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**TO: KEN WEAVER
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DATE: February 14, 1996

FAX NO: 1-406-994-1905

ATTENTION:

TELEPHONE:

NUMBER OF PAGES (Including this cover sheet): 19

SENT BY: LAWRENCE H. SVERDRUP

TELEPHONE:

MESSAGE

Re: Enclosed is a copy of the Final Report for your files. Thank you.

If there are any errors in transmission, please call (406) 293-3761

FINAL REPORT

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- Exhibit A: Certificate of plan of existing form of government.
- Exhibit B: Certificate establishing the election date.
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I. LETTER TO CITIZENS OF LINCOLN COUNTY

To the Citizens of Lincoln County:

The Lincoln County Study Commission, elected by the voters on November 8, 1994, present this final report to the citizens of Lincoln County.

The purpose of this study commission, as defined by state law, is "to study the existing form and powers of the local government and procedures for delivery of local government services and to compare them with other forms available under the laws of the state." After completing these two phases of the study it is the responsibility of the study commission to submit a report recommending no change, or propose an amendment to the existing form of government or offer an alternative form of government to the qualified electors.

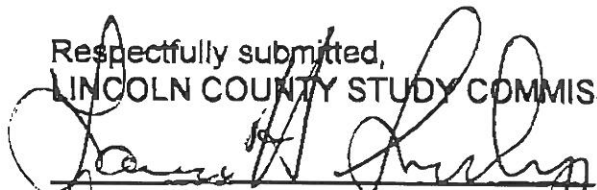
This study commission sought advice and information from as many people in the county as possible. Opinions and recommendations were solicited from local government officials, community organizations, and citizens. All meetings of the study commission were open to the public. Commission members appeared before various community organizations to explain the work of the commission and also to hear the viewpoints, ideas, and concerns of those present.


Our recommendations reflect the thoughts and opinions of those who participated in public hearings and those who attended our regular meetings, in addition to the independent efforts of this study commission.


In this tentative report we present our recommendations for an alternative form of government that we feel will provide governmental services expected by the people both today and in the future. Our concern has been to provide a form of government that will be responsive to local citizens and provide the opportunity for devising solutions to local problems. We feel the citizens of Lincoln County can achieve these goals by adopting the charter form of county government with self-government powers.


The question of adopting this alternative form of government will be placed on the ballot June 4, 1996. We solicit your consideration.

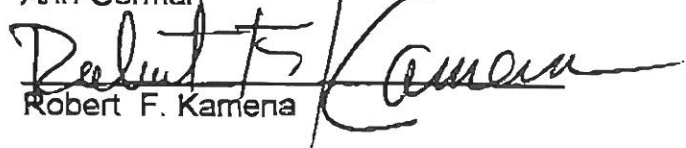
Respectfully submitted,
LINCOLN COUNTY STUDY COMMISSIONERS


Lawrence A. Sverdrup, Chairman


Charlotte Bluhm


Dennis Brown


Ann German


Robert F. Kamena

II. SUMMARY OF RECOMMENDATIONS

The Lincoln County Local Government Study Commission having thoroughly studied our present form of county government and the alternative forms of government available to counties under state law, and having studied the future of governmental needs of this county, recommends the following:

1. Lincoln County should adopt, effective January 6, 1997, a charter form of government with self-government powers. The charter provides essentially the same plan of government which Lincoln County presently has. It provides for three (3) commissioners to be elected from districts in which they reside and shall be nominated and elected at large. The legislative and administrative functions of the county government will be vested in the three (3) county commissioners just as they now are.
2. The question of whether or not elections shall be conducted on a partisan or non-partisan basis shall be submitted to the voters of the county as a sub-option.
3. The question of the form of government and the sub-options shall be submitted to the voters of Lincoln County on June 4, 1996.

A. Findings of the Study Commission

After intensive study, it is the decision of the study commission to recommend changes to the structure of county government that will provide the framework to meet the changing needs of county government.

The traditional form of county government has existed in Lincoln County and reflects its traditional role as an administrative arm of state government. Its duties are detailed in state law and its authority to deal with local problems is limited.

The present trend in government is to place more and more responsibility for the performance of governmental functions on local government. Governmental functions previously handled by the federal and state governments are being returned to the county. In an attempt to meet these challenges the study commission has recommended the charter form of government with self-government powers.

The charter form of county government recommended by the study commission would be elected and function essentially as our present form of government with the exception of the addition of the self-government powers. With the general government powers under which our present form of county government operates, state law defines what government may do and specifically how it shall do it. The county commissioners now have little power to pass ordinances. Under the self-government powers in the proposed charter form of government, the county government shall exercise any power which the state does not deny them.

The study commission is submitting to the voters the question of whether to have partisan or non-partisan elections.

B. Key Provisions of the Proposed Form

1. Self-Government Powers

Under the 1972 State Constitution, the potential power and authority of local government has been changed. Traditionally the power over governmental concerns of the county has been the prerogative of the state legislature. The state legislature decided what county government should do and how it should do it.

The new Constitution provides that self-government powers can be adopted by counties along with an alternative form of government. The adoption of self-government powers would alter the traditional relationship between the state and the county. Certain areas of control would be transferred from the state legislature to the county commission. Some decisions that are now made on a state-wide basis by the legislature could be made at the county level. State-wide uniformity, while still mandated in certain areas, could be replaced in other areas with procedures tailored to the particular needs of our county. Self-government powers would mean greater flexibility in shaping our governmental structure, greater power to solve our own problems, and more responsibility to recognize and deal with these problems.

COMPARISON OF SPECIFIC CHARACTERISTICS

Characteristic	Present Form of Government	Proposed Form of Government	Comments
Form of Government	Commission Form Merges legislative, executive and administrative functions in Commission.	Charter Form with Self-Government Powers Merges legislative, executive and administrative functions.	Same except Charter Form has self-government powers.
Powers	General Government Powers State law defines what government may do and specifically how it shall do it. Limited power to pass ordinances.	Self Government Powers County government shall exercise any power which the State does not deny. Legislative Power vested in the Commission.	Self Government Powers bring to the County the power to act in its own best interest, and flexibility.
Governing Body Size	3 Commissioners nominated and elected at large.	3 Commissioners nominated and elected at large.	Same
Term	6 year overlapping terms.	6 year overlapping terms.	Same.
Presiding Officer	Chair is elected from own members.	Chair is elected from own members.	Same.
Duties	Commission is responsible for legislative, executive and many administrative functions.	Commission is responsible for legislative, executive and many administrative functions.	Same.
Election	Partisan.	Partisan -or Non Partisan to be determined by vote.	To be determined by vote of electorate.

Characteristic	Present Form of Government	Proposed Form of Government	Comments
Other Elected Officials:	8 elected officials: Clerk and Recorder County Attorney Sheriff Treasurer Clerk of Court Superintendent of Schools Public Administrator Coroner	6 elected officials: Clerk and Recorder County Attorney Sheriff Treasurer Clerk of Court Superintendent of Schools Appointed by Commission Appointed by Commission	same same same same same same Public Administrator and Coroner appointed rather than elected.

1

CERTIFICATE OF THE PROPOSED FORM OF GOVERNMENT

CHARTER OF LINCOLN COUNTY

PREAMBLE

We, the people of Lincoln County, trusting in God and in our own abilities, and seeking to empower ourselves and future generations to provide, protect and preserve a quality life in a community of goodwill, love, liberty and equal opportunity, now therefore ordain and establish this Charter.

ARTICLE I POWERS OF THE COUNTY

Section 1.01 Powers of Lincoln County

Lincoln County shall have all governmental powers not prohibited by the Constitution of the United States, the Constitution of the State of Montana, the laws of Montana, or this Charter.

Section 1.02 Interpretation of Powers

The self government powers and authority of this government shall be liberally construed. Every reasonable doubt as to the existence of a county power or authority shall be resolved in favor of the existence of that power or authority.

Section 1.03 Restriction on Powers

The mill levy shall be limited to that of Montana county governments with general government powers, except with the prior approval of a majority of the electors voting on the question in a general or special election.

Section 1.04 Charter Supremacy

As provided by Article XI, Section 5 of the Constitution of the State of Montana, provisions herein establishing executive, legislative and administrative structure and organization are superior to statutory provisions.

ARTICLE II LEGISLATIVE BODY

Section 2.01 Legislative Body

The elected legislative body of Lincoln County shall be the board of county commissioners which shall have the power to set policy by adoption of lawful ordinances and resolutions.

Section 2.02 Governing Body

The governing body of Lincoln County shall be the board of county commissioners, which may be called the county commission or the commission.

Section 2.03 Composition

The board of county commissioners shall be composed of three (3) commissioners, one elected from each of three (3) districts.

Section 2.04 Qualifications for Office

Every resident of Lincoln County who is 18 years of age or older, a citizen of Montana and a qualified elector Pursuant to Article IV, Section 2 of the Montana Constitution is eligible to hold the office of commissioner for the district in which he or she resides.

Section 2.05 Term of Office

Members of the commission shall be elected for six (6) year, overlapping terms of office. One commissioner shall be elected every two (2) years.

Section 2.06 Election

Local government elections shall be conducted on a partisan or non partisan basis as decided by the voters at the time this charter is adopted. Commissioners shall be elected at large and nominated by a plan of nomination that may not preclude the possibility of the majority of the electors nominating candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside.

Section 2.07 Vacancy in Office

The office of commissioner becomes vacant as prescribed by law.

Section 2.08 Removal from Office

A commissioner may be removed from office by a finding, adopted by the affirmative vote of two (2) commissioners, that his or her office has become vacant as prescribed by law, or by the recall of the commissioner by the electors of Lincoln County, as prescribed law.

Section 2.09 Filling Vacancy on Commission

When a vacancy occurs in the office the position shall be considered open and subject to nomination and election at the next general county election, except the term of office shall be limited to the unexpired term of the person who originally created the vacancy. Pending such election and qualification the commission shall appoint, by the affirmative vote of two (2) commissioners, a person possessing the qualifications for office required by law and this Charter within 30 days of the vacancy to hold the office until the successor is elected and qualified.

Section 2.10 Chair of the Commission

The commission shall have a chair who shall be elected by the members of the commissioners from their own number for a term established by resolution. The chair of the commission shall be its presiding officer and shall vote as other commissioners.

Section 2.11 Powers and Duties

All powers of the county shall be vested in the commission except as otherwise provided by law or this Charter, and the commission shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the county by law.

Section 2.12 Rules of Procedure

The commission shall establish its rules of procedure and time and place of meetings by resolution.

Section 2.13 Legislative Action

The affirmative vote of two (2) members of the commission shall be required for all official actions of the commission. A minimum of two (2) commission members must be present when official actions are taken by the commission.

Section 2.14 Compensation

The compensation of commission members shall be set by resolution of the commission within the limits set by law.

**ARTICLE III
EXECUTIVE BODY****Section 3.01 Executive and Administrative Functions**

The chief executive and chief administrative functions of Lincoln County government shall be vested in the three (3) elected members of the board of county commissioners whose terms of office and method of selection are set forth in Article II of this Charter.

Section 3.02 Powers and Duties

The board of county commissioners shall:

1. enforce laws, this Charter, ordinances, and resolutions and carry out policies established by the commission;
2. perform the duties required by law, this Charter, ordinance, or resolution;
3. administer the affairs of Lincoln County government;
4. direct, supervise, and administer all departments, agencies, and offices of the Lincoln County government except as otherwise provided by law, ordinance or this Charter;
5. prepare a commission meeting agenda;
6. execute bonds, notes, contracts, and written obligations of the county;
7. prepare, adopt and administer the county budget;
8. appoint all members of boards and committees;
9. appoint and remove all department heads who are not elected, and appoint and remove all other employees not serving under elected department heads;
10. exercise direct control and supervision of departments not headed by elected officials or boards.

Section 3.03 Administrative Assistants

The commission may appoint one or more administrative assistants to assist it in the supervision and operation of the county government.

Section 3.04 Community Councils

Community Councils to advise the commissioners may be authorized by ordinance. Community council members shall be elected by the voters residing in the district they seek to represent.

**ARTICLE IV
JUDICIARY****Section 4.01 County Courts**

There shall be such county courts as prescribed by law.

**ARTICLE V
DEPARTMENT STRUCTURE****Section 5.01 County Officers - Elected Department Heads**

The following county officers, who shall serve as department heads and shall have the powers and duties prescribed by law, shall be elected:

1. county attorney
2. sheriff
3. clerk and recorder
4. clerk of district court
5. treasurer
6. superintendent of schools

Section 5.02 Qualifications for Office

Every resident of Lincoln County who is 18 years of age or older, a citizen of Montana and a qualified elector pursuant to Article IV, Section 2 of the Montana Constitution, is eligible for election to the office of an elected department head, enumerated in Section 5.01 above, except for the positions of county attorney and county superintendent of schools. Qualifications for the offices of county attorney and county superintendent of schools shall be those prescribed by law.

Section 5.03 Term of Office

County officers shall be elected for a four (4) year term of office.

Section 5.04 Election

County officers shall be elected on a partisan or non partisan basis as decided by the voters at the time this charter is adopted.

Section 5.05 Vacancy in Office

The office of a county officer becomes vacant as prescribed by law.

Section 5.06 Removal from Office

A county officer may be removed from office by a finding, adopted by the affirmative vote of two (2) commissioners, that his or her office has become vacant as prescribed by law, or by the recall of the county officer by the electors of Lincoln County, as prescribed by law.

Section 5.07 Filling Vacancy of Elected Department Heads

When a vacancy occurs in the office of a county officer, this position shall be considered open and subject to nomination and election at the next general county election, except the term of office shall be limited to the unexpired term of the person who originally created the vacancy. Pending such election and qualification, the commission shall, by the affirmative vote of two (2) commissioners, appoint a person possessing the qualifications for office required by law and this Charter within 30 days of the vacancy to hold the office until the successor is elected and qualified.

Section 5.08 Consolidation of Offices

The commission shall have the authority in its discretion to consolidate any two or more offices included in Section 5.01 above and combine the power and duties of the consolidated offices.

Section 5.09 Organization of Other Departments

The organization of all other county departments shall be prescribed by ordinance.

Section 5.10 Compensation

The compensation of county officers other than those set forth in Section 5.01 shall be set by resolution of the commission.

**ARTICLE VI
GENERAL PROVISIONS****Section 6.01 Amendment of Charter**

This Charter may be amended only as prescribed by law after January 6, 2000.

Section 6.02 Effective Date

This Charter shall become effective on January 6, 1997.

Section 6.03 Oath of Office

Before assuming the duties of office, all elected county officials shall take and subscribe to the oath of office as prescribed in Article III, Section 3 of the Constitution of the State of Montana.

Section 6.04 Recall

The elected officers of county government may be recalled by the qualified electors of Lincoln County as provided by law. No person may be recalled for performing a mandatory duty of the office he or she holds or for not performing any act that, if performed, would subject him or her to prosecution for official misconduct.

Section 6.05 Severability

If any provision of this Charter is held invalid, the other provisions of this Charter shall not be affected thereby. If the application of the Charter, or any part of its provisions, to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

ARTICLE VII TRANSITIONAL PROVISIONS

Section 7.01 General Transition

Transition to this charter form of government shall be as prescribed by law. The Lincoln County Study Commission shall provide for such transition with an advisory plan consistent with law. Article VII and its transition provisions, shall not be published as part of the Charter after January 1, 2001.

Section 7.02 Continuation in Office

No county employee currently holding a county office will lose employment solely because of the adoption of this Charter. Elected officials holding office at the time this Charter is adopted by the voters may continue in office until the end of the term for which they were elected, at which time the offices of elected department heads not enumerated in Section 5.01 shall be vacated.

Section 7.03 Review of Existing Ordinances


All county ordinances, resolutions and rules of Lincoln County shall remain in effect until reviewed, revised or repealed by the county commission. The county commission shall review and, where necessary, revise or repeal all county ordinances or resolutions to provide for compliance and consistency with this Charter and state law no later than January 1, 2001.

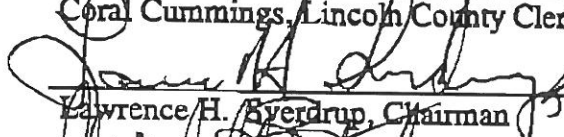
We, the Study Commission of Lincoln County do hereby certify that this is the proposed plan of government approved by the Study Commission of Lincoln County.

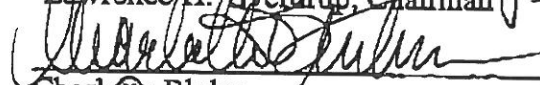
In testimony whereof, we set our hands.

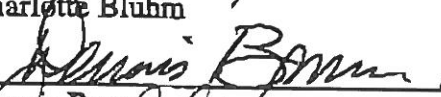
Done at Libby, Montana, this 12th day of February, 1996.

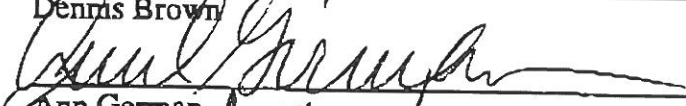
ATTEST:


 Coral Cummings, Lincoln County Clerk


 Lawrence H. Eyerdrup, Chairman


 Charlotte Bluhm


 Dennis Brown


 Ann German

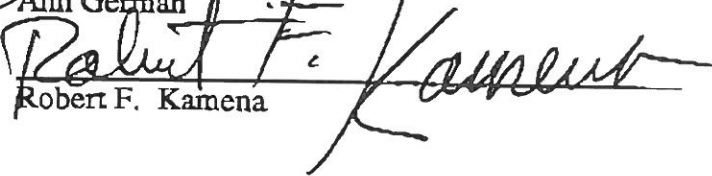

 Robert F. Kamena

EXHIBIT A
CERTIFICATE OF
PLAN OF EXISTING FORM OF GOVERNMENT
FOR LINCOLN COUNTY, MONTANA

If retained by the voters, the government of Lincoln County shall be organized under the following provisions of MCA 7-3-111 which authorizes the elected county official form of government;

7-3-111. Statutory basis for elected county official government. (1) For the purpose of determining the statutory basis of existing units of local government after May 2, 1977, each unit of local government organized under the general statutes authorizing the elected county official form of government shall be governed by the following sections:

- (a) 7-3-401;
- (b) 7-3-402;
- (c) 7-3-412(3);
- (d) 7-3-413(1);
- (e) 7-3-414(1);
- (f) 7-3-415(2);
- (g) 7-3-416(2);
- (h) 7-3-417(2);
- (i) 7-3-418;
- (j) 7-3-432(1);
- (k) 7-3-433(1);
- (l) 7-3-434(1);
- (m) 7-3-435(1);
- (n) 7-3-436(1);
- (o) 7-3-437(5);
- (p) 7-3-438(1);
- (q) 7-3-439(5);
- (r) 7-3-440(1);
- (s) 7-3-441(1);
- (t) 7-3-442(5).

(2) This form has terms of 4 years for all elected officials except commissioners who are elected to 6-year terms. The commission consists of three members.

These sections establish the following form of government which shall be called the COMMISSION FORM.

7-3-401. Commission form. The commission form consists of an elected commission (which may also be called the council) and other elected officers as provided in this part. All legislative, executive, and administrative powers and duties of the local government not specifically reserved by law or ordinance to other elected officers shall reside in the commission. The commission shall appoint the heads of departments and other employees, except for those appointed by other elected officials. Cities and towns which adopt this form may distribute by ordinance the executive and administrative powers and

duties into departments headed by individual commissioners.

7-3-402. Nature of government. Local governments that adopt this form shall have general government powers.

7-3-412 (3). Selection of commission members. The commission shall be elected at large and nominated by a plan of nomination that may not preclude the possibility of the majority of the electors nominated candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside.

7-3-413 (1). Type of election. Local government elections shall be conducted on a partisan basis.

7-3-414 (1). Chairman of commission. The chairman of the commission shall be elected by the members of the commission from their own number for a term established by ordinance.

7-3-415 (2). Administrative assistants. The commission may appoint one or more administrative assistants to assist them in the supervision and operation of the local government.

7-3-416 (2). Terms of the commission members. Commission members shall be elected for overlapping terms of office.

7-3-417 (2). Size of commission and community councils. The size of the commission, shall be three, and community councils to advise commissioners may be authorized by ordinance.

7-3-418. Terms of elected officials. The term of office of elected officials may not exceed 4 years, except the term of office for commissioners shall be 6 years. Terms of office shall be established when the form is adopted by the voters.

7-3-432 (1). Legal officer. A legal officer (who may be called the county attorney) shall be elected.

7-3-433 (1). Law enforcement officer. A law enforcement officer (who may be called the sheriff) shall be elected.

7-3-434 (1). Clerk and recorder. A clerk and recorder shall be elected.

7-3-435 (1). Clerk of district court. A clerk of district court shall be elected.

7-3-436 (1). Treasurer. A treasurer shall be elected.

7-3-437 (5). Surveyor. A surveyor may, at the discretion of the commission, be selected as provided by ordinance.

7-3-438 (1). Superintendent of schools. A superintendent of schools shall be elected.

7-3-439 (5). Assessor. An assessor may, at the discretion of the commission, be selected as provided by ordinance.

7-3-440 (1). Coroner. A coroner shall be elected.

7-3-441 (1). Public administrator. A public administrator shall be elected.

7-3-442 (5). Auditor. An auditor may, at the discretion of the commission, be selected as provided by ordinance.

We, the Study Commissioners of Lincoln County do hereby certify that this is the existing Plan of Government as established by Section 7-3-111 MCA.

In testimony whereof, we set our hands.

Done at Libby, MT this 12th day of February, 1996.
LOCAL GOVERNMENT STUDY COMMISSIONERS

ATTEST: *Carol M. Cameron*
Clerk and Recorder
of Lincoln County

Lawrence Sverdrup
Lawrence Sverdrup

Charlotte Bluhm
Charlotte Bluhm

Dennis Brown
Dennis Brown

Ann German
Ann German

Robert Kamena
Robert Kamena

EXHIBIT B

CERTIFICATE

ESTABLISHING THE DATE OF THE SPECIAL ELECTION
AT WHICH THE ALTERNATIVE FORM OF GOVERNMENT
SHALL BE PRESENTED TO THE ELECTORS OF
LINCOLN COUNTY, MONTANA

The alternative form of government proposed by the Local Government Study Commission shall be submitted to the voters of Lincoln County at a special election to be held with the primary election on June 4, 1996.

We, the Study Commissioners of Lincoln County do hereby certify that this is the date of the special election approved by the Study Commissioners of Lincoln County.

In testimony whereof, we set our hands.

Done at Libby, MT this 12th day of February, 1996.
LOCAL GOVERNMENT STUDY COMMISSIONERS

Lawrence Sverdrup

Lawrence Sverdrup

Charlotte Bluhm

Charlotte Bluhm

Dennis Brown

Dennis Brown

Ann German

Ann German

Robert Kamena

Robert Kamena

ATTEST: *Coralie Cummings*

Coralie Cummings
Clerk and Recorder of
Lincoln County

EXHIBIT C

CERTIFICATE

ESTABLISHING THE OFFICIAL BALLOT FOR
THE JUNE 4, 1996 SPECIAL ELECTION

Instructions to voters: Place an "X" in the boxes which express your preferences.

OFFICIAL BALLOT
BALLOT ON THE ALTERNATIVE FORM OF LOCAL GOVERNMENT

If the proposed form of government fails to receive a majority of the votes cast on the question, the sub-option also fails. If the proposed form is adopted, the sub-option requires only a plurality of votes cast on the sub-option for adoption.

1.

Vote for One.

- For adoption of the self government charter proposed for Lincoln County by Lincoln County Study Commission.
- For the existing form of government.

2.

Vote for One.

Sub-option to be included in the new form of government, if it is adopted.
Local government elections:

- Shall be conducted on a partisan basis.
- Shall be conducted on a non-partisan basis.

We, the Study Commissioners of Lincoln County do hereby certify that this is the official ballot approved by the Study Commissioners of Lincoln County.

In testimony whereof, we set our hands,

Done at Libby, MT this 12th day of February, 1996.
LOCAL GOVERNMENT STUDY COMMISSIONERS

ATTEST:

Coral M. Cummings
Coral M. Cummings
Clerk and Recorder of
Lincoln County

Lawrence Sverdrup
Lawrence Sverdrup

Charlotte Bluhm
Charlotte Bluhm

Dennis Brown
Dennis Brown

Ann German
Ann German

Robert Kamena
Robert Kamena