate and expect this local enhancement program. The “Golden Gnome” award is a coveted prize, and contestants eagerly welcome local judges to their homes and businesses to see their hard work. The McCall in Bloom Facebook page has 135 followers, and promotes local gardening events and information.

The MIC has entered McCall in the 2014 America in Bloom competition, and hopes to repeat the success of 2012, which resulted in McCall being name outstanding community in the under 3000 population category. Judges will be in McCall July 20-22, 2014. This program would not be possible without the support of local businesses such as Hotel McCall, Pancake House, Shore Lodge, Steamer’s, High Mountain Nursery, Franz Witte, Rocky Mountain Signs, Star News, the Progressive Club, Long Valley Gardeners, the University of Idaho Master Gardeners, as well as the City of McCall.



2013 Large Commercial Winner- Shore Lodge

Local Project Support

Unlike other City committees, the MIC actively raises funds for public projects. The City of McCall benefits from their efforts. This year, the MIC has contributed the following funds:

- ✦ \$5000 to the City of McCall for the Third Street Corridor Revitalization project
- ✦ \$1000 to the Positive Outdoor Teen Service project for youth engagement and horticultural training at the Central Idaho Historical Museum
- ✦ \$3650 LOT award for the McCall entry way sign improvements and Roosevelt Park
- ✦ Designed and purchased 18 banners for Third Street to enhance the streetscape and reduce overall flower basket costs to the McCall Parks Department (\$1245)
- ✦ Registered McCall in the America in Bloom contest and will provide funding for the McCall in Bloom contest (wildflower seed packets, community BBQ)-est. \$2000
- ✦ Hosted the AIB/MIB launch party at Bistro 45

Upcoming Events

In addition to the planning and implementation of this year's AIB/MIB programs, the MIC is planning for its biennial fundraiser, the Valentine's Ball, to be held on February 14, 2015 at the North Fork Lodge. This dinner/dance/auction raises significant funding, and the MIC hires local businesses for the venue, catering, decorations and music. This event is much anticipated by previous attendees, and is usually a sold-out event.

Request to Council

The McCall Improvement Committee strongly believes that their efforts to improve the built environment have shown positive results over the years. McCall is a wonderful place to work and live, and the MIC is committed to continual improvement of this town. Ongoing City financial support for the America in Bloom program and staff support is needed to help the MIC continue its success.

Thank you,
Sadie Noah, Chairperson



Third Street Corridor Ribbon Cutting, November 2013

**AB 14-124 Contract Award for:
PARK STREET ROAD RECONSTRUCTION – SUMMER 2014**

1. Project Summary:
 - a. Installation of ¾" road base and asphalt paving for bike and drive lanes on Park Street (between Mission and 1st Street.
 - b. Installation of ¾" road base and asphalt paving for all driveway approaches.
 - c. Construction activities scheduled for September 1 - September 15, 2014.
2. Bidding Documents were provided to three (3) contractors.
3. Two (2) bid proposals were received.
 - a. Granite Excavation, Inc. - \$154,748.64
 - b. Valley Paving and Asphalt, Inc. - \$143,670.00
4. Valley Paving and Asphalt, Inc. is the confirmed lowest bidder:

Total Bid Proposal \$143,670.00
5. Funding for the project will be provided as follows:
 - a. \$100,000.00 – Idaho Transportation Department – LRHIP (Local Rural Highway Investment Program) Grant Funding
 - b. \$43,670.00 – City of McCall Streets Department

6. RECOMMENDATION TO COUNCIL:

- a. Authorize City staff to issue a *Notice to Award* to the Valley Paving and Asphalt, Inc.
- b. Authorize the Mayor to sign/execute the proposed contract provided Valley Paving and Asphalt, Inc. meets and executes their requirements of the Contract documents and project specifications.

I. AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (DRAFT)

THIS AGREEMENT, is being made and entered into this ____ day of _____, 2014 and between The City of McCall (hereinafter, "OWNER") and _____, (hereinafter, "CONTRACTOR"):

NOW THEREFORE, the parties to this Contract, in consideration of the mutual covenants and stipulations set out, agree as follows:

ARTICLE 1. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between the OWNER or City and the Contractor concerning the work to be performed are this Contract, pages one (1) through () and the following:

1. Bid Documents titled, PARK STREET ROAD RECONSTRUCTION – SUMMER 2014
2. Standard General Conditions of the Construction Contract, 2012 ISPWC (Idaho Standards for Public Works Construction) Division 100 (not attached) (pages 1 to 52, inclusive).
3. Bid Proposal (Section III) of the Contractor, dated _____, 2014, to be physically attached to this Contract;
4. The Construction Plans (5 sheets);
5. General Conditions (Section V)
6. Supplementary Conditions (Section VI)
7. Technical Specifications (Section VII)
8. Performance and Payment Bonds and Insurance Certificates, to be physically attached to this Contract;
9. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice of Award
 - b. Notice to Proceed.
 - c. Written Amendments.
 - d. Work Change Directives.
 - e. Change Orders.
 - f. Substantial completion certification
 - g. Final completion certification
10. Change Orders, which may be delivered or issued after the effective date of this Agreement;
11. Addenda issued prior to opening of bids, to be physically attached to this contract;
12. WH-5 – Public Works Contract Report for Idaho State Tax Commission
13. W9

There are no Contract Documents other than those listed in Article 1. This Contract may only be amended by change order as provided in the General Conditions.

ARTICLE 2. WORK

The Contractor shall complete the entire work as specified, indicated and required under the Contract Documents. The Work is generally described as follows: PARK STREET ROAD RECONSTRUCTION – SUMMER 2014.

ARTICLE 3. PROJECT ENGINEER, MCCALL CITY ENGINEER, MCCALL PUBLIC WORKS DIRECTOR

- 1.01 The project has been designed by the City of McCall City Engineer (Project Engineer), which is to act as the OWNER's representative, assume all duties and responsibilities, and have the rights and authority assigned to "Engineer" in the Contract Documents in connection with the completion of the "Work" in accordance with the Contract Documents and the General Conditions of the Idaho Standards for Public Works Construction (ISPWC).

- 1.02 The McCall Public Works Director (Director) will be the Owner's representative, along with the City Engineer. The Director will serve as the approving agency for the project and serve a liaison between the Project Engineer and the OWNER.

ARTICLE 4. CONTRACT TIMES/LIMITATIONS

4.01 *Substantial Completion*

The Contractor shall begin work in conformance with the Contract Documents and shall complete the work prior to the date of completion. The project site will be available to the Contractor for project implementation on September 1, 2011 or when weather conditions permit, and only after approval of the Project Engineer. The work to be performed pursuant to this Contract shall be substantially complete within 15 calendar days after Notice to Proceed and/or no later than September 30, 2014.

The project will be considered "Substantially Complete" when all base and asphalt placement has been completed.

4.02 *Final Completion*

The work shall be finally complete and ready for final payment, in accordance with Paragraph 14.07 of the ISPWC General Conditions, within 14 calendar days of the date of Substantial Completion Certification or before October 15, 2014.

4.03 *Working Hours*

Work can be performed 5 days a week (Monday through Friday) for a period of 12 hours (7:00 am to 7:00 PM) per day. Adjustment of the contract time can be made in accordance with the provisions of the Contract Documents as directed by the Project Engineer, Public Works Director, or the OWNER.

4.04 *Liquidated Damages*

- A. CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the ISPWC Section 100 General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER \$750.00 for each day that expires after the time specified in paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER \$750.00 for each day that expires after the time specified in paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5. CONTRACT PRICE

OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to the CONTRACTOR's Bid Schedule contained in Bid Form, Article 5, Section III.

ARTICLE 6 - PAYMENT PROCEDURES**6.01 Submittal and Processing of Payments**

- A. CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions. Contractor shall provide an example Application for Payment submittal to the Project Engineer at the start of the project for review and approval.

6.02 Progress Payments; Retainage

- A. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment on or about the 30th day of each month during performance of the Work as provided in paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established in paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER may determine or OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions:
 - a. 95% of Work completed (with the balance being retainage); and
 - b. 95% of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts as ENGINEER shall determine in accordance with Paragraph 14.02.B.5.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages.

ARTICLE 7 - INTEREST

- 7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 5% per annum.

ARTICLE 8. INDEPENDENT CONTRACTOR

The parties warrant by their signature that no employer-employee relationship is established between the Contractor and the OWNER by the terms of this contract. It is understood by the parties hereto that the Contractor is an independent contractor and as such neither it nor its employees, agents, representatives or subcontractors, if any, are employees of the OWNER for purposes of tax, retirement system, or social security (FICA) withholding.

ARTICLE 9. SCOPE OF SERVICES

The Contractor shall perform all services required by the Contract Documents. All work shall be completed in accordance with the specifications and plans established for this project.

ARTICLE 10. HOLD HARMLESS/INDEMNIFICATION

In addition to other rights granted the OWNER by the Contract Documents, the Contractor shall indemnify and save harmless the Owner, its officers and employees, from all suits, actions, or claims of any character brought because of any injuries or damages received or sustained by any person, persons, or property on account of the operations of the Contractor or his subcontractors; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in constructing the work; or because of any act or omission, neglect, or misconduct of the Contractor or his subcontractors; or because of any claims or amounts recovered from any infringements of patent, trademark or copyright; or from any claims or amounts arising or recovered under the Workmen's Compensation Act or any other law, ordinance, order or decree.

ARTICLE 11. CONFLICT OF INTEREST

The Contractor covenants that it presently has no interest and will not acquire any interest, direct or indirect, in the 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. Should any conflict of interest arise during the performance of this Contract, Contractor shall immediately disclose such conflict to the Project Manager, Architect and the OWNER.

ARTICLE 12. ENTIRE AGREEMENT, MODIFICATION AND ASSIGNABILITY

This Contract and the exhibits hereto contain the entire agreement between the parties, and no statements, promises, or inducements made by either party, or agents of either party are valid or binding unless contained herein. This contract may not be enlarged, modified or altered except upon written agreement signed by the parties hereto. The Contractor may not subcontract or assign its rights (including the right to compensation) or duties arising hereunder other than as contemplated by the Contract Documents, without the prior written consent and express authorization of the OWNER.

ARTICLE 13. ADHERENCE TO LAW REQUIRED

All applicable local, state and federal statutes and regulations are hereby made a part of this contract and shall be adhered to at all times. Violation of any of these statutes or regulations by the Contractor shall be deemed material and shall subject the Contractor to termination of this contract for cause. No pleas of misunderstanding or ignorance on the part of the Contractor will in any way serve to modify the provisions of this requirement. The Contractor and his surety shall indemnify and save harmless the OWNER and the City of McCall and its employees, agents and representatives against any claim or liability arising from or based on the violation of any such laws, codes, ordinances, or regulations, whether by himself, his employees, or his subcontractors.

ARTICLE 14. 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.

ARTICLE 15. SPECIAL WARRANTY

The Contractor warrants that nothing of monetary value has been given, promised or implied as remuneration or inducement to enter into this Contract. The Contractor further declares that no improper personal, political or social activities have been used or attempted in an effort to influence the outcome of the competition, discussion, or

negotiation leading to the award of this Contract. Any such activity by the Contractor shall make this Contract null and void.

ARTICLE 16. COMMUNICATIONS

Such communications as are required by this contract shall be satisfied by mailing or by personal delivery to the parties at the following address:

Contractor:

Owner: City of McCall
216 E. Park Street
McCall, Idaho 83638

IN WITNESS WHEREOF, said Contractor and the OWNER or City has caused this Contract to be executed on the day and year first above written.

Contractor:

Owner:

by:

Jackie J. Aymon, Mayor

ATTEST:

BessieJo Wagner, City Clerk

Approved As To Form:

William F. Nichols, City Attorney

ACKNOWLEDGMENT

On this _____ day of _____, 2014, before me, a Notary Public of the State of Idaho, personally appeared _____, in his official capacity as _____, known to me to be the person described in the above document and acknowledged to me he executed the same.

SEAL

Notary Public residing at _____
My Commission expires _____



City of McCall

www.mccall.id.us

ATTACHMENT C

216 East Park Street
McCall, Idaho 83638

Phone 208-634-7142
Fax 208-634-3038

June 26, 2014

Brian Breen
Idaho Transportation Department
Residency 2 Engineer (District 3)
P.O. Box 8028
Boise ID 83707-2028

Dear Mr. Brian Breen,

The McCall City Council has reviewed the 4(f) DE MINIMIS Finding document and has approved it and authorized the Mayor to sign the document at the June 26, 2014 McCall City Council meeting. The City Council agrees that the bridge replacement will not "adversely affect the activities/ features and attributes" of the Section 4(f) resource (Rotary Park).

Sincerely,

Jackie Aymon, Mayor

4(f) DE MINIMIS Finding

Legal Basis: References: 23 CFR 774.3 (b) and 774.17 ; Policy: FHWA 4(f) Policy Paper

Instruction: Provide enough information for the reviewer to understand the relevant characteristics of the property and how the project impacts the property. Save as a .PDF document prior to submittal.

This document must demonstrate the following three criteria are met:

- The transportation use of the Section 4(f) resource, together with any impact avoidance, minimization, and mitigation or enhancement measures incorporated into the project, does not adversely affect the activities, features, and attributes that qualify the resource for protection under Section 4(f);
- The public has been afforded an opportunity to review and comment on the effects of the project on the protected activities, features, and attributes of the Section 4(f) resource; and
- The official(s) with jurisdiction over the property are informed of U.S. DOT's intent to make the de minimis impact determination based on their written concurrence that the project will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f).

Summarize the 4(f) DE MINIMIS finding in the NEPA document. Recommended language: The project will have 4(f) DE MINIMIS impact to a public recreation property described as __. See the attached finding for detailed information.

Project information

ITD District:	3	ITD ID:	Key # 13392
Route:	SH-55	Fed Aid ID:	
Project Name:	SH-55 N FK Payette RV BR, McCall, Idaho		

Project description (5 sentences or less)

The existing SH 55 North Fork Payette River Bridge will be replaced with a new single-span bridge consisting of two travel lanes, two bike lanes, and two pedestrian sidewalks. An eight-foot pedestrian viewing platform will be constructed on the north side of the bridge. Construction of the bridge would require a 5,390 square foot temporary work area in Rotary Park in McCall, Idaho. This area will be used to set and operate a crane that will be used to drive temporary piles to support the new bridge in its temporary location north of the existing bridge. Other construction equipment and materials will be placed in this area (see Figure 1 and Figure 2).

Describe the 4(f) property

- | | |
|--------------------------------|-------------------------|
| • Facility Name: | Rotary Park |
| • Status (existing or planned) | Existing |
| • Use/type of property | Municipal Park (public) |
| • Owner | City of McCall |
| • Administrator (if different) | |

For Recreation Areas

V 051614 ss

- **Boundary of 4(f) property** See Figure 1
(Narrate, attach map or both as needed)
- **Characterize the property (activities, facilities, attributes, etc.)**
Rotary Park is located on the southern shore of Payette Lake. The park includes restrooms, a playground, picnic areas, and a beach with a demarcated swimming area. Swimming and picnicing are popular recreational activities within the park.

Describe the impacts to the 4(f) property

- Permanent Incorporation
 Temporary Occupancy (must meet the 5 criteria in the 23 CFR 774.13).

Boundary of impact: See Figure 1 and Figure 2.
(Narrate or attach map)

Describe the action proposed on the 4(f) property (eg. key work items)

One crane will be set up in the grass area west of the restrooms within an expanded temporary construction easement (see Figure 1). The crane will be used to drive piles, set girders and forms, and deliver materials to build the bridge in the temporary location. In addition, a porta-potty, trash dumpster, equipment trailer, material staging area, and eco-pan wash will be placed on the grass and/or asphalt within the temporary easement (see Figure 2). Construction in Rotary Park will occur between July and December 2014. See the environmental reevaluation for more information.

Describe any impacts (physical interference with activities or purpose of the property).**Temporary**

Approximately 5,390 square feet, or approximately 7 percent, of the park will be temporarily utilized to construct the new bridge in its temporary location. This area is located on the west side of the park, and is a generally grass-covered open area with no park features or facilities. It is adjacent to the restrooms, but away from the picnic area, playground, and beach (see Figure 1).

Although construction will occur during the summer, which is typically when parks have the most visitors, the park and its facilities (i.e., parking, restrooms, playground, picnic area, and beach) will still be open to the public. Although construction activities would be contained within the designated construction area, construction during this time may deter some people from using the park, and construction-related noise could be a nuisance to park patrons. In addition, floating and swimming in the North Fork Payette River near the construction work area will be temporarily prohibited during construction.

In addition, the irrigation system within the temporary construction area could be damaged during construction.

Permanent

Trees along the riverbank, including four cottonwoods, three pines, and five aspens, will be removed to allow for construction of the new bridge, which will permanently alter the appearance of the west side of the park. Once the bridge is moved to its permanent location, the temporary work zone within the park will be returned to its original condition, and new trees will be planted to replace those that were removed. In addition, up to 30 five-gallon shrubs will be planted to replace shrubs along the riverbank that were removed during construction. The grass area will be restored with sod and/or seed and the irrigation system, if damaged, will be repaired.

Describe any measures taken to minimize harm (avoidance measures, restoration, etc.)

A construction fence will be installed around the temporary work area under the supervision of a City of McCall representative (see Figure 2).

Large (e.g., 14- to 16-foot-tall) trees and smaller (e.g., four- to seven-foot-tall) trees will be planted to replace trees removed during construction (see Figure 3).

Up to 30 five-gallon shrubs will be planted along the riverbanks after construction (see Figure 3).

All trees, shrubs, topsoil and sod will be pre-approved by the City of McCall.

The slope down to the river will be re-graded and feathered back to accommodate new trees and shrubs. Exact grades and slope will be reviewed and approved by the City of McCall.

Grass areas damaged during construction will be stripped of existing soil, re-graded, and covered with new topsoil. The new topsoil will be specked and approved by the City of McCall. Sod will be planted to replace grass damaged during construction (see Figure 3).

The irrigation system in the temporary easement within Rotary Park will be ^{replaced} repaired (see Figure 3). The parts and design will be approved by the City of McCall.

Brick pavers will be installed in the pedestrian pathway leading to the new bridge. The contractor will coordinate with the City of McCall to determine the final design of the pathway (see Figure 3).

Absolutely no contractor operations will occur in the portions of Rotary Park open to the public. No construction vehicles will be allowed in parking areas, no materials staged, no personnel will use park bathrooms, no openings will be allowed in the construction perimeter fence, no construction vehicles will block any park driveways or walkways, etc..

The temporary work area will be graded back to the existing topography and new topsoil will be placed according to ITD specifications for seed/sod areas. *The top soil will be specked and approved by the City of McCall.*

For Recreation Areas

V 051614 ss

An exclusionary fence will be installed at least one and a half times the size of the dripline surrounding the protected Ponderosa pine near the northwest corner of the temporary easement (see Figure 2). The exclusionary area will be approved by the city arborist.

If weather conditions preclude planting, seeding, or irrigation repair work, restoration will be completed in the spring, as soon as weather conditions permit.

Document the Public Notice and opportunity for comment

Place and Date of publication: Star-News on June 5 and June 12, 2014; City of McCall website
Public Comment period: June 5 to June 19, 2014
Comments received: None

Document the Response by Official(s) with Jurisdiction (owner/administrator)

The agency(ies) with jurisdiction over the property: City of McCall, Idaho

The Official(s) with Jurisdiction was informed of the intent to make a *de minimis* impact finding and has provided written concurrence that the project will not adversely affect the activities, features and attributes that qualify the property for protection under Section 4(f).

Document Prepared by (name, title/firm, date : Justin Peterson, Lochner on June 23, 2014

***De minimis* Impact Finding**

FHWA finds ITD has consulted with the official(s) with jurisdiction on the uses and impacts to the Section 4(f) resource from the proposed. The public has been given an opportunity to provide input. The official(s) with jurisdiction concur that the project will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f). The FHWA finds that the Project will have *de minimis* impacts on the Rotary Park located in McCall, Idaho. Therefore, all Section 4(f) requirements, as they relate to these uses, have been met.

FHWA APPROVAL

Date







ATTACHMENTS

- Vicinity map
- Aerial view
- Drawings or other graphics representing the 4(f) property boundary and project actions related to the property
- Copy of Public Notice
- Copy of Public Comment Summary
- Letter from Agency with Jurisdiction
- Other:

SH-55 North Fork Payette River Bridge, McCall, Idaho

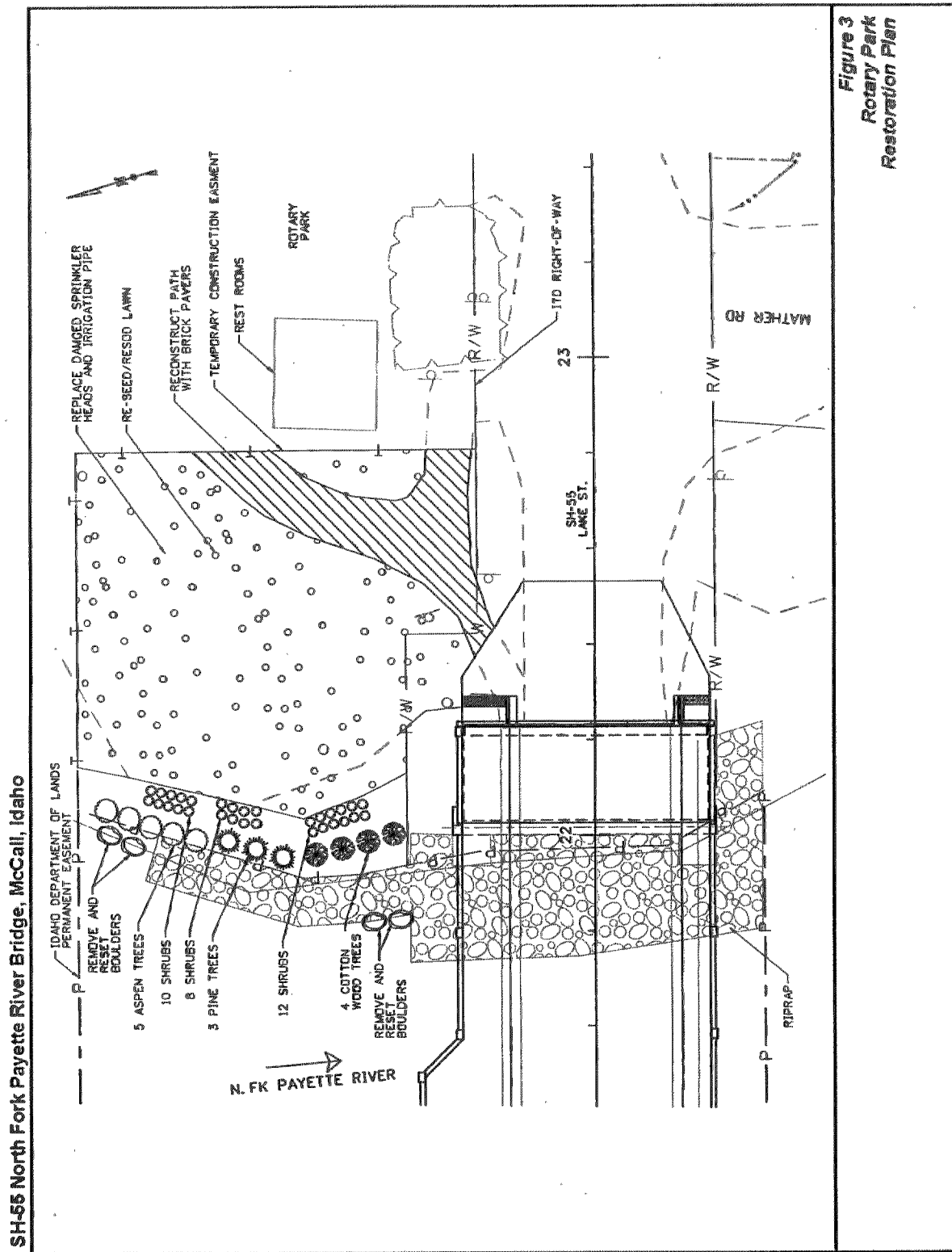


Figure 1
Temporary Work Area

-  Permanent Bridge
-  Park
-  Temporary Construction Easement
-  Temporary Bridge
-  Proposed Temporary Easement
-  ITD Right-of-Way

SH-55 North Fork Payette River Bridge, McCall, Idaho





Publisher's Affidavit of Publication

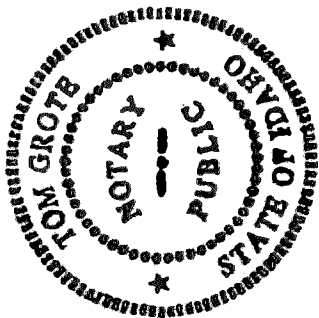
STATE OF IDAHO }
 .ss
 County of Valley }

I, Kim C. Drake, being duly sworn and say, I am the receptionist of The Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of afore said and is a legal newspaper; that the PUBLIC NOTICE, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for a period of two weeks in the regular and entire issue of every number there of during the period of time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began June 5, 2014 and ended June 12, 2014.

Kim C. Drake
 Subscribed and sworn before me this the 12th day of June, 2014.
 STATE OF IDAHO

COUNTY OF VALLEY }

On this 12th day of June in the year of 2014, before me, a Notary Public, personally appeared Kim C. Drake, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.



Tom Grote
 Tom Grote
 Notary Public for Idaho
 Residing at McCall, Idaho
 Commission Expires 2/8/18

PUBLIC NOTICE AND OPPORTUNITY FOR COMMENT
 The Idaho Transportation Department (ITD) is proposing to replace the existing SH-55 North Fork Payette River Bridge (also known as the Lardo Bridge), located in McCall, Idaho. This includes work in Rotary Park in McCall, Idaho. ITD proposes to replace the existing North Fork Payette River Bridge with a new, single-span bridge. The new bridge will consist of two travel lanes, two bike lanes, and two pedestrian sidewalks. An eight-foot pedestrian viewing platform will be constructed on the north side of the bridge. The new bridge will be temporarily constructed north of the existing bridge and slid into place after the existing bridge has been removed. Construction of the new bridge will temporarily impact approximately 5,390 square feet of the western portion of Rotary Park, including the western entrance to the parking lot and a grassy area. Construction activities, such as operating and staging heavy equipment, will impact vegetation and require the replacement of the existing irrigation system. Trees along the eastern bank of the North Fork Payette River (western edge of Rotary Park) will be trimmed and removed to install the temporary piles supporting the new bridge. The temporary piles will be removed after the new bridge has been slid into its permanent location. After construction, the disturbed area will be restored to its preconstruction condition, the irrigation system will be repaired, and new trees will be planted. Construction activities in the park will begin in July and continue through October 2014. The western portion of the park will be closed during this time; however, the parking lot, restrooms, picnic tables, playground, and beach will remain open. Section 4(f) of the Department of Transportation Act of 1966 states that a de minimis impact determination on a publicly owned park may be made when the project impacts would not adversely affect the activities, features, or attributes qualifying the Section 4(f) resource. Based on the nature of the construction activities, potential impacts, and mitigation measures, ITD intends to request the Federal Highway Administration's approval of a de minimis impact finding to Rotary Park and written concurrence for this de minimis determination from the City of McCall. Any comments must be submitted in writing to Bryon Breen, Manager at the Idaho Transportation Department Office, PO Box 8028, Boise, Idaho 83707, or bryon.breen@idaho.gov. The deadline to submit comments is June 19, 2014. Comments will become part of the official record and will be considered when making future project-related decisions. 2p6/12