



# Memo

To: Mayor and Hayden City Council

From: Dulci Kau, PE, City Engineer

Date: 4/23/2026

**Agenda Item: Approval of Welch Comer's Agreement to Review Legal Descriptions**

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## **Agenda Item Location**

Consent

## **Background and Recommended Action or Motion**

Staff needs this professional expertise to evaluate legal descriptions in coordination with property owners.

Staff recommends the City Council approve and authorize the Mayor to sign the Welch Comer and Associates, Inc., Lancaster Road Boundary agreement.

## **Fiscal Impact**

This agreement authorizes Welch Comer up to \$5,200 on a time and materials basis for services rendered.

## **Budget Funding Source / Transfer Request**

GL 110-411-53405 Special Projects Engineering Review

## **Attachment**

Welch Comer's Agreement to review legal descriptions.

## ENGINEERING SERVICES AGREEMENT

THIS ENGINEERING SERVICES AGREEMENT (“Agreement”) is made and entered into this \_\_\_ day of April, 2026 (“Effective Date”) by and between **THE CITY OF HAYDEN**, a political subdivision of the state of Idaho (“CITY”) and **Welch Comer and Associates, Inc.** (“ENGINEER”). The CITY and ENGINEER may be collectively referred to herein as the “parties” and individually referred to as a “party.” The promise and agreements of each being in consideration of the promises and agreements of the other. The parties agree as follows:

1. SCOPE OF WORK: The CITY engages ENGINEER to perform the work identified in the attached Exhibit A.

2. PAYMENT: The CITY agrees to pay ENGINEER for its services on rendered under this Agreement on a time and materials basis for said services rendered. The parties agree that ENGINEER will invoice the CITY for payment under this Agreement for services rendered herein and will create a separate task or item number for each service requested to simplify tracking shown in Exhibit A.

3. RIGHT OF CONTROL: The CITY agrees that it will have no right to control or direct the details, manner, or means by which ENGINEER accomplishes the results of the services performed hereunder. ENGINEER has no obligation to work any particular hours or days or any particular number of hours or days. ENGINEER agrees, however, that its other contracts or services shall not interfere with the performance of its services under this Agreement.

4. INDEPENDENT ENGINEER RELATIONSHIP: ENGINEER is an independent contractor and is not an employee, servant, agent, partner, or joint venturer of the CITY. The CITY shall determine the scope of work to be done by ENGINEER, but ENGINEER shall determine the legal means by which it accomplishes the work specified by the CITY.

5. FEDERAL, STATE, AND LOCAL PAYROLL TAXES: Neither federal, state or local income taxes, nor payroll taxes of any kind shall be withheld and paid by the CITY on behalf of ENGINEER or the employees of ENGINEER. ENGINEER shall not be treated as an employee with respect to the services performed hereunder for federal or state tax purposes. ENGINEER understands that ENGINEER is responsible to pay, according to law, ENGINEER's income tax. ENGINEER further understands that ENGINEER may be liable for self-employment (Social Security) tax to be paid by ENGINEER according to law.

6. LICENSES AND LAW: ENGINEER represents that it possess the skill and experience necessary and all licenses required to perform the services under this Agreement. ENGINEER further agrees to comply with all applicable laws in the performance of the services hereunder.

7. FRINGE BENEFITS: Because ENGINEER is engaged in its own independently established business, ENGINEER is not eligible for, and shall not participate in, any employee pension, health, or other fringe benefit plans of CITY.

8. WORKER'S COMPENSATION: ENGINEER shall maintain in full force and effect worker's compensation for ENGINEER and any agents, employees, and staff that the

ENGINEER may employ, and provide proof to the CITY of such coverage or that such worker's compensation insurance is not required under the circumstances.

9. EQUIPMENT, TOOLS, MATERIALS OR SUPPLIES: ENGINEER shall supply, at ENGINEER's sole expense, all equipment, tools, materials and/or supplies to accomplish the services to be provided herein.

10. EFFECTIVE DATE: The above set date shall be the Effective Date of this Agreement. The anticipated schedule is included in Appendix A.

11. WARRANTY: ENGINEER warrants that all services will be performed in a good workmanlike manner and in conformance with the standards established for Engineers in the state of Idaho. ENGINEER acknowledges that it will be liable for any breach of this warranty.

12. INDEMNIFICATION AND INSURANCE:

As respects to acts, errors or omissions in the performance of professional services, ENGINEER agrees to indemnify and hold harmless the CITY, its officers, employees, and the CITY's designated volunteers from and against any and all claims, demands, defense costs, liability or consequential damages of any kind or nature arising directly out of ENGINEER's negligent acts, errors or omissions in the performance of its professional services under the terms of this contract.

As respects all acts, errors or omissions which do not arise directly out of the performance of professional services including, but not limited to those acts or omissions normally covered by general and automobile liability insurance, ENGINEER agrees to indemnify, defend (at the CITY's option), and hold harmless the CITY, its officers, agents, employees, representatives, and volunteers from and against any and all claims, demands, defense costs, liability, or consequential damages of any kind or nature arising out of or in connection with ENGINEER's (or ENGINEER's subcontractors, if any) performance or failure to perform, under the terms of this contract; excepting those which arise out of the sole negligence of CITY.

Without limiting the CITY's right to indemnification, it is agreed that ENGINEER shall secure prior to commencing any activities under this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:

- a. Worker's compensation insurance as required by Idaho statutes.
- b. Comprehensive general liability insurance or commercial general liability insurance, including coverage for premises and operations, contractual liability, personal injury liability, products/completed operations liability, broad-form property damage (if applicable) and independent ENGINEER's liability (if applicable), in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, combined single limit, written on an occurrence form.
- c. Comprehensive automobile liability coverage including, as applicable, owned, non-owned and hired autos, in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, combined single limit, written on an occurrence form.

- d. Professional liability insurance coverage, including contractual liability, in an amount not less than One Million Dollars (\$1,000,000.00), and ENGINEER shall maintain such coverage for at least four (4) years from the termination of this Agreement; and during this four-year period, ENGINEER shall use ENGINEER's best efforts to ensure that there is no change of the retroactive date on this insurance coverage.

The CITY is hereby authorized to reduce the requirements set forth above in the event the CITY determines that such reduction is in the CITY's best interest.

Each insurance policy required by this Agreement shall contain the following clauses:

- a. This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to the Clerk of the CITY.
- b. It is agreed that any insurance maintained by the CITY shall apply in excess of and not contribute with insurance provided by this policy.

Each insurance policy required by this Agreement, excepting policies for worker's compensation and professional liability, shall contain the following clause:

The CITY, its officers, agents, employees, representatives and volunteers are added as additional insureds as respects operations and activities of, or on behalf of, the named insured, performed under contract with the CITY.

Prior to commencing any work under this Agreement, ENGINEER shall deliver to the CITY insurance certificates confirming the existence of the insurance required by this Agreement, and including the applicable clauses referenced above. Also, within thirty (30) days of the execution date of this Agreement, ENGINEER shall provide to CITY endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. Said endorsements shall be signed by an authorized representative of the insurance company and shall include the signature's company affiliation and title. Should it be deemed necessary by the CITY, it shall be ENGINEER's responsibility to see that the CITY receives documentation acceptable to the CITY which sustains that the individual signing said endorsements is indeed authorized to do so by the insurance company. Also, the CITY has the right to demand, and to receive within a reasonable time period, copies of any insurance policies required under this Agreement.

In addition to any other remedies the CITY may have if ENGINEER fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, the CITY may, at its sole option:

- a. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- b. Order ENGINEER to stop work under this Agreement and/or withhold any payment(s) which become due to ENGINEER hereunder until ENGINEER demonstrates compliance with the requirements hereof.
- c. Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies the CITY may have and is not the exclusive remedy for ENGINEER's failure to maintain insurance or secure appropriate endorsements.

Nothing herein contained shall be construed as limiting in any way the extent to which ENGINEER may be held responsible for payments of damages to persons or property resulting from ENGINEER's, or its subcontractor's, performance of the work covered under this Agreement.

13. NONDISCRIMINATION: ENGINEER, for itself and its successors and assigns, agrees that in the performance of services provided for in this Agreement, ENGINEER will not unlawfully discriminate against any employee or applicant for employment because of age, race, handicap, color, creed, religion, sex, marital status, ancestry, or national origin.

14. CONFLICT OF INTEREST: ENGINEER warrants that it presently has no interest and will not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its services hereunder. ENGINEER further covenants that, in performing this Agreement, it will employ no person who has any such interest. Should any conflict of interest arise, it will be disclosed and managed accordingly.

15. OWNERSHIPS: All work performed by ENGINEER on behalf of the CITY shall become the property of the CITY upon payment by the CITY for the services, including but not limited to electronic data and data compiled for the purpose of generating the final work product. The CITY shall have the right to use the data without obtaining prior approval by the ENGINEER.

16. NONWAIVER: Failure of either party to exercise any of the rights under this Agreement, or breach thereof, shall not be deemed to be a waiver of such right or a waiver of any subsequent breach.

17. CHOICE OF LAW: Any dispute under this Agreement, or related to this Agreement, shall be decided in accordance with the laws of the state of Idaho.

18. ENTIRE AGREEMENT: This is the entire agreement of the parties and can only be modified or amended in writing by the parties.

19. SEVERABILITY: If any part of this Agreement is held unenforceable, the remaining portions of the Agreement will nevertheless remain in full force and effect.

20. ATTORNEY FEES: Reasonable attorney fees shall be awarded to the prevailing party in any action to enforce this Agreement or to declare forfeiture or termination of this Agreement.

21. CERTIFICATION CONCERNING BOYCOTT OF ISREAL: Pursuant to Idaho Code section 67-2346, if payments under the Contract exceed one hundred thousand dollars and CONSULTANT employs ten or more persons, CONSULTANT certifies that it is not currently engaged in, and will not for the duration of the Contract, engage in a boycott of goods or services from Israel or territories under it's control. The terms in this section defined in Idaho Code section 67-2346 have the meaning defined therein.

22. CERTIFICATION THAT COMPANY IS NOT CURRENTLY OWNED OR OPERATED BY THE GOVERNMENT OF CHINA: Pursuant to Idaho Code section 67-2359, CONSULTANT certifies that the company is not currently owned or operated, and will not for the duration of the contract be owned or operated by the government of China. The terms defined in Idaho Code section 67-2359 shall have the meaning defined therein.

23. NOTICES: Any and all notices required or permitted to be given under this Agreement will be sufficient if furnished in writing, hand delivered, or sent by registered or certified mail to:

To the City: City of Hayden  
Attn: Lisa Ailport, City Administrator  
8930 N. Government Way  
Hayden, Idaho 83835  
Telephone: (208) 772-4411  
Facsimile: (208) 772-6522  
E-mail: [lailport@haydenid.gov](mailto:lailport@haydenid.gov)

With a copy to: Fonda Jovick  
Lake City Law  
435 W Hanley Avenue, Suite 101  
Coeur d'Alene, Idaho 83815  
Telephone: (208) 664-8115  
Facsimile: (208) 664-6338  
E-mail: [fjovick@lclattorneys.com](mailto:fjovick@lclattorneys.com)

To Engineer: Welch Comer & Associates, Inc.  
Attn: Mike Hathaway, P.L.S.  
330 E. Lakeside, Suite 101  
Coeur d'Alene, Idaho 83815  
Telephone: (208) 644-9382  
E-mail: [mhathaway@welchcomer.com](mailto:mhathaway@welchcomer.com)

IN WITNESS WHEREOF, the parties have made and entered into this Agreement as of the Effective Date first above written.

The parties have executed this Agreement as of the Effective Date.

CITY

ENGINEER

CITY OF HAYDEN

By: \_\_\_\_\_  
Alan Davis, Mayor

By: \_\_\_\_\_  
Mike Hathaway, P.L.S., Survey Manager

ATTEST:

\_\_\_\_\_  
Abbi Sanchez, City Clerk

**EXHIBIT A**  
**Scope of Work and Fees**  
**Hayden Lancaster Road Document Review**

The City of Hayden request Welch Comer to perform a review of the Marks Ranch, INC.,/R&K Development vs. City of Hayden Kootenai County District Court Case No. CV28-26-0874

**I. Services of Engineer:**

A. Survey:

- a) Consultant shall provide professional land surveying services to assist the City in evaluating boundary and right-of-way issues associated with the pending litigation concerning Lancaster Road and the disputed area identified therein. Services may include review of court filings, deeds, plats, historical road records, annexation materials, prior surveys, monumentation, and related record and field evidence; analysis of historical and current roadway and right-of-way locations; and preparation of exhibits, maps, and written technical opinions regarding boundary and right-of-way location. Consultant’s services are strictly limited to surveying services. Consultant shall not render legal opinions or determine ownership, title, annexation validity, or the legal effect of recorded instruments or court pleadings. All legal conclusions and ownership determinations shall be made solely by the City’s legal counsel or the court. The primary goal is to identify the 1.9 acre area identified in the Case documents.

B. Limitation of Services:

- a) Consultant’s services are limited to professional land surveying services. Consultant shall not provide legal advice or render legal opinions concerning ownership, title, annexation validity, the legal effect of recorded instruments, the legal effect of court pleadings, or the ultimate resolution of the dispute. Consultant may review title-related and litigation-related materials solely for the purpose of locating, retracing, and evaluating boundaries, rights-of-way, and other survey-relevant interests. Any determination of ownership, title, legal rights, or legal effect shall be made solely by the City’s legal counsel or by a court of competent jurisdiction.

**II. Payments to Engineer for Services:**

- A. City shall pay ENGINEER for the services identified herein the following as lump sum and hourly plus expenses amounts as noted below.

	<b>Hourly NTE</b>
Survey Services	\$5,200

- a) The portion of the compensation amount billed monthly for Consultant's services will be based upon Consultant's estimate of the percentage of the total services actually completed during the billing period.

- b) An amount equal to the cumulative hours charged to the Project by Engineer's employees times standard hourly rates for each applicable billing class, plus reimbursement of expenses incurred in connection with providing the Services.
- c) Engineer's Standard Hourly Rates are attached as Appendix 1.
- d) Engineer's Reimbursable Rate Schedule is attached as Appendix 2.

**III. Schedule:**

- A. The report will be submitted within 30 days of an executed agreement.

**Standard Hourly Rates Schedule**

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**A. Standard Hourly Rates:**

Standard Hourly Rates are set forth in this Appendix 1 to this Exhibit C and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit. The Standard Hourly Rates Schedule will be adjusted annually to reflect equitable changes in the compensation payable to Engineer per Exhibit C.

The Standard Hourly Rates apply only as specified in Article C2.

**B. Schedule:**

Hourly rates for services performed on or after the date of the Agreement are:

Special Services	\$275.00/hour
Special Services – Accounting	190.00/hour
Expert Witness	300.00/hour
Public Involvement Specialist	125.00/hour
Principal Engineer III	310.00/hour
Principal Engineer II	295.00/hour
Principal Engineer I	260.00/hour
Construction Services Manager	250.00/hour
Construction Services Project Manager	160.00/hour
Sr. Project Manager	240.00/hour
Project Manager	215.00/hour
Engineer VII	270.00/hour
Engineer VI	215.00/hour
Engineer V	200.00/hour
Engineer IV	185.00/hour
Engineer III	165.00/hour
Engineer II	155.00/hour
Engineer I	145.00/hour
Engineering Assistant	80.00/hour
Sr. Engineer Tech III	150.00/hour
Sr. Engineer Tech II	145.00/hour
Sr. Engineer Tech I	130.00/hour
Engineering Technician	118.00/hour
Environmental Scientist	130.00/hour
Survey Manager	255.00/hour
Professional Land Surveyor II	205.00/hour
Professional Land Surveyor I	200.00/hour
Crew Chief II	150.00/hour
Crew Chief I	135.00/hour
Crew Member	118.00/hour
Survey Technician II	135.00/hour
Survey Technician I	130.00/hour
GIS Manager	165.00/hour
GIS Technician II	130.00/hour
GIS Technician I	115.00/hour
Engineering Designer I	155.00/hour
CAD Technician IV	145.00/hour
CAD Technician III	125.00/hour
CAD Technician II	120.00/hour
CAD Technician I	115.00/hour
Sr. Project Administrator	130.00/hour
Project Administrator	110.00/hour
Sr. Administrative Assistant	90.00/hour
Administrative Assistant	80.00/hour
No Charge Services	0.00/hour

**Reimbursable Expenses Schedule**

Reimbursable Expenses will be adjusted annually to reflect equitable changes in the compensation payable to Engineer per Exhibit C. Rates and charges for Reimbursable Expenses as of the date of the Agreement are:

Letter/Legal Size Copies/Impressions (B/W)	\$0.10/page
Double Sided Letter & Legal Size Copies/Impressions (B/W)	\$0.13/page
Double Sided Letter & Legal Size Copies/Impressions (Color)	\$0.99/page
Ledger Size Copies/Impressions (B/W)	\$0.20/page
Double Sided Ledger Size Copies/Impressions (B/W)	\$0.25/page
Double Sided Ledger Size Copies/Impressions (Color)	\$1.98/page
Cardstock Copies/Impressions (B/W)	\$0.31/page
Letter/Legal Cardstock Copies/Impressions (Color)	\$0.99/page
Ledger Size Copies/Impressions (Color)	\$1.03/page
Color Transparency	\$2.49/page
Plot on Paper B&W (18" x 24")	\$0.90/sheet
Plot on Paper Color (18" x 24")	\$4.50/sheet
Plot on Paper B&W (18" x 27 ")	\$0.90/sheet
Plot on Paper Color (18" x 27 ")	\$4.50/sheet
Plot on Photo Paper/Mylar (18" x 27")	\$8.25/sheet
Plot on Paper B&W (22" x 34")	\$1.80/sheet
Plot on Paper Color (22" x 34")	\$9.00/sheet
Plot on Paper B&W (22" x 36")	\$1.80/sheet
Plot on Paper Color (22" x 36")	\$9.00/sheet
Plot on Paper B&W (24" x 36")	\$1.80/sheet
Plot on Paper Color (24" x 36")	\$9.00/sheet
Plot on Paper B&W (30" x 42")	\$2.70/sheet
Plot on Paper Color (30" x 42")	\$13.50/Sheet
Plot on Paper B&W (34" x 44")	\$3.30/sheet
Plot on Paper Color (34" x 44")	\$16.50/sheet
Plot on Paper B&W (36" x 48")	\$3.60/sheet
Plot on Paper Color (36" x 48")	\$18.00/sheet
Plot on Paper B&W (36" x 120")	\$9.00/sheet
Plot on Paper Color (36" x 120")	\$45.00/sheet
Water Pressure Recorder	\$35.00/day
Mileage (auto)	Per Federal Rate
Meals and Lodging	Per Diem Rate
Mobile Lidar Scanner	\$1,500/hr
Navvis Ivion Cloud Processing	\$0.50/foot
UAV Flight	\$75/each
Drone Survey Software	\$450.00/each
Topo Feature Extraction Software	\$40.00/hour
Aerial Lidar	\$3,500/day
GPS Per Hour Billing	\$35.00/hour
GPS Per Hour Billing – Base and Rover	\$70.00/hour
Robotics Hourly Billing – 1 Man	\$70.00/hour
Digital Level	\$15.00/hour

**Scope of Work**