

RESOLUTION NO. 3589

A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO CONTRACT WITH DENNIS HIRSCH FOR BUILDING INSPECTION SERVICES FOR FISCAL YEAR 2013-2014.

WHEREAS, the City of Miles city desires to contract with Dennis Hirsch for building inspection services as permitted by §50-60-304(3) MCA;

AND WHEREAS the terms of the contract attached hereto as Exhibit "A" and made a part hereof are acceptable to the City of Miles City;


NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:

1. The Building Inspection/Code Services Contract between the City of Miles City, Montana and Dennis Hirsch, attached hereto as Exhibit "A", and made a part hereof, is hereby renewed, approved and adopted by this Council for a period from July 1, 2013 through June 30, 2014.

2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said Building Inspection/Code Services Contract on behalf of the City of Miles City and bind the City of Miles City thereto; and

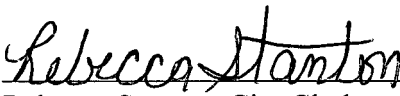
3. The Mayor of the City of Miles City is hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of said Building Inspection/Code Services Contract and bind the City of Miles City thereto.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 23 DAY OF APRIL, 2013.



C.A. Grenz, Mayor

ATTEST:



Rebecca Stanton, City Clerk

Exhibit "A"

**CITY OF MILES CITY BUILDING INSPECTION/CODE
ENFORCEMENT SERVICES CONTRACT**

This agreement entered into on this 30 day of April, 2013, and effective as of July 1, 2013, between the **CITY OF MILES CITY**, a municipal corporation of the State of Montana, hereby called the City, and **DENNIS HIRSCH** of Route 2, Box 3135, City of Miles City, County of Custer, State of Montana, herein called Inspector.

SECTION ONE

Contract for Inspection Services

Pursuant to §50-60-304(3) MCA, City hereby contracts with Inspector for the performance of enforcement of its building codes, including the review and granting of building permits, building permit inspections, and enforcement of all rules and regulations for the construction, alteration, removal, demolition, and equipment used in the construction, location, and maintenance of buildings within the City of Miles city as prescribed by the Uniform Building Code, and other similar codes, including zoning ordinances, adopted by reference in Sections 5, 15, 20 and 24 of the Miles City Code of Ordinances.

SECTION TWO

Compensation

City shall pay Inspector for services rendered hereunder according to the following schedule:

- a) For all projects, in which a fee is collected, the Inspector shall receive sixty percent (60%) of the gross amount of the fee. For purposes of this subsection, "projects, in which a fee is collected" includes all activities incidental to applying for, determining, receiving, and securing a building permit, and specifically includes inspections, attendance at all board of appeals hearings, court proceedings, or any other meetings, pertaining to the ultimate issuance of a building permit. If a building permit is not ultimately issued, then such time is compensated under subsection (b) below.
- b) For all other projects the sum of \$18.00 per hour for work outside the scope of building permit issuance and inspections. Other projects include services required for acting as the code enforcement officer for the City of Miles City. In addition, when the Inspector is requested to act as code enforcement officer, he shall be reimbursed mileage at the rate provided for under §2-18-503 and 504 MCA. Inspector shall provide his own vehicle for travel and performance of his services hereunder.

- c) Inspector will make arrangements with the City to review all projects by no later than Wednesday of each week and agrees to accomplish the undertaking and completion of those projects within a reasonable time frame after receipt. In the event the Inspector is not available by Wednesday of each week, alternative arrangements for review of projects may be made through mutual agreement of the parties.

SECTION THREE
Non-Assignability; Personal Performance

Both parties recognize that this contract is one for personal services and neither it, nor the duties of Inspector hereunder, may be transferred, assigned, delegated or subcontracted by Inspector without the prior written consent of the City. All services hereunder shall be personally performed by Inspector and not by any employee or agent of inspector.

SECTION FOUR
Monthly Reports and Claims

Inspector will submit a written report concerning the status of building permits and other work projects, together with his monthly claim for services, prior to the first regular meeting of the City Council in each month.

For each construction of a new residential property, Inspector will fully complete and sign the Residential Construction Inspection check list, attached hereto as Exhibit "A" and made a part hereof. For each residential property remodel project, Inspector will complete and sign the Residential Construction Inspection check list (Exhibit "A") for all applicable components of the remodel. For each construction of a new commercial property, Inspector will fully complete and sign the Commercial Construction Field Inspection check list, attached hereto as Exhibit "B" and made a part hereof. For each commercial property remodel project, Inspector will complete and sign the Commercial Construction Field Inspection check list (Exhibit "B") for all applicable components of the remodel. A copy of each signed Residential Construction Inspection check List or Commercial Construction Field Inspection check list completed by the Inspector shall be delivered by the Inspector to the City's Director of Public Works, its Mayor, and to the owner of the project inspected.

SECTION FIVE
Independent Contractor

For purpose of Montana Worker's Compensation Law, and all other purposes, it is understood that the Inspector is an independent contractor and is not the employee or agent of the city.

Inspector shall not hold himself out as, nor represent himself to be, an employee or agent of the City.

As a condition precedent to any obligations of City under this Contract, Inspector shall obtain and file with the City an independent contractor certification from the Montana Department of Labor and Industry, in compliance with §39-71-417.

Inspector will perform services hereunder in compliance with all applicable Montana laws and regulations, but inspector will determine when and where to perform the work, the methods for performance of the work, the tools and equipment to use, and the order and sequence of work.

Inspector will provide his own tools, equipment, facilities and materials, and other costs of doing business for the performance of the work. City, at City's expense, will provide Inspector with building permit forms satisfactory to the City.

Inspector will pay his own Social Security and Medicare Taxes and all other necessary and reasonable expenses involved with the operation of his business. In the event the amount earned in a calendar year exceeds Six Hundred Dollars (\$600), the City will issue an IRS Form 1099. Inspector will provide the City Clerk with a completed and signed Form W-9 at the inception of this Contract.

SECTION SIX

Qualifications

Inspector represents and warrants that he has sufficient qualifications and all required licenses and certifications, if any, to legally serve in the capacity as a building inspector for the City under Title 50, Chapter 60, Part 3, MCA. The City will purchase and make available to inspector all code books and instructional materials required to perform the services hereunder. Inspector shall pay all membership dues needed to maintain his certification by the international Conference of Building Officials.

SECTION SEVEN

Duties

In addition to services as Building Inspector, the Inspector will provide additional services as a code enforcement officer as set forth under the Miles City Code of Ordinances, other than under Chapter 15, Nuisances. The contractor represents and warrants that he has reviewed Chapters 5, 20 and 24 of the Code of Ordinances of the City of Miles City and he is able and qualified to serve in that capacity. Compensation for the position as code enforcement officer is set forth in Section Two, subsection (b) of this agreement.

SECTION EIGHT
Termination and Renewal

This agreement shall remain in effect from its effective date until June 30, 2014 and may be renewed under the same terms and conditions for additional consecutive one-year terms through June 30th of succeeding years upon mutual agreement of the parties. Provided, however, the Mayor of the City may terminate this contract, with advice and consent of the City Council upon thirty (30) days advance written notice to Inspector. In the cases of misconduct, malfeasance, or non-performance by the Inspector, this contract may be terminated by City, immediately, without prior notice.

SECTION NINE
Nondiscrimination; Compliance with Governmental Code of Fair Practices.

Inspector shall comply fully with the Montana Governmental Code of Fair Practices (Title 49, Chapter 3 MCA) and, in the performance of this contract, all hirings by Inspector shall be on the basis of merit and qualifications and there may not be discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing this contract.

SECTION TEN
Insurance and indemnity

At all times during the terms of this Contract, Inspector shall maintain a policy or policies of insurance, insuring Inspector against general liability and errors or omissions, on an occurrence basis, in a sum of not less than Seven Hundred Fifty thousand Dollars (\$750,000.00) per claim and in aggregate, with the City of Miles City named in each policy of insurance as an additional insured. Each policy of insurance shall provide that it is primary coverage over any insurance coverage maintained by the City of Miles City. At the commencement of this contract, and upon reasonable request of the City thereafter, Inspector shall provide to the City Clerk conforming certificates of insurance, including any endorsements necessary to include the City as a named insured under such policy of insurance. Each such certificate shall provide that the insurer will provide to the City at least ten (10) days prior notice before terminating, non-renewing, or materially altering the provisions, coverage or limits of liability of such policy of insurance.

Inspector shall assume, indemnify, defend and hold the City harmless from any and all claims and damages arising out of Inspector's performance of services hereunder.

SECTION ELEVEN

Completeness of Agreement

This document contains all the terms and conditions of this agreement and any alteration or variations of the terms of this agreement shall be Void unless made in writing and signed by all the parties. There are no other understandings, representations or agreements, written or verbal, not incorporated herein.

**SECTION TWELVE
Effective Date; Ratification by City Council**

This agreement shall become effective upon its signature by Inspector, Inspector's compliance with all conditions precedent hereunder, and ratification of this agreement by the City Council of the City of Miles City.

C.A. Grenz
C.A. Grenz
Mayor of Miles City
Date: 4-24-13

Dennis Hirsch
Dennis Hirsch
Inspector
Date: 4/30/13

ATTEST:

Connie L. Wath
~~Rebecca Stanton~~ Connie L. Wath
Dop • City Clerk