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MONTANA THIRTEENTH JUDICIAL DISTRICT COURT
YELLOWSTONE COUNTY

LAUREL CARED, Plaintiff, vs. STATE OF MONTANA, Defendant.	Cause No.: DV-56-2026-0000855-DK Judge: Hon. Ed Zink **MOTION FOR LEAVE TO FILE *AMICUS* BRIEF AND BRIEF IN SUPPORT** *OPPOSED BY STATE OF MONTANA*

The City of Laurel ("Laurel") respectfully requests leave of Court to participate in this matter as *Amicus Curiae*. Laurel has contacted counsel for all parties regarding this Motion. Plaintiff Laurel CARED consents. The Board of Investments and the Department of Public Health and Human Services on behalf of the State of Montana object.

While the Montana Rules of Civil Procedure "neither provide for nor prohibit the use of briefs by amicus curiae in district courts," courts may grant leave to file in their discretion. *Eberl v. Scofield* (1990), 244 Mont. 515, 520, 798 P.2d 536, 539. The Montana Supreme Court has stated that "[t]he right to be heard as amicus curiae is within the discretion of the court." *Id.*, 798

P.2d at 539 (citing *State v. Bonner* (1950), 123 Mont. 414, 420–21, 214 P.2d 747, 751).

At issue in this case is the Revised Final Environmental Assessment ("EA") prepared by the State for a forensic mental health facility ("Facility") located just outside the city limits of Laurel. Plaintiff Laurel CARED has filed an *Amended Complaint* in this matter, Dock. No. 54, challenging the EA under the Montana Environmental Policy Act ("MEPA"), alleging in part that the Revised EA still fails to adequately address water demand, water-system capacity and pressure, and the availability of municipal utility services. *Id.*, ¶ 3. Laurel submitted written comments as to the Revised EA which can be found as part of the record for the Revised EA at: hb5.mt.gov/_MEPA_9.18.2026/Appendix_K_PC_3.pdf beginning at page 85.

Plaintiff Laurel CARED has also filed a *Second Motion for Temporary Restraining Order and Preliminary Injunction*, Dock. No. 49 and a *Brief in Support*, Dock. No. 50, on the basis that the Revised EA relies on conditional, incomplete and future-dependent information to reach categorical conclusions that water is sufficient and municipal service is available.

According to the Revised EA, Laurel has sufficient water to provide municipal service to the Facility. Laurel's submitted written comments to the Revised EA do not support the Revised EA's conclusion. Laurel is also aware that the State has filed a motion to supplement the Revised EA record to include a letter to Laurel from the Long-Range Planning Interim Budget Committee dated October 9, 2026 which Laurel responded to on October 9, 2026.

Laurel seeks the Court's approval to file an *amicus* brief to fully inform the Court of the issues regarding City's ownership, operation, planning, and capacity of municipal water and wastewater systems; the extension of municipal services outside City limits; annexation; the effect of existing and approved development upon present and future infrastructure capacity; water-supply reliability, pressure, storage, fire flow, wastewater capacity, and capital needs; the

Montana Environmental Policy Act and environmental review of impacts upon municipal systems and governmental functions; eminent domain or other claimed authority affecting City property, utility systems, water rights, easements, or services; fiscal and public-safety impacts; and the respective powers and responsibilities of the State of Montana and municipalities under Montana law as previously outlined in the City's written public comment and attachments that were submitted on September 15, 2026, as well as to address the October 9, 2016 Letter from the Long-Range Planning Interim Budget Committee and the City's response to that Letter. As such, Laurel has a strong interest in the ensuring record upon which the Revised EA prepared by the State the Facility located just outside the city limits of Laurel is examined by this Court consistent with the law. Laurel does not take and will not take a position on the injunctive relief arguments presented to this Court.

Laurel respectfully requests that the Court, in its discretion, allow the filing of an *amicus* brief in this action addressing the administrative record, the Revised EA and the assertions of the parties interpreting the same in any existing and other motions filed by the parties. For the Court's convenience, a proposed Order accompanies this Motion.

Respectfully submitted this 16th day of October, 2026.

/s/ ***Susan B. Swimley***
Attorney for City of Laurel

/s/ ***Tara DePuy***
Attorney for City of Laurel

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 35, I hereby disclose that I used spell check in Word (non-generative AI) to edit this brief. I certify that every citation to law and the record has been verified as accurate.

DATED this 16th day of October, 2026.

/s/ ***Susan B. Swimley***
Attorney for City of Laurel

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2026, a copy of the foregoing document was served on the following person by the following means:

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I, Susan Brooks Swimley, hereby certify that I have served true and accurate copies of the foregoing Motion - Motion for Leave to File to the following on 10-16-2026:

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