



# COUNCIL AGENDA

January 3, 2023 - 6 PM

The City Council will hold the meeting at the PC Community Center, to allow social distancing protocols as part of the City of Deer Lodge's Coronavirus (COVID-19) transmission mitigation efforts.

1. **Call Meeting to Order | Pledge of Allegiance**
2. **Public Comment** – Members of the audience may comment on any non-agenda items. State Statute limits the City Council from discussing any introduced items. The Council limits each person to three minutes to ensure there is sufficient time for all comments. The Council respects all comments and will have staff follow up any questions.
3. **Public Hearing**
  - a. None
4. **Approval of Minutes**
  - a. Regular Meeting: December 19, 2022
5. **Committee Reports (no report in packet will need verbal report from Chairpersons)**

a. City Council Operations – Rob Kersch	d. Public Health & Safety – Joseph Callahan
b. Finance Committee – Dick Bauman	f. Public Works – John Henderson
c. Economic Growth & Development – John Henderson	
6. **Board Reports**

a. Airport Board – Gordon Pierson	f. Landfill – Rob Kersch
b. Powell County Parks Board – Dick Bauman	g. Local Emergency Planning Committee – Dick Bauman
c. Chamber of Commerce – John Henderson	h. Library – John Molendyke
d. Headwaters RC&D – Joseph Callahan	i. Planning Board – Dick Bauman
e. Historic Preservation – Curt Fjelstad	j. Youth Board – Jackie Greenwood
7. **Continued Business (Continued or Tabled)**
  - a. 2<sup>nd</sup> Reading of Ordinance 2022-7: Dispensary Zoning – Jordan
8. **New Business** - The Council will act on each item after accepting public comments.
  - a. Treasurer's Report | December Claims – Stanley Glovan. Receive the informational report. Accept the recommendation from the Finance Committee and approve the claims.
  - b. MJD Final Pay Application for Drying Beds - Trent

**9. Schedule of Committee Meetings –** Tentative until confirmed by Committee Chairs.

- Economic Growth & Dev – January 4<sup>th</sup> at 4 PM
- Finance – January 3<sup>rd</sup> at 4PM
- Public Health & Safety – January 11<sup>th</sup> at 5 PM
- City Council Operations – January 9<sup>th</sup> at 5 PM
- Planning Board – January 17<sup>th</sup> at 10AM
- Council #2 – January 17<sup>th</sup> at 6 PM
- Public Works – January 24<sup>th</sup> at 5 PM

**10. Mayor and Council Concerns:** (ONLY Concerns that are not on Business Items). This is a time when Council Members or Mayor can bring a concern before the Council that is not otherwise listed on the Agenda. NO action can be taken at this time. If action is necessary, the item is put on the next meeting agenda.

**11. Next Meeting Announcement(s)**

- a. Tuesday, January 17, 2022, at 6 PM, Monday January 16<sup>th</sup> is a Holiday (Martin Luther King Jr. Day)

**12. Adjournment**

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**Deer Lodge City Council meets in the PC Community Center  
416 Cottonwood Ave, Deer Lodge, MT 59722  
For Further Information Contact: Cyndi Thompson, City Clerk  
cthompson@cityofdeerlodgemt.gov | 406.846.2238**

# CITY COUNCIL MINUTES

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The City Council met on December 19, 2022, at 6 PM | PC Community Center

**Members Present:** John Henderson, John Molendyke, Jackie Greenwood, Dick Bauman, Rob Kersch, Curt Fjelstad

**Members Absent:** Joseph Callahan, Gordon Pierson

**Mayor:** James Jess

**CAO:** Jordan Green

**Staff:** Trent Freeman, Peter Elverum, Stan Glovan, Kody Ryan, Brant Pierson

**Consultants** None

**Guests:** See sign in sheet

**1. Call Meeting to Order | Pledge of Allegiance.**

Mayor Jess called the meeting to order at 6 PM. All present recited the Pledge of Allegiance.

**2. Public Comment** - Members of the audience may comment on any non-agenda. State Statute prohibits the City Council from discussing any introduced item. The Council limits each person to three minutes to ensure there is sufficient time for all comments. The Council respects all comments and will have staff follow up any questions.

a. None

**3. Approval of Minutes**

a. Regular Meeting: December 5, 2022

Member Fjelstad motioned to approve as presented. Member Greenwood seconded the motion. 5 Ayes, 0 Nos, 2 Absent, 1 Abstained. Motion passed.

**4. Public Hearing.**

a. Adult-use and Medical Marijuana Dispensaries Zoning Regulations

i. Action Item: Vote on Ordinance 2022-7

The results of the ballot at the November 8, 2022, election prohibited marijuana transporter facilities within the city limits of the City of Deer Lodge but kept as authorized the following business types: cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, combined-use marijuana licensee, and testing laboratory.

City Council held a duly noticed public hearing on the recommended zoning changes at their regularly scheduled meeting on December 19, 2022, at 6:00 PM.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER LODGE MONTANA:

1. *The City of Deer Lodge Zoning Ordinance is amended to place adult-use dispensaries and medical marijuana dispensaries as identified in 16-12-301(1(d), MCA as conditional uses in the B-1, Central Business District and permitted uses in the B-2, Highway Business District.*
2. *A maximum of two (2) dispensaries, whether adult-use or medical, will be allowed to be licensed as a conditional use in the B-1, Central Business District.*
3. *A Zoning Permit is required for the issuance of a state license in accordance with 16-12-207(3(ii), MCA in order to obtain approval by local building, health, and fire officials.*
4. *All requirements of 16-12-207, MCA must be met for an adult-use or medical marijuana facility to operate in the zones authorized by this ordinance.*
5. *Ordinance #144 of the City of Deer Lodge is repealed in its entirety.*
6. *A copy of this zoning ordinance, and any future zoning ordinances pertaining to marijuana businesses, shall be delivered to the Department of Revenue for the purposes of providing the department the local approval criteria for adult-use and medical dispensary licenses.*
7. *Title 11: Land Use of the City of Deer Lodge Code of Ordinances is amended to include the zoning requirements of adult-use and medical marijuana dispensaries as listed in item 1 of the ordinance. The changes to Title 11 are attached to the Ordinance 2022-7 and are incorporated herein.*

Public Hearing Opened at: 6:08PM

Public Comments:

1. Greg Larkins: Thanked Mayor and CAO for not rushing this item. He attended several meetings discussing this topic and expressed his concerns at that time. Mr. Larkins feels his concerns were met and the City's concerns were met and currently approves Ordinance 2022-7.
2. Jackee Beck: She discussed her business proposal and her background in Hemp. She will be looking into placing a marijuana business here and is in favor of Ordinance 2022-7.
3. John Greenwood: What compromise would have been given to the Pro Cannabis Group had they lost the election. Mentioned tax money.

Public Hearing Closed at: 6:16PM

Member Kersch titled Ordinance 2022-7

**A ZONING ORDINANCE BY THE DEER LODGE CITY COUNCIL TO CREATE ZONING REQUIREMENTS FOR ADULT-USE AND MEDICAL MARIJUANA BUSINESSES, AS WELL AS PROVIDE LOCAL REQUIREMENTS FOR LICENSING OF SAID BUSINESSES PURSUANT TO 16-12-207, MCA.**

Council President Bauman motioned to approve Ordinance 2022-7 as presented. Member Kersch seconded the motion. 6 Ayes, 0 Nos, 2 Absent. Motion passed.

**5. Department Reports:** *Composed Reports are in the packets. Reports accepted as presented.*

a. CAO | b. Public Works | c. Police | d. Fire | e. Recreation Report



- 6. Mayor & Council Concerns:** (ONLY Concerns that are not on Business Items). This is a time when Council Members or Mayor can bring a concern before the Council that is not otherwise listed on the Agenda. NO action can be taken at this time. If action is necessary, the item is put on the next meeting agenda.
- a. Member Greenwood: She has been asked about recycle bins as there use to be one by the IGA. Mayor stated, it became to cost prohibited to have them come and pick up the bin.
  - b. Member Henderson Thank the public for showing up this evening.
  - c. Member Greenwood asked if we could gather the funds to have bust stop shelters made. Mayor stated this would need to be addressed with the School Board. Member Fjelstad stated as a bus driver, his kids usually get outside in enough time to make the bus.

- 7. Continued Business** - The Council will act on each item after accepting public comments.
- a. None

**8. New Business** (Old Business or Items Tabled)

- a. Approve Growth Policy Contract from Great West – Jordan  
Great West Agreement was presented and provided the Standard Provisions and Exhibit A (Scope of Work). Agreement states for Time and Materials, Agreement not to exceed \$40,000.  
Member Kersch motioned to approve the Great West Agreement as presented. Council President Bauman seconded the motion. 6 Ayes, 0 Nos, 2 Absent. Motion passed.

**9. Next Meeting Announcements**

- a. Regular Meeting – Tuesday January 3, 2023, 6:00PM- Monday January 2<sup>nd</sup> is a Holiday

**10. Adjournment**

Mayor Jess adjourned the meeting at 6:47PM.

Prepared By: Cyndi Thompson, City Clerk

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James Jess, Mayor

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Date

**ORDINANCE 2022-7**

**A ZONING ORDINANCE BY THE DEER LODGE CITY COUNCIL TO CREATE ZONING REQUIREMENTS FOR ADULT-USE AND MEDICAL MARIJUANA BUSINESSES, AS WELL AS PROVIDE LOCAL REQUIREMENTS FOR LICENSING OF SAID BUSINESSES PURSUANT TO 16-12-207, MCA.**

**IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER LODGE, MONTANA:**

WHEREAS, the citizens of the State of Montana voted to approve Constitutional Initiative 118 and Initiative No. 190 (I-190) in November 2020, which became effective January 1, 2021 and legalized recreational marijuana use and limited possession for adults over the age of 21 and provided a framework for commercial licensing, taxation, decriminalization, and expungement of criminal convictions related to marijuana amongst other provisions; and

WHEREAS, the Montana Legislature passed, and Governor Gianforte signed into law, House Bill 701 ("HB 701") which revised, amended, and supplemented the text of I-190 and established the Montana Regulation and Taxation Act (16-12-101, MCA et seq. (the "Act")); and

WHEREAS, a codified purpose of the Act pursuant to Section 37 amending Section 16-12-101(2j), MCA is to provide local governments authority to allow for the operation of marijuana businesses in their community and establish standards for the sale of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions; and

WHEREAS, Section 59 of the Act pursuant to Section 16-12-301, MCA, provides that to protect the public health, safety, or welfare, a local government may by ordinance or otherwise regulate a marijuana business that operates within the local government's jurisdictional area; and

WHEREAS Section 54 of the Act pursuant to Section 16-12-207, MCA, provides a locality may require marijuana businesses be a greater distance from schools and places of worship than required by state law; and

WHEREAS, Section Two, Part Three 76-2-301 et. Seq. of the Montana Code Annotated (MCA) authorizes the City of Deer Lodge to adopt and enforce local zoning regulations to promote the public health, safety, morals, and the general welfare of the community; and

WHEREAS, on December 5, 2011, the City of Deer Lodge City Council passed and adopted Ordinance #144, which provided restrictions so that the proximity of growing, processing, distribution, and/or any other commercial activity related to medical marijuana must be greater than 1,000 feet from certain uses within the City of Deer Lodge City Limits; and

WHEREAS, the City of Deer Lodge Planning Board has the responsibility to review zoning regulations for the City of Deer Lodge; and

WHEREAS, the Planning Board identified the need to determine the most adequate locations and local regulations of marijuana businesses to protect the health, safety, and general welfare of the City of Deer Lodge; and



WHEREAS, the Planning Board saw that Ordinance #144 contained language that referenced vacated MCA regulations related to medical marijuana, and saw the need to supersede this Ordinance and provide an update to the City of Deer Lodge regulations regarding marijuana facilities. FURTHER, after public input, the Planning Board recognized the value of adopting parts of the regulations of Ordinance #144 into the new regulations contained in this ordinance; and

WHEREAS, the Planning Board discussed the proposed regulations and zoning amendments at their September 20, 2021 meeting, and determined through a vote of four to zero with two absent to hold a public hearing to gather comments regarding the proposed regulations.

WHEREAS, the Planning Board held a duly noticed public hearing on October 18, 2021 to consider the proposed regulations and zoning amendment. FURTHER, the Planning Board after receiving a summary from the City Administrator/Planner, elected to forward the propositions to the City Council through a vote of five to zero with none absent; and

WHEREAS, the Deer Lodge City Council conducted a duly noticed public hearing at their regularly scheduled Council meeting on November 1, 2021 at 6:00 PM to accept comments regarding the proposed Ordinance 2021-9, which contained the propositions forwarded by the Planning Board from their October 18, 2021 meeting; and

WHEREAS, the Deer Lodge City Council, after receiving public comments, elected to table the recommended ordinance in favor of a revised ordinance with altered land use requirements. FURTHER, the City Council recognized the importance of adopting such an Ordinance as an Interim Zoning Ordinance to provide interim regulations while the City Council puts to an election by qualified electors in the municipality on whether to opt-out of approving marijuana businesses in accordance with 16-12-301, MCA.

WHEREAS, Interim Zoning Ordinance 2022-1, authorized by 76-2-306, MCA was passed on January 3, 2022 and placed the marijuana businesses as identified in 16-12-301(1(d), MCA as conditional uses in the B-1, Central Business District and B-2, Highway Business District, required a Zoning Permit for the approval of a marijuana business Conditional Use Permit, and required a distance of at least 1,000 feet as measured in a straight line from property line to property line from parks, day-cares, schools, postsecondary schools, and buildings used exclusively as a church, synagogue, or other place of worship. FURTHER, said Interim Zoning Ordinance 2022-1 was to be in effect until such a time as the electors of the City of Deer Lodge were allowed to vote on whether to permanently prohibit the marijuana businesses as identified in 16-12-301(1(d), MCA, as authorized by HB 701, at which time the City of Deer Lodge City Council would create a new Zoning Ordinance that regulates any marijuana businesses that were not prohibited by the electors of the City of Deer Lodge; and

WHEREAS, Resolution 2022-R-12, passed on March 21, 2022, submitted the issue to the electors of whether to permanently prohibit the categories of marijuana businesses at an election on November 8, 2022. FURTHER, said Resolution was also passed and signed by the Powell County Board of County Commissioners after the passage of the Resolution by the City Council; and

WHEREAS, the results of the ballot issue at the November 8, 2022 election prohibited marijuana transporter facilities within the city limits of the City of Deer Lodge, but kept as authorized the following business types: cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, combined-use marijuana licensee, and testing laboratory; and

WHEREAS, at their November 21, 2022 meeting, the City of Deer Lodge Planning Board discussed zoning requirements that could be recommended to the City Council for adult-use and medical marijuana dispensaries located within the city limits. FURTHER, the City of Deer Lodge Planning Board chose to recommend these decisions to the City Council through a vote of five for and none against with two absent; and

WHEREAS, the City Council discussed the recommendations from the Planning Board at their regular November 21, 2022 meeting and, with minor changes, chose through a vote of seven for and none against with one absent to hold a public hearing concerning the zoning changes as described herein; and

WHEREAS, the City Council held a duly noticed public hearing on the recommended zoning changes at their regularly scheduled meeting on December 19, 2022 at 6:00 PM.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER LODGE MONTANA:


1. The City of Deer Lodge Zoning Ordinance is amended to place adult-use dispensaries and medical marijuana dispensaries as identified in 16-12-301(1(d), MCA as conditional uses in the B-1, Central Business District and permitted uses in the B-2, Highway Business District.
2. A maximum of two (2) dispensaries, whether adult-use or medical, will be allowed to be licensed as a conditional use in the B-1, Central Business District.
3. A Zoning Permit is required for the issuance of a state license in accordance with 16-12-207(3(ii), MCA in order to obtain approval by local building, health, and fire officials.
4. All requirements of 16-12-207, MCA must be met for an adult-use or medical marijuana facility to operate in the zones authorized by this ordinance.
5. Ordinance #144 of the City of Deer Lodge is repealed in its entirety.
6. A copy of this zoning ordinance, and any future zoning ordinances pertaining to marijuana businesses, shall be delivered to the Department of Revenue for the purposes of providing the department the local approval criteria for adult-use and medical dispensary licenses.
7. Title 11: Land Use of the City of Deer Lodge Code of Ordinances is amended to include the zoning requirements of adult-use and medical marijuana dispensaries as listed in item 1 of this ordinance. The changes to Title 11 are attached to this Ordinance 2022-7 and are incorporated herein.



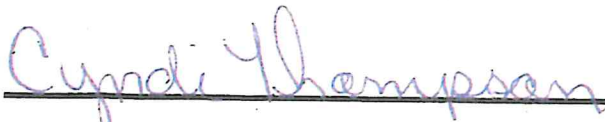
SEVERABILITY. If any selection, subsection, sentence, clause, phrase, or word of Ordinance 2022-7 is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance 2022-7 and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or words have been declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

Passed and approved by the City Council of the City of Deer Lodge, Montana on first reading at a regular Council meeting this 19<sup>th</sup> day of December, 2022.

Council Member	Yea	Nay	Abstain/Present	Absent
Dick Bauman   Council President	X			
Joseph Callahan				X
Curt Fjelstad	X			
Jackie Greenwood	X			
John Henderson	X			
Robert Kersch	X			
John Molendyke	X			
Gordon Pierson				X
James Jess   Mayor				

  
James Jess, Mayor

Attest:

  
Cyndi Thompson, City Clerk



Passed and approved by the City Council of the City of Deer Lodge, Montana on final reading at a regular Council meeting this 3<sup>rd</sup> day of January, 2023.

Council Member	Yea	Nay	Abstain/Present	Absent
Dick Bauman   Council President				
Joseph Callahan				
Curt Fjelstad				
Jackie Greenwood				
John Henderson				
Robert Kersch				
John Molendyke				
Gordon Pierson				
James Jess   Mayor				

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James Jess, Mayor

Attest:

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Cyndi Thompson, City Clerk

**The effective date of Ordinance 2022-7 is February 4, 2023**



## ATTACHMENT: AMENDMENTS TO TITLE 11: LAND USE

### § 11.01.200.020 USES.

(A) *Accessory uses.* A category not permitted to serve as the principal use. These uses are incidental to and customary in connection with the principal building or use and located on the same lot with such principal building or use.

Major home occupation	Conditional use
Outdoor seating	Permitted

(B) *Civic uses.* A category related to fulfilling the needs of day-to-day community life, congregation and social interaction. Retail space shall be in the front of the building and shall occupy a minimum of 25% of the gross floor area.

Assembly	Permitted
Fire/police	Permitted
Houses of worship	Permitted
Library/museum	Permitted
Post office	Permitted
Schools	Permitted
Uses requiring more than 5,000 square feet of gross floor area	Conditional use

(C) *Craftsman.* A category involving small scale manufacturing, production, assembly and/ or repair with little to no noxious by-products that includes a showroom or small retail outlet.

Brewery/distillery	Permitted
Contractor shop/yard	Conditional use
Fabrication	Permitted
Galleries	Permitted
Uses requiring more than 5,000 square feet of gross floor area	Conditional use
Woodworking	Permitted

(D) *Infrastructure uses.* A category for the provision of public and private infrastructure to support other uses. Infrastructure uses typically do not include a principal building.

Park/playground	Conditional use
Public/private utility and services	Conditional use
Surface parking as a principal use	Conditional use
Telecommunications towers and antennas	Conditional use

(E) *Office uses.* A category of businesses that involve the transaction of affairs of a profession, service, industry or government.

Residential and lodging: a category that include several residence types	
Motel/inn	Conditional use
Residential	Conditional use
Residential care	Conditional use
Uses requiring more than 5,000 square feet of gross floor area	Conditional use
Uses with drive-thru windows and/or service windows	Conditional use

(F) *Retail uses.* A category involving the sale of goods or merchandise to the public for personal or household consumption.

Liquor stores	Conditional use
Taverns and eateries (less than 5,000 square feet of gross floor area)	Permitted
Uses with drive-thru windows and/or service windows	Conditional use
Uses requiring more than 5,000 square feet of gross floor area	Conditional use
Uses typically found and associated with downtown	Permitted
Adult-use and Medical Marijuana Dispensaries (a total maximum of two (2) Dispensaries will be permitted. Issuance of a Zoning Permit required)	Conditional use

(Prior Code, § 11.01.200.020) (Ord. 2019-1, passed 4-1-2019; Ord. 2021-15, passed 12-20-2021; Ord. 2022-7, passed 1-3-2023, effective 2-4-2023)

#### **§ 11.01.210.020 PERMITTED USES.**

The following are permitted uses:

- (A) Adult-use and medical marijuana dispensaries (issuance of a Zoning Permit required)
- (B) Antique shops;
- (C) Art and music supply shops;
- (D) Barber and beauty shops;
- (E) Bars, taverns and cocktail lounges;
- (F) Bowling alleys;
- (G) Car washes;
- (H) Clinics;
- (I) Conditional uses as provided in [§ 11.01.210.090](#) and subject to conditions and requirements prescribed;
- (J) Equipment sales and services;
- (K) Food and drug stores;
- (L) Frozen food storage and locker rental;
- (M) Furniture stores;
- (N) Gasoline service stations;
- (O) Hotels and motels;
- (P) Hospitals;
- (Q) Laundries and dry-cleaning establishments;
- (R) Liquor stores;
- (S) Mortuaries;
- (T) Newspaper offices;
- (U) Nursing homes;
- (V) Open space;
- (W) Plant nurseries;
- (X) Post offices;
- (Y) Printing shops;
- (Z) Professional and business offices;



- (AA) Public buildings and uses;
- (BB) Research and development institutions;
- (CC) Restaurants, cafés and drive-in eating establishments;
- (DD) Shopping centers;
- (EE) Signs;
- (FF) Sporting goods stores;
- (GG) Temporary buildings for and during constructions only;
- (HH) Theaters;
- (II) Uses customarily accessory to those listed;
- (JJ) Vehicle and boat sales, showrooms and service areas;
- (KK) Veterinary clinics-small animal hospital; and
- (LL) Churches.

(Prior Code, § 11.01.210.020) (Ord. 2021-15, passed 12-20-2021; Ord. 2022-7, passed 1-3-2023, effective 2-4-2023)

December 21, 2022

VIA EMAIL

Mayor James Jess  
City of Deer Lodge  
300 Main Street  
Deer Lodge, MT 59722

RE: Landfill Drying Bed Project – Application for Payment #4 - FINAL

Dear James:

Enclosed for your action is Payment Request No. 4 from MJD Contracting for the Landfill Drying Bed project. This final Pay Request for this project covers the construction items on the Project from October 7, 2022 through November 17, 2022. This Pay Request shows project completion at 100%.

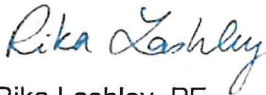
A Substantial Completion walkthrough was completed on October 7 and a Substantial Completion Certificate and punch list were prepared. The punch list items have been completed and release of the retainage minus gross receipts tax in the amount of \$11,045.92 is recommended at this time.

The closeout forms required by the construction contract, including Contractor's Certificate and Release and Surety's Consent to Final Payment were received from MJD Contracting and are also enclosed.

Everything appears in order to recommend approval of the final Pay Request No. 4 for processing. Payment of \$11,045.92 will need to be made to MJD Contracting, and \$111.58 to the State of Montana for the gross receipts tax.

Please contact me if you have any questions or need more information.

Sincerely,  
MORRISON-MAIERLE, INC.



Rika Lashley, PE  
Project Manager

Enclosure

Cc via Email: Alan Erickson, PE, CCM – Morrison-Maierle  
MJD Contracting

### Contractor's Application For Payment No. 4

Owner: City of Deer Lodge	Application Period: 10/7/2022 To 11/17/2022	Application Date: 12/12/2022
Project: Deer Lodge Drying Beds	From(Contractor): MJD Contracting, LLC.	Via(Engineer): Morrison Malerle
Owner's Contract No.	Contractor's Address: 12 Ponderosa Rd. Clancy, MT 59634	Contractor's Project No.: 22025
		Engineer's Project No.: 347.03401

Change Order Summary		
Approved Change Orders		
Number	Additions	Deductions
1	\$13,500.00	
<b>TOTALS</b>	\$13,500.00	\$0.00
	<b>NET CHANGE BY CHANGE ORDERS</b>	\$13,500.00

Payment Details	
1. ORIGINAL CONTRACT PRICE .....	\$ 209,650.00
2. Net change by Change Orders .....	\$ 13,500.00
3. CURRENT CONTRACT PRICE (Line 1 ± 2) .....	\$ 223,150.00
4. TOTAL COMPLETED AND STORED TO DATE .....	\$ 223,150.00
5. RETAINAGE:	
a. % x <u>\$223,150.00</u> Work Completed .....	\$0.00
b. <u>5%</u> x <u>\$0.00</u> Stored Material .....	\$0.00
c. Total Retainage (Line 5a + Line 5b) .....	\$0.00
6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c) .....	\$ 223,150.00
7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application) .....	\$ 211,992.50
8. AMOUNT EARNED THIS APPLICATION .....	\$ 11,157.50
9. LESS GROSS RECEIPTS TAX THIS APPLICATION(1%) .....	\$ 111.58
10. AMOUNT DUE THIS APPLICATION (Line 8- Line 9) .....	\$ 11,045.92
11. BALANCE TO FINISH, PLUS RETAINAGE .....	\$ -

**Contractor's Certification**

The undersigned Contractor certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

By: *Marty Logan*  
 (Contractor)

Date: 12/12/22

**Approval Section**

Payment of: \$ \_\_\_\_\_  
 (Line 10 or other - attach explanation of other amount)

Is recommended by: \_\_\_\_\_  
 (Engineer/Inspector)

(Date) \_\_\_\_\_

Payment of: \_\_\_\_\_  
 Line 10 or other -attach explanation of other amount

(Date) \_\_\_\_\_

Is approved by: \_\_\_\_\_  
 (Owner)

(Date) \_\_\_\_\_

Approved by: \_\_\_\_\_  
 Funding Agency

(Date) \_\_\_\_\_



**1**

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	MATERIAL STORAGE	
4	TOTAL WORK & MATERIAL STORAGE	\$ 223,150.00
5	% RETAINAGE	\$ -
6	TOTAL LESS RETAINAGE	\$ 223,150.00
7	PREVIOUS PAYMENTS	\$ 211,992.50
8	SUBTOTAL	\$ 11,157.50
9	STATE 1% TAX	\$ 111.58
10	PAYMENT DUE	\$ 11,045.92
11	REMAINING PLUS RETAINAGE	\$ -

## SURETY'S CONSENT TO FINAL PAYMENT

TO OWNER:  
City of Deer Lodge  
300 Main St  
Deer Lodge, MT 59722

ENGINEERS PROJECT NO.: 0347.034.01  
(Name and Address) Morrison Maierle-Helena

CONTRACT FOR: Landfill Drying Beds

CONTRACT DATED: 7/14/22

PROJECT (Name and Address): Landfill Drying Beds  
2324 Boulder River Rd  
Deer Lodge, MT 59722

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the (Insert Name and Address of Surety)

Markel Insurance Company  
4521 Highwoods Parkway  
Glen Allen, VA 23060

, SURETY

on bond of (Insert Name and Address of Contractor)

MJD Contracting, LLC  
12 Ponderosa Rd  
Clancy, MT 59634

, CONTRACTOR

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety of any of its obligations to (Insert Name and Address of Owner)

City of Deer Lodge  
300 Main Street  
Deer Lodge, MT 59722

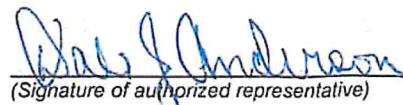
, OWNER,

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date: December 20, 2022  
(Insert in writing the month followed by the numeric date and year)

(SEAL)

Markel Insurance Company  
(Surety)

  
(Signature of authorized representative)

Attest: Stephanie L. Coolidge

Dale J. Anderson, Attorney-In-Fact  
(Printed name and title)

# JOINT LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That SureTec Insurance Company, a Corporation duly organized and existing under the laws of the State of Texas and having its principal office in the County of Harris, Texas and Markel Insurance Company (the "Company"), a corporation duly organized and existing under the laws of the state of Illinois, and having its principal administrative office in Glen Allen, Virginia, does by these presents make, constitute and appoint:

Timothy G Lightbourne, Dale J Anderson, Stephani L Cordeiro, Dianne Meinhardt

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on their own behalf, individually as a surety or jointly, as co-sureties, and as their act and deed any and all bonds and other undertaking in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

Fifty Million and 00/100 Dollars (\$50,000,000.00)

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolutions adopted by the Board of Directors of SureTec Insurance Company and Markel Insurance Company:

"RESOLVED, That the President, any Senior Vice President, Vice President, Assistant Vice President, Secretary, Assistant Secretary, Treasurer or Assistant Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the SureTec Insurance Company and Markel Insurance Company, as the case may be, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Markel Insurance Company and SureTec Insurance Company have caused their official seal to be hereunto affixed and these presents to be signed by their duly authorized officers on the 18th day of March, 2021.

SureTec Insurance Company

By:

Michael C. Keimig, President



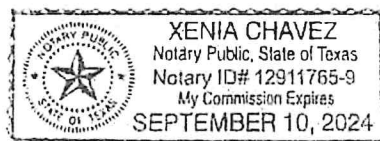
By:

Undey Jennings, Vice President

State of Texas  
County of Harris:

On this 18th day of March, 2021 A. D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICERS OF THE COMPANIES, to me personally known to be the individuals and officers described in, who executed the preceding instrument, and they acknowledged the execution of same, and being by me duly sworn, disposed and said that they are the officers of the said companies aforesaid, and that the seals affixed to the proceeding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and their signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of the said companies, and that Resolutions adopted by the Board of Directors of said Companies referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.



By:

Xenia Chavez, Notary Public  
My commission expires 9/10/2024

We, the undersigned Officers of SureTec Insurance Company and Markel Insurance Company do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, we have hereunto set our hands, and affixed the Seals of said Companies, on the 20th day of December, 2022.

SureTec Insurance Company

By:

M. Brent Beaty, Assistant Secretary

Markel Insurance Company

By:

Andrew Marquis, Assistant Secretary

## CONTRACTOR'S CERTIFICATE AND RELEASE

FROM: MJD Contracting, LLC

(Contractor)

TO: City of Deer Lodge

300 Main St

Deer Lodge, MT 59722

REFERENCE CONTRACT NUMBER 0347.034.01 entered into the 14th day of July,  
2022, between City of Deer Lodge (Owner) and MJD Contracting, LLC (Contractor) of  
Clancy, MT (City, State) for the purpose of Construction of Drying Beds (Type of Operation)  
within the Deer Lodge, MT (Limits of the City of {Project Location})

### KNOW ALL MEN BY THESE PRESENTS:

1. The undersigned hereby certifies that there is due from and payable by the City of Deer Lodge [Insert Owner's Name] to the Contractor under the Contract and duly approved Change Orders and modifications the balance of \$98,559.44.
2. The undersigned further certifies that in addition to the amount set forth in Paragraph 1, there are outstanding and unsettled the following items which he claims are just and due owing by the City of Deer Lodge. (Owner)

(a) Deposit state 1% on all pay requests \$2231.50

(b) \_\_\_\_\_

(c) \_\_\_\_\_

(d) \_\_\_\_\_

(Itemize claims and amounts due. If none, so state)

Is this noted correctly? I don't see this on other certs. Seems like these items would be things the City still owes the contractor, not other entities.



3. The undersigned further certifies that all work required under this Contract including work required under Change Orders numbered: 1,       ,       , and       , has been performed in accordance with the terms thereof, and that there are no unpaid claims for materials, supplies or equipment and no claims of laborers or mechanics for unpaid wages arising out of the performance of this Contract, and that the wage rates paid by the Contractor and all Subcontractors were in conformity with the Contract provisions relating to said wage rates.
4. Except for the amounts stated under Paragraphs I and II hereof, the undersigned has received from the City of Deer Lodge [Insert Owner's Name] all sums of money payable to the undersigned under or pursuant to the above-mentioned Contract or any modification or change thereof.
5. That in consideration of the payment of the amount stated in Paragraph I hereof the undersigned does hereby release the City of Deer Lodge [Insert Owner's Name] from any and all claims arising under or by virtue of this Contract, except the amount listed in Paragraph II hereof, provided, however, that if for any reason the City of Deer Lodge [Insert Owner's Name] does not pay in full the amount stated in Paragraph I hereof, said deduction shall be automatically included under Paragraph II as an amount which the Contractor has not released but will release the City of Deer Lodge [Insert Owner's Name] from any and all claims of any nature whatsoever arising out of said Contract or modification thereof, and will execute such further releases or assurances as the City of Deer Lodge [Insert Owner's Name] may request. Further, in consideration of the payment of the amount stated in Paragraph I hereof, the undersigned agrees to hold the City of Deer Lodge [Insert Owner's Name] harmless from any and all costs, liability or expense of any kind in any way arising out of the contract referenced herein, or any subcontracts awarded pursuant thereto.

IN WITNESS WHEREOF, the undersigned has signed and sealed this instrument this

20th day of December, 2022

MTD Contracting, LLC  
(Contractor)

Marty Logan  
(Signature)

Member  
(Title)

Marty Logan, being first duly sworn on oath, deposes and says, first, that

He is the Member of the MTD CONTRACTING, LLC  
(Title) (Name of Company)

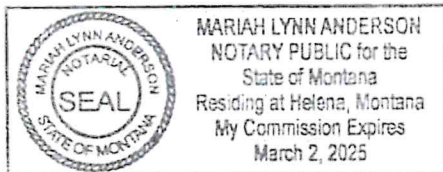
second, that he has read the foregoing certificate by him subscribed as Member  
(Title)

of the MJD Contracting, LLC  
(Name of Company)

Affiant further states that the matters and things stated therein are, to the best of his knowledge and belief, true.

[Signature]  
(Signature)

Subscribed and sworn to before me this 20<sup>th</sup>, day of December, 20 22.



My commission expires 03/02/2025

[Signature]  
(Notary)