

RESOLUTION NO. 4113

A RESOLUTION APPROVING A REVISED FIRE PROTECTION AGREEMENT FOR CONTRACTED FIRE SERVICES.


WHEREAS, the City of Miles City provides certain fire protection services to individuals who own property outside of the city limits, for a fee;

AND WHEREAS, the City desires to approve an updated form of agreement to be used for said services, to clarify that wildland fire services are not provided as a part of said agreement;

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

1. The City of Miles City does hereby approve the "Fire Protection Agreement" form attached hereto as Exhibit "A," and incorporated herein by this reference.
2. The Mayor is authorized to enter into fire protection agreements utilizing said form on behalf of the City, and to bind the 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 24TH DAY OF OCTOBER, 2017.



John Hollowell, Mayor

ATTEST:



Lorrie Pearce, City Clerk

**FIRE PROTECTION AGREEMENT
BETWEEN THE CITY OF MILES CITY
AND**

THIS AGREEMENT made and entered into this * day of * 2014, by and between the CITY OF MILES CITY, a political subdivision of the State of Montana, hereinafter called "*CITY*"; and * , of * , Miles City, Montana, hereinafter called "*PROPERTY OWNER*".

RECITALS:

WHEREAS, Property Owner owns improved property within Custer County, Montana, which is outside the city limits of the City of Miles City and desires fire protection from the City for the property identified herein;

AND WHEREAS the Attorney General of the State of Montana, in his opinion dated May 4, 1988, held that cities have authority to contract with entities outside of the city limits for fire protection;

AND WHEREAS, the City deems it to be in the public interest to enter into private fire contracts with certain properties outside of its city limits.

NOW, THEREFORE, for the considerations herein above and hereinafter made, the CITY and PROPERTY OWNER ***HEREBY AGREE*** as follows:

1. ***IDENTITY OF CONTRACTED PROPERTY.*** CITY shall furnish stand-by fire protection service to the Contracted Property of the PROPERTY OWNER situated in Custer County, Montana, and described as follows;

All structures and contents located upon the following described real property: *

Such property is commonly known as *

The above described property is the only property of Property Owner for which City is providing services under this Agreement. The above described property is hereafter referred to as the "*Contracted Property*".

2. **DUTY TO MAINTAIN IDENTIFYING SIGN.** PROPERTY OWNER will, at the commencement of this Agreement, and at PROPERTY OWNER's expense, affix a sign upon the mailbox and/or the residence upon the Contracted Property, visible from the street upon which the above "street address" is given, identifying the street address and/or name of the Contracted Property. Such sign shall be in contrasting colors with numbers and letters of at least 6" height. All such signs shall be subject to the approval of the Chief of the CITY's Fire Department. Thereafter PROPERTY OWNER, at all times during the terms of this Agreement, shall maintain such sign in good condition and assure that it is continuously visible.

3. **SERVICE TO BE PROVIDED.** "Stand-by fire protection service" for purposes of this Agreement shall consist of the following: The CITY will, upon receiving a fire alarm identifying a fire at the Contracted Property, send fire equipment and personnel from its fire department for the purpose of attempting to suppress and extinguish the fire upon the Contracted Property. The City does not provide any wildland fire protection services. Due to the lack of water supply in some areas outside of the City Limits and the inherent difficulties of firefighting, the CITY cannot guarantee results in their firefighting efforts. The CITY will use reasonable efforts within the limits of its personnel and equipment to suppress and extinguish the fire on the Contracted Property.

4. **DISCRETIONARY RIGHT TO WITHDRAW PERSONNEL AND EQUIPMENT OR NOT RESPOND IN EMERGENCY SITUATIONS.** CITY reserves the right to withdraw any portion of the personnel and equipment committed to fire suppression efforts upon the Contracted Property if, in the sole and absolute discretion of the CITY, acting through its Fire Chief, Battalion Chief or fire ground commander, an emergency situation, including another fire, exists, within or without the City Limits of the CITY, which requires commitment of personnel and/or equipment being utilized upon the Contracted Property. This reserved right of the City to withdraw includes the right not to respond to a fire alarm upon the Contracted Property if, in the sole and absolute discretion of the CITY, acting through its Fire Chief, Assistant Fire Chief or fire ground commander, its fire equipment and personnel are committed upon another emergency incident which requires the continued commitment of such equipment and personnel. Such decisions of the CITY will be based upon considerations of life-safety, relative values of properties involved, potential risks to other lives and property, and such other factors as CITY, in its sole and absolute discretion, deems relevant.

5. **COOPERATION BY PROPERTY OWNER:** The CITY is authorized to take all measures that it, in its sole and absolute discretion, deems necessary for the suppression of any fire upon the Contracted Property and the PROPERTY OWNER will cooperate with all reasonable requests of the CITY in the suppression of such fire. In this regard, if more than one fire suppression agency responds to a fire upon the Contracted Property, PROPERTY OWNER hereby designates the CITY as the agency in charge of fire operations and, if requested by the CITY, will direct any other responding fire suppression agency to withdraw from the Contracted Property.

PROPERTY OWNER will, during the term of this Agreement, grant to CITY reasonable access to the Contracted Property for purposes of inspection of the property for fire risks or pre-planning fire operations upon the Contract Property. This provision shall not require the CITY to inspect the Contracted Property for fire risks or pre-plan fire operations upon the Contract Property, such activities being in the sole and absolute discretion of the CITY.

6. **CONSIDERATION**: As consideration for this Agreement, PROPERTY OWNER shall pay to the CITY immediately upon execution of this Agreement by PROPERTY OWNER, the sum of \$*. Thereafter the annual fee shall be *\$ (*) per year, due and payable on or before the 1st day of July of each year thereafter. This sum is based upon the taxable valuation of the property multiplied by that portion of the Miles City General Fund mill levy that is appropriated for fire service. This annual fee shall be increased or decreased annually in accordance with the foregoing formula.

7. **TERM OF AGREEMENT**: The term of this agreement shall be from the date of execution to July 1, 2014, and shall continue, upon payment by PROPERTY OWNER of the annual fee provided for herein, from July 1 to June 30 each year thereafter until terminated by either party.

8. **TERMINATION**: This agreement may be terminated at any time by either party upon thirty (30) days advance written notice, and, in the event of such termination, the amount of payment paid by PROPERTY OWNER will be prorated for the unused time period of the contract. *PROVIDED HOWEVER*, that should PROPERTY OWNER fail to pay the annual fee on or before July 1st of each year, services hereunder by the CITY to the Contracted Property shall be immediately suspended until payment in full of such fee by PROPERTY OWNER.

9. **TIME OF THE ESSENCE**: Time is of the essence of this Agreement.

10. **BINDING NATURE**: This Agreement is binding upon and inures to the benefit of the parties, their successors and assigns.

11. **APPLICABLE LAW; VENUE**: This Agreement shall be construed and governed under the laws of the State of Montana and any action maintained to interpret or enforce this Agreement shall be venued in the District Court of the Montana Sixteenth Judicial District in and for the County of Custer.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

CITY OF MILES CITY - "CITY"

By: _____
Its Mayor

ATTEST:

CITY CLERK

"PROPERTY OWNER"
