

**Memorandum of Agreement Among the Idaho Department of
Environmental Quality, the Idaho State Historic Preservation Office,
and the City of Lewiston Regarding the City of Lewiston Drinking
Water Improvements Project**

WHEREAS, the Idaho Department of Environmental Quality (IDEQ) plans to fund the City of Lewiston (City) Drinking Water Improvements Project (undertaking) in Nez Perce County, Idaho pursuant to Chapter 36, Title 39, Idaho Code and the Rules of Administration of Drinking Water Loan Program, IDAPA 58.01.20; and

WHEREAS, IDEQ has conducted the State Environmental Review Process (SERP) of the City's application pursuant IDAPA 58.01.20.042, and as described in Section 106 of the National Environmental Policy Act (NEPA) and 40 CFR Part 6, and determined that the City undertaking has an area of potential effects (APE) as described in **Attachment A**; and

WHEREAS, The Idaho State Historic Preservation Office (SHPO) has determined that the undertaking which is described in **Attachment A** to this Memorandum of Agreement (MOA) will have an adverse effect on the Lewiston Water Filtration Plant (IHSI No. 69-18222), and the Administrative Office Building in the SS-1c project area, properties determined to be eligible for inclusion in the National Register of Historic Places (NRHP); and

WHEREAS, the IDEQ consulted SHPO pursuant to 36 CFR Part 800 regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108), and notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect finding with specified documentation and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the IDEQ, in consultation with the SHPO, has determined that the undertaking's adverse effects cannot be avoided, and that implementation of the treatments set forth in Stipulation II of this MOA will satisfactorily take into account the undertaking's adverse effects on the historic property; and

WHEREAS, the IDEQ, the SHPO, and the City of Lewiston with concurring partner Lewiston Historical Preservation Commission (LHPC) have agreed to be signatories to the MOA, and

WHEREAS, the IDEQ, the SHPO, and the City of Lewiston with concurring partner LHPC previously entered into a MOA on 31 March 2020 to address the undertaking's adverse effects on the historic property; and

WHEREAS, the IDEQ, the SHPO, and the City of Lewiston with concurring partner LHPC has terminated and replaced the 31 March 2020 MOA with the current MOA, and

NOW, THEREFORE, the IDEQ, SHPO, and the City agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties, and further agree that these stipulations shall govern the undertaking and all of its parts until this MOA expires or is terminated.

STIPULATIONS

The IDEQ shall ensure that the following stipulations are carried out:

1. Definitions

The definitions provided at 36 CFR § 800.16 are applicable throughout this MOA.

2. Treatment of the Historic Property

As mitigation for the adverse effects resulting from this project, the City of Lewiston will complete the following:

- A. Within five (5) years of filing the signed agreement, IDEQ will coordinate with Idaho SHPO, City of Lewiston, and the LHPC to develop a Historic Preservation Plan for the City of Lewiston. The Historic Preservation Plan will help guide the City of Lewiston in decisions regarding historic properties and provide guidance on future preservation priorities.
 1. The preservation plan will be prepared by a professional who meets the Secretary of Interior's Professional Standards for "Historic Preservation Planning."
 2. Prior to Initiation of the historic preservation planning process, the professional will meet with the Idaho SHPO's Historic Preservation Planner and Outreach Historian to confirm expectations and develop a schedule.
 3. The Idaho SPHO will review and approve the draft and final preservation plan prior to adoption by the City of Lewiston.

Draft products shall be submitted to the SHPO for approval and acceptance upon completion, not later than 48 months from the date the last signatory executes this MOA. The IDEQ shall be notified upon submission to the SHPO.

3. Administrative Provisions

A. Confidentiality

The parties to this MOA acknowledge that historic properties covered by this MOA are subject to the provisions of Section 304 of the National Historic Preservation Act of 1966 relating to the disclosure of site information and, having so acknowledged, will ensure that all actions and documentation prescribed by this MOA are consistent with Section 304 of the National Historic Preservation Act of 1966.

B. Resolving Objections

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, IDEQ shall consult with such party to resolve the objection. If the IDEQ determines that such objection cannot be resolved, the IDEQ will:

1. Forward all documentation relevant to the dispute, including the IDEQ's proposed resolution, to the ACHP. The ACHP shall provide the IDEQ with its

advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, IDEQ shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories, and concurring parties, and provide them with a copy of the IDEQ's written response. IDEQ will then proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, IDEQ may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, IDEQ shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them to the ACHP with a copy of such written response.

C. Amendments

If a signatory determines the terms of the MOA cannot be met, or a change in Attachment A results in a change to the adverse effect and removal of Stipulation 2, or that a change is necessary to meet the requirements of the law, that signatory will immediately request that the consulting parties consider an amendment or addendum. Any necessary amendment or addendum will be executed as defined in the 36 CFR 800 regulations. This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with ACHP.

D. Termination

If any signatory determines that the terms of this MOA cannot be or are not being carried out, the signatories shall consult to seek amendment of the agreement. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories. Once the MOA is terminated, and prior to work continuing on the undertaking, IDEQ must either (a) execute a MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to comments of the ACHIP under 36 CFR § 800.7. IDEQ shall notify the signatories as to the course of action it will pursue.

E. Effective Period

This MOA shall be effective upon its execution by the last signatory and shall remain in effect, unless terminated, suspended, or amended, for a period of five (5) years.

EXECUTION of this MOA by the IDEQ and the SHPO, its transmittal to the ACHP in accordance with 36 CFR §800.6(b)(1)(iv), and subsequent implementation of its terms, shall evidence, pursuant to 36 CFR §800.6(c), that this MOA is an agreement with ACHP for purposes of Section 110(l) of the National Historic Preservation Act of 1996, and shall further evidence that the IDEQ has afforded the ACHP an opportunity to comment on the undertaking and its effects on

historic properties, and that the IDEQ has taken into account the effects of the undertaking on historic properties.

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SIGNATORY:

IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY

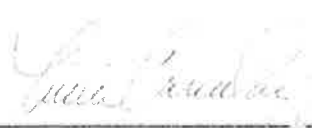
BY: Jess Byrne
Jess Byrne – Director, Idaho Department of Environmental Quality

3/1/2021
(Date)

Memorandum of Agreement Among the Idaho Department of Environmental Quality, the Idaho State Historic Preservation Office, and the City of Lewiston Regarding the City of Lewiston Drinking Water Improvements Project

SIGNATORY:

IDAHO STATE HISTORIC PRESERVATION OFFICE

BY: 
Tricia Canaday, Deputy Historic Preservation Officer

Digitally signed
by Tricia
Canaday
Date: 2021.02.09
09:31:15 -07'00'

(Date)

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SIGNATORY:

CITY OF LEWISTON

BY: Christopher Davies
Christopher Davies, Public Works Director

02-09-2021
(Date)

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SIGNATORY:

CITY OF LEWISTON HISTORICAL PRESERVATION COMMISSION

BY: Michelle D. Bly
Michelle Bly, Chair, City of Lewiston Historical Preservation Commission

February 9, 2021
(Date)

Memorandum of Agreement Among the Idaho Department of Environmental Quality, the Idaho State Historic Preservation Office, and the City of Lewiston Regarding the City of Lewiston Drinking Water Improvements Project

ATTACHMENT A

The City of Lewiston, Idaho, (City) has proposed to improve their drinking water system by upgrading existing facilities and constructing groundwater wells and storage reservoirs. The Idaho Department of Environmental Quality (IDEQ) State Revolving Fund (SRF) Loan Program is providing a loan to the City for their Drinking Water Improvements Project. The SRF Program receives federal grant monies annually from the U.S. Environmental Protection Agency (EPA) to fund drinking water and wastewater infrastructure projects in Idaho. Federal monies will be allocated to the City's Drinking Water Improvements Project; therefore IDEQ must administer their State Environmental Review Process (SERP) as it pertains to drinking water and waste water projects funded by State Revolving Fund. This process was delegated to IDEQ by the EPA.

The proposed improvements are in three separate locations. First, the existing water filtration plant (SS-1c) at 2901 Railroad Street, located adjacent to the Clearwater River, will be upgraded. A new membrane filtration unit will replace the existing filter within the existing building. The existing administration building will be replaced by a building to house membrane cleaning chemical systems and electrical control equipment. An architectural survey was conducted in that area and the Lewiston Water Filtration Plant site (IHSI No. 69-18222) was recorded. A second component of the project involves improvements in the vicinity of the existing 2-million gallon South High Reservoir (SS-3: Well No. 7) east of 6th Street where a new well, wellhouse, and piping may be constructed. An architectural survey was conducted and the South High Reservoir site (IHSI No. 69-18223) was recorded. An archeological survey was conducted in that area, including the vicinity of the new well and wellhouse east of Nez Perce Grade, and the proposed land acquisition area. No archaeological resources were encountered. The third component of the project involves the construction of a new storage reservoir (WS-1) north of Warner Avenue. An archaeological survey was conducted in that area. No archaeological resources were encountered.

An architectural survey was conducted and two historic architectural sites (IHSI No. 69-18222 and IHSI No. 69-18223) were recorded. Of these, the Filtration Plant Building and Administrative Office Building at the site of 69-18222 are recommended eligible for the NHRP. The Filtration Plant Building and Administration Office Building are proposed for demolition, which will result in an adverse effect to the historic property.

