



**Item:** Professional Services Agreement to develop River’s Edge Trail Maintenance Plan

**From:** Marty Basta, Park & Recreation Director

**Initiated By:** Trails Working Group

**Presented By:** Marty Basta, Park & Recreation Director

**Action Requested:** Approve Professional Services Agreement with Thomas, Dean & Hoskins for Trail Maintenance Plan

---

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission approve the professional services agreement for \$32,200 with Thomas Dean & Hoskins to prepare a River’s Edge Trail Maintenance Plan.”

2. Mayor calls for a second, discussion, public comment, and calls the vote.

---

**Staff Recommendation:** Staff recommends the City Commission approve the professional services agreement with Thomas, Dean & Hoskins for the preparation of a Trail Maintenance Plan.

**Background:** The Trails Working Group is comprised of area trail managers, representing the City of Great Falls, Montana Dept. of Transportation, Montana Dept. of Fish, Wildlife and Parks and Recreational Trails, Inc. The Working Group meets to discuss trail issues, including development and maintenance. It is a forum to ensure the members are coordinating efforts and are in agreement on Trail improvements and similar actions.

Recently, there has been community discussion regarding the future of the Trail. The Working Group has focused recent efforts less on expansion and more on ensuring the Trail is maintained in a safe condition for current and future users. To aid in that process, the Working Group applied for a grant from PP&L Montana (a River Fund grant) to develop a Trail Maintenance Plan. The Working Group was successful in securing the grant, and proposals have been solicited from qualified consultants to develop the Plan.

With more than 40 miles of trail to maintain, a Trail Maintenance Plan will help current and future trail managers to maintain this public asset. Without a Plan, funding and manpower levels are uncertain and trail and asset conditions are unquantified.

Workload Impacts

City staff will provide in-kind work and consultant oversight. Planning & Community Development, Engineering, Mapping and Park & Recreation Department staff will assist in data gathering.

Purpose & Scope

The Plan will provide Trail managers with a comprehensive approach to maintenance, including but not limited to: identification of trail assets by type, segment, year installed, ownership and condition; condition assessment of assets; estimates of asset life; identification of responsible party for maintenance; identification of, and estimated cost of, major maintenance activity, by City or State fiscal year, depending upon ownership of asset; and, identification of possible on-going maintenance sources of funding or methods of maintenance funding, as well as a yearly routine maintenance cost.

This is not intended to be a full capital improvements program, but is expected to identify major needs and maintenance activities, potential funding sources and mechanisms, and some suggestions for a structure for maintenance of a multi-jurisdiction trail.

Evaluation and Selection Process

Proposals were publicly solicited for the project. Three proposals were received. The qualifications of each respondent and the proposals themselves were rated and ranked by a Selection Committee, with Thomas Dean & Hoskins ranking highest.

**Concurrences:** The Trails Working Group concurs in the selection of Thomas Dean & Hoskins for this project.

**Fiscal Impact:**

The Trail Maintenance Plan would be funded with a combination of State, federal, City and private funds. The Trails Working Group secured approval of a grant from PP&L Montana, matched by the City, State of Montana and Recreational Trails, Inc. The funding will be as follows:

Planning & Community Development Department:	\$ 3,000 (trail trust fund)
Montana Dept. of Fish, Wildlife & Parks:	\$ 1,000
Recreational Trails, Inc.	\$ 5,700
Downtown Great Falls Assoc:	\$ 1,000
PP&L/River Fund:	\$21,500

**Alternatives:**

The Commission could move to deny the Agreement and a Maintenance Plan will not be prepared, thereby necessitating return of the the grant to PP&L Montana.

**Attachments/Exhibits:** Standard Agreement Between Owner and Engineer for Professional Services

## PROFESSIONAL SERVICES AGREEMENT

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **CITY OF GREAT FALLS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana PO Box 5021, Great Falls, MT 59403-5021, hereinafter referred to as “City,” and THOMAS, DEAN & HOSKINS, INC., 1800 River Dr. N., Great Falls, MT, 59401, hereinafter referred to as “Consultant.”

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Purpose:** City agrees to hire Consultant as an independent contractor to perform for City services described in the Scope of Services attached hereto as Exhibit “A” and by this reference made a part hereof.

2. **Effective Date:** This Agreement is effective upon the date of its execution and will terminate on the 15<sup>th</sup> day of February, 2013 unless mutually agreed upon by the parties hereto.

3. **Scope of Work:** Consultant will perform the work and provide the services in accordance with the requirements of the Scope of Services.

4. **Payment:** City agrees to pay Consultant on a time and material basis, not to exceed Thirty-two thousand two hundred Dollars (\$32,200.00) for services performed pursuant to the Scope of Services. Payments will be made pursuant to Compensation, Exhibit “B,” attached hereto and incorporated herein by this reference. Any alteration or deviation from the described work that involves extra costs will be performed by Consultant after written request by the City, and will become an extra charge over and above the contract amount. The parties must agree upon any extra charges in writing.

5. **Independent Contractor Status:** The parties agree that Consultant is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Consultant is not subject to the terms and provisions of the City’s personnel policies handbook and may not be considered a City employee for workers’ compensation or any other purpose. Consultant is not authorized to represent the City or otherwise bind the City in any dealings between Consultant and any third parties.

Consultant shall comply with the applicable requirements of the Workers’ Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Consultant shall maintain workers’ compensation coverage for all members and employees of Consultant’s business, except for those members who are exempted by law.

Consultant shall furnish the City with copies showing one of the following: (1) a binder for workers’ compensation coverage by an insurer licensed and authorized to provide workers’

compensation insurance in the State of Montana; or (2) proof of exemption from workers' compensation granted by law for independent contractors.

**6. Indemnity and Insurance:** For other than professional services rendered, to the fullest extent permitted by law, Consultant agrees to defend, indemnify, and hold the City harmless against claims, demands, suits, damages, losses, and expenses connected therewith that may be asserted or claimed against, recovered from or suffered by the City by reason of any injury or loss, including but not limited to, personal injury, including bodily injury or death, property damage, occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Consultant or Consultant's agents or employees.

For the professional services rendered, to the fullest extent permitted by law, Consultant agrees to indemnify and hold the City harmless against claims, demands, suits, damages, losses, and expenses, including reasonable defense attorney fees, to the extent caused by the negligence or willful misconduct of the Consultant or Consultant's agents or employees.

For this purpose, Consultant shall provide City with proof of Consultant's liability insurance issued by a reliable company or companies for personal injury and property damage in amounts not less than as follows:

- Workers' Compensation - statutory
- Employers' Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate
- Commercial General Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate
- Automobile Liability - \$1,000,000 property damage/bodily injury; \$2,000,000 annual aggregate
- Professional Liability - \$1,000,000 per claim; \$2,000,000 annual aggregate

The City shall be included or named as an additional or named insured on the Commercial General Liability policy. The insurance must be in a form suitable to City.

**7. Professional Service:** Consultant agrees that all services and work performed hereunder will be accomplished in a professional manner.

**8. City's Responsibilities:** City will fulfill its responsibilities as set forth in Exhibit "C" attached hereto and incorporated herein by this reference.

**9. Compliance with Laws:** Consultant agrees to comply with all federal, state and local laws, ordinances, rules and regulations, including the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA. Consultant agrees to purchase a City business license.

**10. Nondiscrimination:** Consultant agrees that all hiring by Consultant of persons performing this Agreement will be on the basis of merit and qualification and will not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

**11. Default and Termination:** If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, the other party, at its option, may terminate this Agreement and be released from all obligations if the default is not cured within ten (10) days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement.

**12. Modification and Assignability:** This document 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 this written Agreement, may be considered valid or binding. This Agreement may not be enlarged, modified or altered except by written agreement signed by both parties hereto. The Consultant may not subcontract or assign Consultant's rights, including the right to compensation or duties arising hereunder, without the prior written consent of City. Any subcontractor or assignee will be bound by all of the terms and conditions of this Agreement.

**13. Ownership and Publication of Materials:** All reports, information, data, and other materials prepared by the Consultant pursuant to this Agreement are the property of the City. The City has the exclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. Any re-use without written verification or adaptation by the Consultant for the specific purpose intended will be at the City's sole risk and without liability or legal exposure to the Consultant. No material produced in whole or in part under this Agreement may be copyrighted or patented in the United States or in any other country without the prior written approval of the City.

**14. Liaison:** City's designated liaison with Consultant is **Andrew Finch** and Consultant's designated liaison with City is **John Juras**.

**15. Applicability:** This Agreement and any extensions hereof shall be governed and construed in accordance with the laws of the State of Montana.

**IN WITNESS WHEREOF**, the parties hereto have executed this instrument the day and year first above written.

**CITY OF GREAT FALLS, MONTANA**

**THOMAS, DEAN & HOSKINS, INC  
CONSULTANT**

By \_\_\_\_\_  
**Gregory T. Doyon, City Manager**

By \_\_\_\_\_  
**John Juras  
Sr. Municipal Engineer**

**ATTEST**

By \_\_\_\_\_  
**Lisa Kunz, City Clerk**

**APPROVED AS TO FORM**

By \_\_\_\_\_  
**David L. Nielsen, Interim City Attorney**

**Scope of Services**  
**Exhibit “A”**

The Project is generally described as follows:

River’s Edge Trail Maintenance Plan. To develop a planning and maintenance document to ensure continued safety and performance of the River’s Edge Trail.

**SECTION A - BASIC SERVICES OF CONSULTANT:**

1. The Consultant shall provide professional engineering services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as City's professional engineering representative for the Project, providing professional engineering consultation and advice and furnishing customary engineering services incidental hereto.
2. The City, in its discretion, may elect to perform or assist with any contracted tasks in lieu of the Consultant. In such event the City will provide the Consultant a written directive specifying particular services it will perform at least two weeks in advance of the time such services are intended to be performed.
3. The Consultant will specifically:
  - 1) Host a kickoff meeting with all stakeholders and team members.
    - a) Further define the roles and responsibilities of each team member in preparation of the plan.
    - b) Discuss sub-consultant input regarding their plan contributions and proposed focus areas via conference call.
    - c) Further refine tasks and final results of planning effort.
    - d) Document meeting results.
  - 2) Coordinate involvement of stakeholders and team members. Involve Bob Searns, trail sub-consultant, in appropriate work efforts.
  - 3) Collect, review and summarize existing maintenance documentation, reports, and procedures as needed to systemize future maintenance.
  - 4) Develop a public involvement plan and facilitate public input. A public hearing is not currently planned. Keep the public informed and give the public opportunities to have input to the Plan. Prepare and submit press release to help kick off the planning process.
  - 5) Set specific goals and standards for maintenance and level of service.

- 6) Identify boundaries of trail network to be included in the Plan. Add neighborhood trails if not already identified in a Parks Department Management Plan.
- 7) Identify who owns the land and who is responsible for trail maintenance for all segments of the trail network. Include a system wide map of trail network to document these areas.
- 8) Inventory trail improvements, building on City's GIS inventory system. Establish how inventory is to be maintained in the future. Assume actual inventory to be completed by other than paid TDH staffer.
- 9) Get agency input to document the staff and equipment they have available for trail maintenance. Target agencies include MT FWP, City Park and Recreation, and City Public Works.
- 10) Develop tasks, schedules, and responsible parties for maintenance tasks. Identify how tasks that are currently managed by TRI will be managed when Doug retires. Include single track trail segments in this task schedule.
- 11) Develop annual maintenance budget including staffing needs and funding mechanisms.
- 12) Inventory paving surface quality and provide recommendations for long term maintenance and capital improvements for major trail segments.
- 13) Propose realistic Plan implementation steps to help insure that the Plan gets integrated into agency activities.
- 14) Prepare and submit a draft of Plan for agency review, incorporate changes as required, and prepare a final draft to distribute to all parties.

## **SECTION B - TIME OF SERVICES:**

1. **Anticipated Completion**. The Consultant shall commence work immediately upon receipt of a Formal Notice to Proceed. Depending upon unforeseen events which may delay the Consultant in the startup and completion of the field investigations, the following is an estimated schedule for completion: We anticipate that if all involved individual provide their plan input in a timely manner that a draft of the Plan will be available for agency review by December 15, 2012. Final plan draft would then be completed by February 15, 2013.
2. **Timetable Revision and Withholding Compensation**. If the Consultant does not complete the services specified above by the tentative dates, and such delays are not



excused for unforeseeable reasons beyond the control of the Consultant, then compensation for services rendered in accordance with Section A of Scope of Services, Exhibit "A," may be withheld by the City until a revised timetable has been agreed upon by the City and Consultant.

**SECTION C - ADDITIONAL SERVICES OF CONSULTANT:**

1. **Services Requiring Authorization in Advance.** If authorized in writing by City, Consultant shall furnish or obtain from others Additional Services of the types listed herein. These services are not included as part of Basic Services and will be paid for by City on the basis of time and materials expended using the Rate Schedule in Exhibit "B."
  - 1.1 Services resulting from substantial changes in the general scope, extent or character of the Project or its design including, but not limited to, changes in size, complexity, City's schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other unforeseeable causes beyond Consultant's control.
  - 1.2 Detailed property surveys, certificates of survey, legal descriptions, permanent easements, plats, and maps not specified in the scope of work.
  - 1.3 Subsurface exploration or foundation investigations, including soils borings, test holes, or backhoe pits.
  - 1.4 Laboratory tests, material tests, disinfection testing, pressure testing, asphalt tests, concrete tests or gradation tests not already included in the Basic Services described herein.
  - 1.5 Preparing to serve or serving as a consultant or witness for City in any litigation, arbitration or other legal or administrative proceeding involving the Project; provided, however, that compensation for such services shall be performed at the hourly fee schedule shown in Exhibit "B."
  - 1.6 Any other additional services in connection with the Project requested by the City not otherwise provided for in this Agreement.

**COMPENSATION**  
**Exhibit “B”**

1. **Basic Engineering Services Compensation.** The City shall compensate the Consultant for basic engineering as set forth above and billing will be done as follows:

1.1 Consultant shall submit monthly statements for Services rendered and for Reimbursable Expenses incurred. Invoicing for work shall be based on the Scope of Services, Exhibit “A.”

1.2 City shall make prompt monthly payments in response to Consultant’s monthly statements. All such statements may be audited by the City, and the Consultant shall, upon request, furnish all files, field notes, accounting and payroll records, time sheets or any other documents to the auditor designated by the City.

2. **Miscellaneous Cost Items.**

2.1 The City will not pay percentage mark-up charges for reimbursable expenses except for work performed by pre-approved sub-consultants. The percentage mark-up for services performed by pre-approved sub-consultants shall not exceed 10%.

2.2 The City may not be billed for fax charges, regular postage, express delivery, local telephone charges, secretarial services, or other normal office overhead items. Such expenses shall be deemed overhead and applied to the hourly rate schedule for Engineering Services.

2.3 Long distance telephone charges related to professional services performed by the Consultant are reimbursable. Actual billing records delineating such charges furnished by the long distance carrier shall be maintained, and furnished to the City upon request pursuant to 1.2 above.

3. **Rate Schedule:** The Consultant’s hourly fee schedule is as follows: (see Table A).

## **City's Responsibilities** **Exhibit "C"**

The City shall do the following in a timely manner so as not to delay the services of the Consultant:

1. Provide all criteria and information as to City's requirements for the Project, including design objectives, performance requirements, time schedules, and budgetary limitations.
2. Examine all studies, reports, sketches, cost estimates, drawings, plans, and specifications in a timely manner and report to the Consultant any changes desired.
3. Designate the City's representative to work with the Consultant with authority to transmit instructions, receive information, and define City's policies and decisions with respect to services covered by this Agreement.
4. Provide necessary access for the Consultant to enter upon the Project site for performance of the Consultant's services under this Agreement.
5. Furnish to Consultant, as required for performance of Consultant's Basic Services, the following:
  - 5.1 Data prepared by or services of others, probings and subsurface explorations, hydrographic surveys, laboratory tests and analyses, and inspections of samples or materials.
  - 5.2 Appropriate professional interpretations of all of the foregoing.
  - 5.3 All available information pertinent to the Project including previous reports, drawings, photos, maps, and any other data relative to execution of the Project.
6. Give prompt written notice to the Consultant whenever the City observes or otherwise becomes aware of any deficiency in the Project or change to the site or scope of services which may substantially affect the Consultant's performance of services under this Agreement.