

RESOLUTION NO. 4075

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH KADRMAS, LEE & JACKSON, INC., FOR TASK ORDER SERVICES RELATED TO THE CUSTER COUNTY MILES CITY FLOOD PROTECTION PROJECT, AND TASK ORDER PERTAINING TO THE SAME.

WHEREAS, the City of Miles City requires services related to the Custer County Miles City Flood Protection Project, and has engaged Kadrmass, Lee & Jackson, Inc. (KLJ), a City of Miles City retained engineering firm, for assistance.

AND WHEREAS, the procedure for assignment of task orders by the City to KLJ are set forth in a certain "Agreement Between Owner and Engineer for Professional Services, Task Order Edition," as approved by Resolution 4050 on May 9, 2017, and requires amendment for clarification of duties;

AND WHEREAS, the parties have prepared a Task Order setting forth certain services to be provided by KLJ in accordance with said Agreement, and the City desires to approve the same;

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

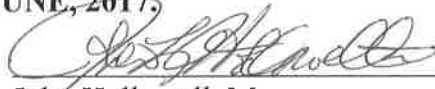
1. The "Agreement Between Owner and Engineer for Professional Services, Task Order Edition" between the City and KLJ for services related to the Custer County Miles City Flood Protection Project, previously adopted by Resolution 4050, is amended to revise the provisions of 1.01(D), as set forth in Exhibit "A", attached hereto and made a part hereof, is hereby approved and adopted by this Council.

2. The Task Order entitled "Hazardous, Toxic, and Radioactive Waste (HTRW) Investigation" setting forth certain services to be performed by KLJ, as set forth in Exhibit "B", attached hereto and made a part hereof, is hereby approved and adopted by this Council.

3. The Mayor of the City of Miles City is hereby empowered and authorized to execute said Agreement, as revised; and Task Order; on behalf of the City of Miles City, and bind the City of Miles City thereto.

4. 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 Agreements.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, AT A REGULAR MEETING THIS 27th DAY OF JUNE, 2017.


John Hollowell, Mayor

ATTEST:


Lorrie Pearce, City Clerk

Floodplain Management, Flood Control and Related Services

This is a Task Order consisting of three (3) pages plus attachments.

Task Order

In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated May 9, 2017 ("Agreement"), Owner and Engineer agree as follows:

1. Background Data

- a. Effective Date of Task Order: 6-27-2017
- b. Owner: City of Miles City
- c. Engineer: Kadrmas, Lee & Jackson, Inc.
- d. Specific Project (title): Hazardous, Toxic, and Radioactive Waste Investigation
- e. Specific Project (description): Hazardous, Toxic, and Radioactive Waste (HTRW) Investigation as part of the US Army Corps of Engineers Section 205 Feasibility Study in Miles City, Montana.

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are:
 - [X] as follows: Refer to the attached document entitled "Scope of Services – Hazardous, Toxic, and Radioactive Waste Investigation" dated June 22, 2017 (6 pp.).
 - B. Resident Project Representative (RPR) Services (*Does not Apply*)
 - C. Designing to a Construction Cost Limit (*Does not Apply*)
 - D. Other Services
- Engineer shall also provide the following services: (*Does not Apply*)
- E. All of the services included above comprise Basic Services for purposes of Engineer's compensation under this Task Order.

3. Additional Services

- A. Additional Services that may be authorized or necessary under this Task Order are:
 - [X] those services (and related terms and conditions) set forth in Paragraph A2.01 of Exhibit A, as attached to the Agreement referred to above, such paragraph being hereby incorporated by reference.

Task Order Form

EJCDC® E-505, Agreement Between Owner and Engineer for Professional Services – Task Order Edition.
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4. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 of the Agreement and in Exhibit B.

5. Task Order Schedule

It is anticipated that Owner will arrange access (per Exhibit B2.01.A.5) so Engineer will be authorized to commence with services by July 10, 2017 to be completed by November 1, 2017.

6. Payments to Engineer

A. Owner shall pay Engineer for services rendered under this Task Order as follows:

	Description of Service	Amount	Basis of Compensation
1.	HTRW Investigation	\$33,500.00	Lump Sum
2.	Additional Services (Part 2 of Exhibit A)	(N/A)	TBD

Compensation items and totals based in whole or in part on Hourly Rates or Direct Labor are estimates only. Lump sum amounts and estimated totals included in the breakdown by phases incorporate Engineer's labor, overhead, profit, reimbursable expenses (if any), and Consultants' charges, if any. For lump sum items, Engineer may alter the distribution of compensation between individual phases (line items) to be consistent with services actually rendered, but shall not exceed the total lump sum compensation amount unless approved in writing by the Owner.

B. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C.

7. Consultants retained as of the Effective Date of the Task Order: *(Does not Apply)*

8. Other Modifications to Agreement and Exhibits: *(Does not Apply)*

9. Attachments: Refer to the attached document entitled "Scope of Services – Hazardous, Toxic, and Radioactive Waste Investigation" dated June 22, 2017 (6 pp.).

10. Other Documents Incorporated by Reference: *(Does not Apply)*

11. Terms and Conditions

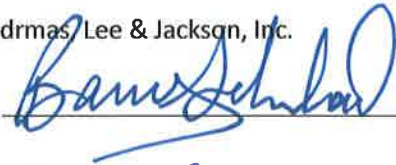
Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is 6-27-2017.

OWNER: City of Miles City

ENGINEER: Kadrmas, Lee & Jackson, Inc.

By: 

By: 

Print Name: John Hawwell

Print Name: Barry Schuchard

Title: MAYOR

Title: CPO

Engineer License or Firm's Certificate No. (if required): PEL-EF-LIC-37
State of: Montana

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: Samantha Malenovsky

Name: Carl Jackson

Title: Floodplain Administrator

Title: Project Manager

Address: PO Box 910
Miles City, MT 59301

Address: PO Box 80303
Billings, MT 59108-0303

E-Mail Address: smalenovsky@milescity-mt.org

E-Mail Address: carl.jackson@kljeng.com

Phone: 406-234-3493

Phone: 406-245-5499

Scope of Services - Hazardous, Toxic, and Radioactive Waste Investigation City of Miles City - Section 205 Study

June 22, 2017

I. DESCRIPTION

The City of Miles City has requested that KLJ perform a Hazardous, Toxic, and Radioactive Waste (HTRW) investigation for the Miles City, Montana Section 205 Study in accordance with the requirements provided in Engineer Regulation (ER) 1165-2-132 *Hazardous, Toxic, and Radioactive Waste Guidance for Civil Works*. The work will be completed to ascertain the presence of recognized environmental conditions (RECs), as defined in American Society for Testing and Materials (ASTM) Standard E1527-13 *Standard Practice for Environmental Site Assessments*.

The study area for this HTRW investigation is located in the western and north-northwestern parts of the City of Miles City, in Custer County, Montana. The study area includes the following (please refer to the Project Location Map provided at the end of this Scope of Services):

- The northeastern bank of the Tongue River, from downstream of I-94 to the confluence of the Yellowstone River including the following boundaries to the northeast:
 - Tongue River to Cemetery Rd
 - South of Balsam Drive
 - The western half of the Miles City Town and Country Club including the clubhouse
 - Autumn Circle and Charles Street
 - The southwest portion of Atlantic Avenue
 - The western portion of Denton Field
 - West of N 1st Street
- The south-southeastern bank of the Yellowstone River, from upstream of the water treatment plant to downstream of the wastewater treatment plants to the north of the Old Tongue River Channel

This Scope of Services outlines each party's responsibilities and associated costs for completing the HTRW investigation. The HTRW investigation will be performed by KLJ under the direction of the City of Miles City. KLJ will provide professional services and recommendations to the City of Miles City, and the City of Miles City will make decisions and provide direction to KLJ. The City of Miles City will fund KLJ's preparation of the HTRW investigation.

II. OBJECTIVE, METHODOLOGY, AND SERVICES INCLUDED

The objective of this HTRW investigation will be to determine the presence of RECs within the study area, as defined in ASTM Standard E1527-13.

The HTRW investigation will include the following four components, which are further described in the following subsections:

- Site reconnaissance
- Records review
- Interviews
- Draft and Final Reports.

A. Site Reconnaissance

To complete the HTRW investigation, the study area will be assessed by either a pedestrian (walking) survey or windshield (driving) survey, where possible. During the windshield survey, there will be a driver of the vehicle/UTV and a spotter observing the study area and taking photographs. It is anticipated that a majority of the study area defined in the Project Location Map will be accessible by UTV or vehicle with landowner permission granted by USACE or the city.

During the site reconnaissance, KLJ will perform the following:

- Visually observe the study area to identify potential sources or indications of on-site chemical or petroleum releases. Potential sources could include tanks, chemical storage, and disposal areas.
- Take photographs during the site reconnaissance, as necessary, which will be included in the draft and final reports.
- Visually inspect (from vantage points) abutting properties and categorize the use of abutting properties as potential off-site sources of contamination.

B. Records Review

KLJ will coordinate with a third-party provider to obtain the following information necessary for compliance with ASTM Standard E1527-13. This information relating to on-site activities will be included in the draft and final reports:

- Historical Aerial Photographs
- Historical Topographic Maps
- Certified Sanborn Maps
- Governmental Database Search, which includes the following listings of published regulatory Federal and state records related to the study area and potential off-site sources of contamination:
 - National Priorities List (NPL) - Lists US Environmental Protection Agency (USEPA) high-priority cleanup properties within a 1-mile radius, or as determined necessary, in accordance with ASTM E1527-13.
 - Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) - Lists properties subject to investigation by the USEPA for contamination within a 0.5-mile radius.

- Resource Conservation and Recovery Act (RCRA) - Lists notified generators at a site and adjacent properties and RCRA Transfer, Storage, and Disposal Facilities (TSDFs) within a 1-mile radius.
- RCRA Corrective Action Sites (CORRACTS) - Lists TSDFs subject to corrective action within a 1-mile radius, or as determined necessary, in accordance with ASTM E1527-13.
- Engineering Controls (US ENG CONTROLS) and Institutional Controls (US INST CONTROL) - Lists sites within a 0.5-mile radius with engineering and/or institutional controls.
- Emergency Response Notification System (ERNS) - Lists reported releases of oil and hazardous substances at a site and adjacent properties.
- State Hazardous Waste Sites (SHWS) - Lists sites within a 1-mile radius that are planned for cleanup (state equivalent of Superfund) and may or may not already be listed on the Federal CERCLIS.
- Underground Storage Tank (UST) - Lists sites with USTs within a 0.25-mile radius.
- Leaking UST (LUST) - Lists reported LUST incidents at a site and within a 0.5-mile radius.
- Solid Waste Landfills (SWLF) - Lists facilities permitted as SWLFs, incinerators, or transfer stations within a 0.5-mile radius.

In addition, KLJ will perform the following:

- Review available published geological information obtained from the State Geological Survey, US Department of Agriculture Soil Conservation Service, and US Geological Survey, including the 7.5 Minute Series Topographic Maps covering the study area.
- Review local available records related to the development of the study area.
- Review data regarding on-site spills, the material released, and the medium that was contaminated on site.
- Upon cursory review and evaluation of off-site properties, conclude whether or not off-site properties within the search radius have the potential to affect environmental conditions within the study area due to their locations in reference to the study area.
- Review past site documents to assess the potential for on-site contamination including the following, if available:
 - Environmental Assessments
 - Construction documents
 - Hazardous Waste Manifests
 - Records of previous environmental-related activities.

C. Interviews

KLJ will interview local environmental authorities to identify complaints, violations, citations, or inspections related to the study area. Upon receipt of the addresses of the landowners within the study area from the City of Miles City, KLJ will mail *Landowner Interview Questionnaires* to all of the landowner addresses provided. In addition, KLJ will interview the User (i.e., City of Miles City and the US Army Corps of Engineers [USACE]) via *User Questionnaires*, as required by 40 Code of Federal Regulations § 312.25, 312.26, 312.28, 312.29, 312.30, and 312.31, and to complete All Appropriate Inquiries.

D. Draft and Final Reports

One report will be provided for the entire study area. The HTRW investigation will evaluate the current and historical conditions within the study area and surrounding areas that could present potential environmental concerns within the study area, in accordance with guidelines described in ASTM E1527-13. The report will include a description of the study area, methodology, and services performed; discussion of significant assumptions, limitations, and exceptions; and summary of findings, opinions, and data gaps, User-provided information, the records review, the site reconnaissance, and interviews. The report will also include conclusions made by the *Environmental Professional*.

Upon completion of the site reconnaissance, records review, and interviews KLJ will develop and submit an electronic copy of the Draft HTRW Investigation Report to the City of Miles City and USACE for a one-time concurrent review. Upon completion of review, the City of Miles City and USACE will submit all comments on the Draft HTRW Investigation Report to KLJ for incorporation into the Final HTRW Investigation Report. KLJ will revise the Final HTRW Investigation Report and provide electronic copies to the City of Miles City and USACE.

It is understood by all parties that HTRW investigations are not intended to be exhaustive, the scope of the HTRW investigation might require revisions based on field conditions and findings, and findings of the HTRW investigation cannot eliminate all uncertainty. Results of the site reconnaissance might vary depending on the weather conditions at the time of the site reconnaissance. Professional judgment and interpretation are inherent in the process and exercised in accordance with objective scientific principles; however, uncertainty is inevitable.

III. DELIVERABLES

- A. Draft HTRW Investigation Report (electronic copy)
- B. Final HTRW Investigation Report (electronic copy)

IV. SERVICES NOT INCLUDED

- A. Legal testimony.
- B. Environmental Lien, Activity and Use Limitations (AULs), and Chain of Title searches are not included in this Scope of Services, as they are considered User responsibilities. However, if requested, Environmental Lien, AULs, and Chain of Title searches can be added to this Scope of Services for an additional cost.
- C. During the site reconnaissance (windshield survey), up-close visual inspection of the exterior of buildings/facilities or areas inaccessible due to landowner preferences are not included in this Scope of Services. In the event that the *Environmental Professional* visually identifies an area that could be of environmental concern, the *Environmental Professional* would attempt to coordinate with the landowner to conduct an up-close visual inspection or record the observed concern from the public right-of-way.
- D. Visual inspection of the interior of buildings/facilities is not included in this Scope of Services.
- E. Sampling (e.g., soil, groundwater) is not included in this Scope of Services.
- F. Services beyond this Scope of Services.

V. FEES ASSOCIATED

Cost for completion of this HTRW investigation is \$33,500.00.

Legend

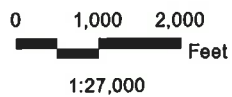
 HTRW_Survey_Boundary



Data Source: 2013 NAIP Aerial Photo, Custer County Mosaic



**US Army Corps
of Engineers®**



**Miles City Section 205
Flood Risk Management Study**
Custer County, Montana
HTRW Survey Boundary Map