

AGENDA

*Regular Council Meeting
City Council Chambers*

*September 24, 2013
7:00 p.m.*

**CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL**

1. APPROVAL OF COUNCIL MINUTES/COMMITTEE MINUTES

- | | | |
|----|---------------------------|-----------|
| a. | City Council | 9/10/2013 |
| b. | Finance Committee | 9/11/2013 |
| c. | Human Resources Committee | 9/18/2013 |

2. SCHEDULE MEETINGS

3. REQUEST OF CITIZENS & PUBLIC COMMENT

4. APPOINTMENTS

5. PROCLAMATIONS

6. STAFF REPORTS

Sam Malenovsky, Flood Administrator: Report on Flood Assessment Study

7. CITY COUNCIL COMMENTS

8. MAYOR COMMENTS

9. COMMITTEE RECOMMENDATIONS

Finance Committee Meeting: 9/11/2013

Recommendation to Send Ambulance Accounts to Collection

10. PUBLIC HEARINGS

11. BID AWARD

BID OPENING

Concrete Repairs of Maintenance District 204 (Stower & 8th Street)

12. OLD BUSINESS

13. NEW BUSINESS

- A. **Ordinance No. 1255:** An Ordinance Revising Section 24-18 Of The Code Of Ordinances Of The City Of Miles City, Montana, With Respect To Allowable Heights Of Fences, Hedges And Visual Obstructions.

- B. **Ordinance No. 1256:** An Ordinance Revising Sections 16-45 And 16-46 Of The Code Of Ordinances Of The City Of Miles City, Montana, So As To Include Rifles And Shotguns In The Definition Of Deadly Weapon, To Require That Concealed Weapons Permit Holders Carrying A Weapon In A Park Carry Such Weapon Concealed, And To Restrict The Open Carry And Display Of Firearms By Minors
- C. **Resolution 3636:** A Resolution Authorizing The City Of Miles City To Contract With Land Solutions, LLC, For Land Planning Services For Fiscal Year 2013-2014.
- D. **Resolution 3637:** A Resolution Authorizing Application For A Community Development Block Grant To Fund A Portion Of The Flood Control Assessment Study
- E. **Resolution 3638:** A resolution authorizing the city of miles city to enter into a consultant services agreement with DOWL HKM for construction administration services related to sidewalk construction for safe routes to school program.
- F. **Resolution 3639:** A Resolution Authorizing The Historic Preservation Officer To Apply For Community Development Block Grant And Montana Main Street Program Grant.

14. ADJOURNMENT

Public comment on any public matter that is not on the agenda of this meeting can be presented under ARequest of Citizens@ provided it is within the jurisdiction of the City to address. Public comment will be entered into the minutes of this meeting. The City Council cannot take any action on a matter unless notice of the matter has been made on an agenda and an opportunity for public comment has been allowed on the matter. Public matter does not include contested cases and other adjudicative proceedings.

REGULAR COUNCIL MEETING

September 10, 2013
7:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, September 10, 2013, in the City Council Chambers at City Hall, 17 S. 8th Street, Miles City, Montana. Mayor C. A. Grenz called the meeting to order. Council Members present were Mark Ahner, Dwayne Andrews, Roxanna Brush, Sue Galbraith, John Hollowell, Jerry Partridge, John Uden and Bill Melnik.

Also present were City Attorney Dan Rice, Fire Chief Dale Berg, Police Chief Doug Colombik, Flood Plain Administrator Samantha Malenovsky, Public Works Director Scott Gray, City Clerk Lorrie Pearce, Animal Control Officer Brian Certain, Payroll/HR Officer Billie Burkhalter, Dispatch Director Heather Roos, Children's Librarian Hannah Nash, Police Department Secretary Karen Hathaway, Historical Preservation Officer Connie Muggli, numerous police officers and Council Recorder/Deputy City Clerk Connie Watts.

PLEDGE OF ALLEGIANCE

Mayor Grenz led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

Regular Council Minutes – 8/27/2013

- ** *Councilperson Galbraith moved to approve the minutes of the Regular Council Meeting of August 27, 2013, seconded by Councilperson Uden and passed unanimously, 8-0, with a correction.*

Public Service Committee Meeting: 8/14/2013

- ** *Councilperson Galbraith moved to approve the minutes of the Public Service Committee meeting of August 14, 2013. The motion was seconded by Councilperson Melnik and passed unanimously, 8-0.*

Finance Committee Meeting: 8/26/2013

** *Councilperson Uden moved to approve the minutes of the Finance Committee meeting of August 26, 2013, seconded by Councilperson Ahner and passed unanimously, 8-0.*

Public Safety Committee Meeting: 8/29/2013

** *Councilperson Andrews moved to approve the Public Safety Committee minutes of August 29, 2013, seconded by Councilperson Melnik and passed unanimously, 8-0.*

Flood Control Committee Meeting: 9/3/2013

** *Councilperson Melnik moved to approve the Flood Control Committee meeting minutes of September 3, 2013, seconded by Councilperson Galbraith and passed unanimously, 8-0.*

SCHEDULE MEETINGS

Finance Committee:	Wed., Sept. 11, 2013 @ 6:00 pm
Human Resources:	Wed., Sept. 18, 2013 @ 6:00 pm
Planning Board:	Tue., Sept. 17, 2013 @ 6:00 pm

REQUEST OF CITIZENS & PUBLIC COMMENT

Sam and Doug Ohnstad, who lease a tract at Industrial Park for their United Parts building, expressed his appreciation for the City's cooperation and invited the Council to come look at his new building.

APPOINTMENTS

None

PROCLAMATIONS

None

STAFF REPORTS

None

CITY COUNCIL COMMENTS

Dwayne Andrews

- Asked why a **primary election** would not be held. He was told that, in a partisan election it would be needed to pare the candidates down to one Republican and one Democrat candidate. However, in a nonpartisan election, there can be up to four candidates for each open position.

Sue Galbraith

- Complimented our Flood Plain Administrator for her efforts in **reducing the flood insurance** by 5%.
- Said she understood that there are two vacant positions on the **Airport Commission** and suggested the City place this item on the agenda to fill the position for which it is responsible. Mayor Grenz said the Airport Commission is changing its by-laws, which will change the way the Commission positions are chosen. If that change goes through, it will be the City's pick on the next two Commissioners.

John Uden

- Complimented the *Miles City Star* for the flood plain articles
- Complimented the Fire Chief and others responsible for the lifesaving efforts on the Yellowstone River recently.

Roxanna Brush

- Congratulated an individual who was graduating from the Community Services Program.

Mark Ahner

- Congratulated Public Works Director Scott Gray and Public Utilities Director Al Kelm for finishing up the impound lot at the old Fish, Wildlife and Parks property, which will save the City \$45,000 a year

MAYOR COMMENTS

Veto of Police Department Secretary

Mayor Grenz read his veto, as set out below:

VETO

§7-5-4205(3) MCA and §2-106(6) of the Code of Ordinances of Miles City, Montana provide that the mayor has the power to "veto any objectionable part of a resolution or ordinance and approve the other parts." §2-106(7)(b) of the Code of Ordinances of Miles City, Montana provides that "the veto power of the mayor as to resolutions must be exercised in writing at the next regular meeting." Accordingly, I hereby veto the following parts of Resolution 3616, as amended and passed by the City Council at its regular meeting of August 27, 2013.

1. \$13,345 of the appropriation for Account 1000.005.420140, Object 111, as reflected in the FY 2013-2014 Budget attached as Exhibit "A" to said Resolution 3616, by striking the following language: "Increase per amendment amount of \$ 13345 to include Secretary." This results in a reduction of appropriations of \$13,345 for Account 1000.005.420140, Object 111.

2. In the event that a Court of competent jurisdiction should rule that the veto of the above portions of Resolution 3616, as amended are ineffective, then it is my intent of this veto to veto Resolution 3616, as amended, in its entirety. I am not in agreement with a budget for FY 2013-2014 that includes the expenditures that I have vetoed above.

My objections to the Resolution, as amended, are:

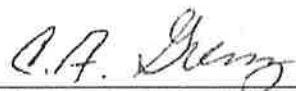
1. The budget as amended requires the use of the City's cash reserves. The Ambulance Fund continues to run in the red, presently at -\$280,432.44, and may require a loan from the general fund. There are

significant future expenses faced by the City and its taxpayers, to include the much needed improvements to the dike. Although it is hoped that grant money will be available to assist in paying for studies, to include private engineering studies as well as Army Corps of Engineers studies, as well as construction, this grant money is not guaranteed.

The taxpayers are also being faced with the expense of the DEQ mandated water and sewer plant upgrade, and the new county detention center. I feel that it is important that the City's spending be limited, to avoid the depletion of the cash reserves, and further tax increases in the future which will be a burden on the City's taxpayers, particularly those on fixed incomes.

2. The position which is funded by the item I have vetoed will require that calls made to the police department can be routed through dispatch when no one is available to answer the phones at the police department.

DONE at the regular City Council meeting of September 10, 2013.



C.A. Grenz, Mayor

Veto Discussion:

Councilperson **Galbraith** said the \$13,346 that is being vetoed by the Mayor will not make a lot of difference in the budget. She feels the Police Department secretarial position is very important. She sends all the evidence to the state, keeps the sexual predator list updated, as well as many other things that would, if this veto passes, have to be done by police officers. She feels the position is very important well worth the minimum wage the secretary is paid.

Attorney Rice said the veto needs to be confirmed or overridden, and can be done at this meeting or the next.

** *Councilperson Hollowell moved to vote on the veto at this meeting, seconded by Councilperson Brush and, on roll call vote, **passed unanimously, 8-0.***

- ** *Councilperson Hollowell moved to override the veto, seconded by Councilperson Galbraith and, on roll call vote, **the motion failed**, 4-4, with Councilpersons Melnik, Uden, Ahner and Brush voting no. The motion to override a veto would have had to pass by a 2/3 vote. **The veto was confirmed.***

COMMITTEE RECOMMENDATIONS

Public Services Committee: 8/14/13:

- a. Recommendation to allow Milestown Community Improvement, Inc. to make improvements and install a Frisbee Golf Course at Milwaukee Park

- ** *After discussion, Councilperson Galbraith moved to approve the Folf course for Milwaukee Park and put it in a resolution form to be presented at the next council meeting. The motion was seconded by Councilperson Uden and **passed unanimously**, 8-0.*

- b. CTEP Project Recommendations

There was only discussion on this item, and no action was taken.

- c. Recommendation to revise the Zoning Ordinance, Section 24-18, regarding maximum height of fences and hedges and projecting tree branches or shrubbery

- ** *Councilperson Uden moved to revise the Zoning Ordinance Section 24-18, seconded by Councilperson Andrews and **passed unanimously**, 8-0.*

Public Safety Committee: 8/29/13

- a. Recommendation to revise City Code, Section 16-46 regarding restricting the open carry of firearms in public by children 14-17
- b. Recommendation to revise City Code, Section 16-45, to add rifles and shotguns to the list of weapons which may not be carried in the parks

There was extensive discussion on Paragraph a. Members of the audience, including Fred Tetschner of the Custer County Rod and Gun Club,

felt this would restrict a young hunter's right to carry his gun from the house to the car when going out to hunt. When asked whether there have been problems with minors carrying guns or rifles in town, Police Chief Colombik answered no. Many members of the audience, as well as some Council members, felt this additional restriction is not needed, as there has been no problem identified. Others felt this would be a proactive measure to prevent a problem before one occurs.

** *Councilperson Brush moved that Public Safety recommendations (a) and (b) above be drafted into ordinance form. The motion was seconded by Councilperson Galbraith and passed 6 to 2, with Councilpersons Ahner and Melnik voting no.*

Recommendation to erect "SLOW – Children at Play" signs on Wells Street

Councilperson Andrews explained that, since it is not possible to put a reduced speed limit sign on that street, he felt this type of sign might be helpful in getting people to slow down.

** *Councilperson Andrews moved to erect a sign, "SLOW – Children at Play" on Wells Street, seconded by Councilperson Galbraith and passed 7-1, with Councilperson Brush voting no.*

PUBLIC HEARINGS

None

OLD BUSINESS

None

BID AWARDS

None

BID OPENING

None

NEW BUSINESS

Approve August Claims

** *Councilperson Uden moved to approve the claims for August, 2013, seconded by Councilperson Melnik. After brief discussion and on roll call vote, the **motion passed** by unanimous consent, 8-0.*

RESOLUTION 3635: A Resolution Adopting A Program For Public Information

** *Councilperson Andrews moved to adopt Resolution 3635, read by title only, and seconded by Councilperson Galbraith.*

Councilperson Andrews explained that the Program for Public Information is a comprehensive plan on a wide variety of issues, such as flood insurance and the dike assessment . He said that Flood Plain Administrator Malenovsky has done an outstanding job on putting the committee and the PPI document together.

Administrator Malenovsky explained that it is a way for the people in the community to become informed about flood insurance and dike assessment issues. A committee made up of insurance agents, realtors, lenders and City officials, as well as a document outlining outreach projects, is necessary to qualify for Community Rating System (CRS) credits, which can result in a possible reduction in flood insurance rates.

* *On roll call vote, the motion **passed** unanimously, 8-0. **Resolution 3635 was adopted.***

ADJOURNMENT

** *Councilperson Partridge moved to adjourn the meeting, seconded by Councilperson Uden and passed unanimously, 8-0.*

The meeting was adjourned at 8:30 p.m.

C.A. GRENZ, Mayor

Lorrie Pearce
City Clerk

Finance Committee Meeting September 11, 2013

The **Finance Committee** met Wednesday, September 11, 2013, at 6:00 p.m. in the City Hall Conference Room. Present were Chairperson Mark Ahner and Committee Members John Uden, Roxanna Brush and Bill Melnik.

Also present were Mayor C. A. Grenz, Fire Chief Dale Berg, Preservation Historian Connie Muggli, City Clerk Lorrie Pearce and Executive Director MCAEDC Mike Coryell.

Agreement with Dowl HKM for Professional Services for SRTS Sidewalk Construction

Chairperson Ahner stated that Grant Writer Dawn Colton had asked to bring the agreement to the Committee. Chairperson Ahner noted that the agreement states an effective date of August 16, 2013, but thought that it wouldn't be effective until the Council approved it. Chairperson Ahner also questioned if the \$ 65,585.00 is coming out of the SRTS grant fund or from Maintenance District 205. Committee Member Brush mentioned that if this does get passed, there is a family with a handicap child in that area, and she hopes that the engineer will communicate with them before construction begins. Grant Writer Dawn Colton has been out of town and not available to answer questions on the issue.

*** Committee Member Uden made an amendment to the original motion, that if funding is not available in the SRTS grant, it will be paid out of Maintenance District 205. Committee Member Melnik seconded the amendment to the motion. The amendment failed, with Committee Member Brush voting nay.*

*** Committee Member Brush moved to recommend approval of the agreement to the Council, seconded by Committee Member Melnik and passed 3-1, with Committee Member Uden voting nay.*

Contract with Land Solution, LLC, to provide Planning Services

Mayor Grenz explained that the consultant had contacted him to find out where the contract was in the plans for his services. Committee Member Brush explained that City Attorney Rice had an issue with the insurance coverage, because the contract states that Miles City will be responsible for all risk on his work. Mayor Grenz presented an e-mail that states that the Consultant would make sure that he has the necessary level of insurance needed. Chairperson Ahner had concerns with the hours charged for work, driving, meals and overnight stay, with an approximate cost of \$2,000.00 a trip, and thought there might be a better solution. Mayor Grenz stated that the consultant would work with the City to cut costs. Committee Member Uden asked if there were any efforts made to find someone closer to Miles City. Mayor Grenz replied

that this consultant is highly recommended and Sanitarian Mike Rinaldi would perform some of the inspections, which would also cut the cost to the City. Committee Member Uden asked if it had gone out for bid, and Mayor Grenz replied that it hadn't, but he had talked to several people about the position. Mayor Grenz will contact the consultant and get a better idea as to how the \$ 20,000.00 will be spent. Committee Member Brush explained that there are several issues coming in front of the Planning Board and is concerned that nothing will get completed if a planner is not hired soon. The growth policy has not been completed and 3 items from the Building Inspector should have had site plan reviews completed. There was a discussion on combining the Grant/Planner position, and if the combination happens why would we hire a consultant. Everyone was in agreement that if the position was combined, at this time Grant Writer Colton would not be qualified to perform the job. The plan is for Grant Writer Colton to go through the training and eventually be qualified to complete the inspections. Executive Director of MCAEDC Coryell stated that Julie Kurkow, SEMDC Grant Writer would write the grants needed, until the Grant/Planner is educated in her job. Councilperson Ahner confirmed that in the Sanitation Mike Rinaldi's contract, it states that he will perform site plan reviews.

*** Committee Member Uden moved to defer this issue until the next finance meeting, seconded by Committee Member Melink and passed unanimously, 4-0.*

Creation of a Tax Increment Financing District

Historic Preservation Director Connie Muggli opened by answering questions that were asked at the Finance Meeting on August 8th. In that meeting, the Revitalize Downtown project team proposed that the City consider the benefit of creating a Tax Increment Finance District as an incentive to encourage investment in the downtown business district. She then presented a funding proposal to hire a consultant to lead the community through the process of developing a TIFD in Miles City, should the City decide to move forward. It is estimated the consulting fee will be \$25,000. The funding proposal is a combination of a \$13,000 CDBG Grant and a \$10,000 grant from the Montana Main Street Program. The Main Street grant match for the City is 20%, so for a \$10,000 grant, it would cost the City \$2,000.00. If the City has a problem with the match, there are several private foundations that would donate the money for the match. She informed the Committee that the CDBG-ED grant is an open cycle grant, with a dollar for dollar match. Because of all the studies in Miles City, it was suggested to not offer a match, because CBGD could waive a match since Miles City is investing heavily in infrastructure at this time. Director Muggli pointed out that funds are extremely low, so if the City wants it, they need to move on it fast. Councilperson Ahner asked that if the proposal was recommended to the Council for approval and the City was successful in a grant application, is the City obligated to create a tax district? Director Muggli explained that creating a TIFD is a lengthy process which requires City Council approval and public participation throughout. If the City determines that a TIFD is not in the best interest of the city, the council can stop the process at any time. MCAEDC Director Coryell explained that they are looking forward to participating on the

Revitalize Downtown team and assisting with economic development of the downtown area, and offered the services of Julie Kurkow, SEMDC Grant Writer, to write the grant for this proposal. The Committee felt that participating in the tax increment financing district would be a great thing for downtown Miles City.

*** Committee Member Uden moved to recommend approval to the Council, participation in the tax increment financing district, contingent upon the city's ability to withdraw in the future and with the contribution of \$2,000.00 for the match, seconded by Committee Member Brush and passed unanimously, 4-0.*

Ambulance Collection

Fire Chief Dale Berg explained that the total for collection is \$ 47,754.71. The amount is basically 8 months of individual accounts for which Solestone has tried to collect with no luck. Committee Member Brush asked who is the responsible party to collect the money. Chief Berg replied that it was CPI.

*** Councilperson Ahner moved to recommend to Council that ambulance debt be sent to collection for the amount of \$ 47,754.71. Seconded by Committee Member Melink and passed unanimously, 4-0.*

Request of Citizens

None

Adjournment

Having no more business to come before the Committee,

*** Committee Member Uden moved to adjourn the meeting, seconded by Committee Member Brush and passed unanimously, 4-0.*

The meeting was adjourned at 7:20 p.m.

Respectfully Submitted:

Chairperson Mark Ahner

City Clerk Lorrie Pearce

Human Resources Committee

September 18, 2013

The **Human Resources Committee** met Wednesday, September 18, 2013, at 6:00 p.m. in the Conference Room at City Hall. Present were Committee Chairperson John Uden and Committee Members Bill Melnik and Mark Ahner. Also present were Program Assistant Dawn Colton and Committee Recorder HR/Payroll Officer Billie Burkhalter. Committee Member Roxanna Brush was absent.

1. Roll Call

- Noted above

2. Review combined Grant Writer/City Planner Position Description

Chairperson Uden explained to the Committee that Program Assistant Colton had combined her position description with the Director of Community Services & Planning position description. The Committee was then presented with the new position description of Assistant Planner/Grants Administrator for their consideration.

Chairperson Uden explained that Mayor Grenz had indicated to him that it was important for the new job description to have "Assistant Planner," as Program Assistant Colton would be trained by a Planning Consultant hired by the City.

Committee Member Ahner stated the position description references that supervision would be under the direction of a Planning Consultant. He disagreed with this, and further stated that supervision should be under a full time employee, whether that be the Mayor or Public Works Director. The Committee was in agreement that all references made in the position description to "under the direction/supervision of the Planning Consultant" be eliminated and that the direct supervisor would be the Public Works Director.

There was discussion concerning the wording in the position description in reference to how Program Assistant Colton would be working with a Planning Consultant. Committee Member Ahner voiced his concerns, as it is unknown how the City is going to handle this situation. The Committee was in agreement that all references to a Contract Planner are to be changed to state "under the instruction and coordination of a Planning Professional".

Committee Member Ahner stated he disagreed with the position description title "Assistant Planner/Grants Administrator" as Program Assistant Colton would not technically be an assistant to anyone, since the City has not hired a Planning Consultant. The Committee was in agreement that the position description title should be changed to "Planner-in-Training/Grants Administrator".

Committee Member Ahner noted that all references to flood control and zoning had been eliminated from the new position description. Program Assistant Colton explained that the Public Works Director would be handling all zoning, as it is in the

Director's position description. The Flood Plain Administrator would be handling all flood related issues.

There was discussion of the word "knowledge" under Job Performance Standards: "Demonstrates knowledge of land use laws, planning theory and funding programs". Due to this position being in a training mode, Committee Member Ahner recommended the word "knowledge" be replaced by "ability to learn". The Committee was in agreement.

Committee Member Ahner requested all abbreviations, such as MSPA and MSISA be fully spelled out in the position description.

*** Committee Member Ahner moved to accept the position description as amended for the Planner-in-Training/Grants Administrator. Motion seconded by Chairperson Uden and, on roll call vote, motion passed unanimously.*

3. Request of Citizens

-None

4. Committee Members' comments

-None

5. Adjournment

*** Committee Member Ahner moved to adjourn the meeting. The motion was seconded by Committee Member Melnik and passed.*

The meeting was adjourned at 6:45 p.m.

Respectfully submitted,

Billie D. Burkhalter, Recorder

Chairperson John Uden

**CITY OF MILES CITY
POSITION DESCRIPTION**

Position: Planner-in-Training/Grants Administrator

Department: Community Services & Planning

Accountable To: Director of Public Works

Summary of Work: This is a full time permanent position. The primary function of this position is to provide support for the various programs administered under the Planning department including short and long term planning, grants management and land management. Serves as planner, under the instruction and coordination of a Planning Professional, administering land use regulation through the Montana Subdivision and Platting Act (MSPA) and the Montana Sanitation in Subdivisions Act (MSISA), local subdivision regulations and other land use regulations. Provides technical assistance and information to staff and the public in the administration of planning program areas and ordinances, including maps, charts or tables. Prepares staff reports and recommendations for special use permits and variances. This position prepares updates for the City Growth Policy, assists in annexation and public right-of-way vacation activities. This position also provides grant preparation and administration guidance. The work is fast-paced with multiple tasks involving policy development and compliance, financial funding, project development, coordination of intra-agency schedules for funding, prepares funding applications for grants, loans, private fund raising and corporate giving, and supervises administration of successful grants and loans. This position responds to requests for information from the public regarding infrastructure, planning, and funding programs.

Job Characteristics:

Nature of Work: This position performs the duties of program administration, technical services, grants administration, and program operations to the Planning Board, the Community Services & Planning Department and other City departments. Provides technical and program information to the public regarding subdivision, Growth Policy and annexations.

Personal Contacts: Frequent contact with the general public, city, county state and federal officials, fellow employees, contractors, business groups, special interest groups, non-profit groups, engineering firms, land developers, and financial institutions.

Supervision Received: Under the direct supervision of the Director of Public Works.

Essential Functions: Position requires the ability to read and interpret written material, legal documents, aerial photography, topographic maps, plat maps and drawings, and engineering designs; communicate orally and in writing; travel to meetings, training, and development site inspections, calculate, and comprehend complex rules and regulations.

Areas of Job Accountability and Performance:

Supports the administration of the MSPA and MSISA, coordinates Growth Policy updates, reviews deeds and plats submitted for recording. Provides assistance and coordination of grant applications and administrative tasks. Prepares and administers department budgets under the direction of the Director of Public Works.

Job Requirements:

Knowledge: This position requires knowledge of land use laws, environmental laws, annexations and the practical application thereof; budget and financial administration, community development strategies, computer-aided mapping, public contracting, funding research and applications, administrative tasks and surveying.

Skills: This position requires skill in math, reading, communication, creative problem-solving, computer operation including MS Office, Internet applications and GIS. Effective public speaking and writing skills are important.

Abilities: This position requires the ability to interpret and apply federal law, state law and administrative regulations, and local ordinances; serve as liaison between local government and other community groups and governmental agencies; prepare reports; attend evening meetings; travel; communicate effectively orally and in writing; follow verbal and written instructions; establish effective working relationships with fellow employees, supervisors, and the public.

Education and Experience:

The above knowledge, skills, and abilities are typically acquired through a combination of education and experience equivalent to an Associate's Degree in a STEM (Science, Technology, Engineering, and Mathematics) related field.

Job Performance Standards:

Evaluation of this position will be based primarily upon performance of the preceding requirements and duties. Examples of job performance criteria include, but are not limited to, the following:

- Performs assigned duties.
- Observes work hours.
- Demonstrates punctuality.
- Deals tactfully with the public.
- Establishes and maintains effective working relationships with fellow employees, supervisors, and the public.
- Effectively serves as liaison for various groups.
- Prepares and submits accurate and timely reports.
- Maintains accurate and timely records.
- Administers the MSPA and MSISA programs.
- Demonstrates the ability to learn complex of land use laws, planning theory and funding programs.
- Effectively coordinates updates to local subdivision regulations and growth policies.

Signed _____ Date _____

Approved by Human Resource Committee 9/18/2013

ORDINANCE NO. 1255

AN ORDINANCE REVISING SECTION 24-18 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY, MONTANA, WITH RESPECT TO ALLOWABLE HEIGHTS OF FENCES, HEDGES AND VISUAL OBSTRUCTIONS.

The City Council of the City of Miles City has determined that certain clarifications and revisions to the allowable heights of fences, hedges and visual obstructions should be made, and that such revisions are reasonably necessary to promote the safety and welfare of citizens, and are in the best interest of the City of Miles City.

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. Section 24-18 shall be amended to read as follows:

“Sec. 24-18. – Maximum height of fences and hedges; projecting tree branches or shrubbery.

- (a) No fence, hedge or other visual obstruction exceeding three feet in height, or chain link fence exceeding forty-two inches in height, as measured from the street grade, shall be constructed in any residential district or mobile home park district in the front yard. The foregoing height requirements shall also apply to any perimeter fence, hedge or other visual obstruction located within the front twenty-five feet of any lot, as measured from the back of the curb, or edge of the street if no curb, of the front yard. In all other areas, the fence, hedge or other visual obstruction may not exceed six feet in height, as measured from the street grade.
- (b) It shall be unlawful for the owner or occupant of any premises within the city to suffer or permit any branches of any trees, bushes, shrubs or shrubbery to project over any sidewalk or street at a height less than eight feet.

Section 2. This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this 24th day of September, 2013.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

FINALLY PASSED AND ADOPTED this 8th day of October, 2013.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

ORDINANCE NO. 1256

AN ORDINANCE REVISING SECTIONS 16-45 AND 16-46 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY, MONTANA, SO AS TO INCLUDE RIFLES AND SHOTGUNS IN THE DEFINITION OF DEADLY WEAPON, TO REQUIRE THAT CONCEALED WEAPONS PERMIT HOLDERS CARRYING A WEAPON IN A PARK CARRY SUCH WEAPON CONCEALED, AND TO RESTRICT THE OPEN CARRY AND DISPLAY OF FIREARMS BY MINORS.

Pursuant to the authority granted under § 45-8-351(2)(a), the City Council of the City of Miles City has determined that, in the interest of public safety, certain restrictions on the carrying of firearms in parks, and by children, are necessary.

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. Section 16-45(a) shall be amended to read as follows:

“Sec. 16-45. – Carrying weapon in prohibited place.

- (a) It is unlawful for any person to purposely or knowingly carry, concealed or unconcealed, any dirk, dagger, pistol, revolver, shotgun, rifle, BB gun, air or pellet gun, slingshot, sword, sword cane, billy, knuckles made of any metal or hard substance, knife having a blade of four inches long or longer, razor, not including a safety razor, or other deadly weapon in the following places:
- (1) In a publicly owned building within the city limits;
 - (2) In a park within the city, unless such person has a concealed weapon permit (CWP) valid in the State of Montana, in which case the person may carry the weapon concealed;
 - (3) In a school within the city limits.”

Section 2. Section 16-46 shall be amended to read as follows:

“Sec. 16-46. – Carrying of firearms by minors.

- (a) It is unlawful for a parent, guardian or other person having the charge or custody of any minor child under the age of 14 years to permit such minor child to carry or use in public any firearms of any description within the city limits, except when the child is accompanied by a person having charge or custody of the child or under the supervision of a qualified firearms instructor or adult who has been authorized by the parent or guardian.
- (b) It is unlawful for any child, age 14 through 17 years, to carry or use a firearm of any description within the city limits, unless accompanied by a person having charge or custody of the child or under the supervision of a qualified firearms instructor or adult who has been authorized by the parent or guardian, except in the following circumstances:
- (1) The carrying of an unloaded firearm directly between a vehicle from a residence, or other structure, where the firearm is stored or kept;
 - (2) The transportation of an unloaded firearm in a vehicle.”

Section 3. This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this ____ day of _____, 2013.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

FINALLY PASSED AND ADOPTED this ____ day of _____, 2013.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

RESOLUTION NO. 3636

A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO CONTRACT WITH LAND SOLUTIONS, LLC, FOR LAND PLANNING SERVICES FOR FISCAL YEAR 2013-2014.

WHEREAS, the City of Miles city desires to contract with Land Solutions, LLC, a Montana limited liability company, for land planning services;

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 Consulting Agreement between the City of Miles City, Montana and Land Solutions, LLC, attached hereto as Exhibit "A", and made a part hereof, is hereby approved.
2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said Consulting Agreement 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 Consulting Agreement 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 24th DAY OF SEPTEMBER, 2013.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

EXHIBIT "A"

CONSULTING AGREEMENT

LAND PLANNING SERVICES

THIS CONSULTING AGREEMENT (the "Agreement") is made and entered into this ____ day of _____, 2013, by and between the City of Miles City, a Montana municipal corporation, hereinafter referred to as "Client", and Land Solutions, LLC, a Montana limited liability company, hereinafter referred to as "Consultant".

RECITALS

A. Client desires for Consultant to provide certain consulting services in connection with the activities described in Exhibit A, Scope of Work, on behalf of Client, and Consultant desires to perform such services for Client.

B. Both Client and Consultant desire to set forth in writing the terms and conditions of their agreement.

NOW THEREFORE, in consideration of the premises hereof and the mutual covenants and conditions hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1

CONSULTING SERVICES

1.1 On the terms and conditions set forth herein, Client hereby engages Consultant to perform certain services described in Exhibit A. Consultant agrees to use its best efforts in the performance of the Services called for hereunder.

1.2 Consultant will report to and liaise with the Mayor and the Chairperson of the Planning Board & Zoning Commission.

Section 2

TERM OF AGREEMENT

2.1 The term of this Agreement shall commence on the date hereof and shall continue until June 30, 2014 or until termination by either party, whichever comes first. Consultant's services shall consist of specific tasks and shall be performed at mutually agreeable times on an as-needed basis.

Section 3

COMPLIANCE

3.1 Consultant shall be an independent contractor. Nothing in this Agreement shall be construed to create any other relationship. Client will furnish direction to the Consultant, only; means and methods are matters within the Consultant's sole discretion.

3.2 As a part-time contractor, Consultant is not eligible for health or disability insurance, retirement benefits, or other welfare or pension benefits under the terms of Client's plans and programs. Consultant warrants that Consultant will retain in full force and effect workers compensation insurance and unemployment insurance as required by the state of Montana, and also professional errors and omissions insurance and general commercial liability insurance.

Section 4

COMPENSATION

4.1 Client agrees to pay Consultant at a rate of \$91 per hour for labor, \$32 per hour for travel time and mileage at a rate of \$0.55 per mile. Consultant shall invoice on a monthly basis or as otherwise acceptable to both parties. Client shall pay Consultant within 30 days of receiving each invoice.

Section 5

OBLIGATION FOR EXPENSES

5.1 Client shall reimburse Consultant for reasonable and necessary expenses incurred in the course of Consultant's work on behalf of Client within 30 days of invoice from Consultant. Reasonable and necessary expenses include accommodations, copying, maps, postage and similar direct expenses.

Section 6

OWNERSHIP OF DOCUMENTS

6.1 Consultant agrees that all information, analyses, methods, reports, and other data or materials generated or developed by Consultant under this Agreement or furnished by Client to Consultant shall be and remain the property of Client. Further, Consultant agrees to furnish to Client, in any format that the City may require, digitized

and usable forms of any such information, analyses, methods, report, data, materials, or final work products.

Section 7

RETURN OF MATERIALS

7.1 Upon the request of Client, Consultant shall surrender to Client all memoranda, notes, records, drawings, plans, correspondence and other documents or materials, and all copies thereof, pertaining to the methods employed by Client or furnished by Client to Consultant. Notwithstanding the foregoing, however, Consultant may keep personal copies of all work products developed for Client by Consultant during the term of Consultant's engagement.

Section 8

SCOPE OF AGREEMENT

8.1 This Agreement is intended by the parties to be the final expression of their agreement, and it constitutes the full and entire understanding between the parties with respect to the subject matter hereof, notwithstanding any representations, statements, or agreements to the contrary heretofore made. This Agreement may be amended only in a writing signed by the parties to this Agreement.

8.2 For purposes of enforcing this Agreement, all sections of this Agreement, except Section 4.1 hereof, shall be construed as covenants independent of one another and as obligations distinct from all other contracts and agreements between the parties hereto.

Section 9

NOTICES

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services, or by email notification with hard copy follow up;

If to Client:

Mayor of Miles City
17 S. 8th Street
Miles City, MT 59301
406-234-3462

If to Consultant:

Dave DeGrandpre
Land Solutions, LLC
36708 Leon Road
Charlo, MT 59824
Phone: 406-644-2658 (office)
406-885-7526 (cell)
Email: landsolutions@blackfoot.net

Section 10

LIABILITY

Consultant agrees to indemnify, defend and save Client harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Consultant or Consultant's agents or employees related to the services provided herein. For this purpose, Consultant shall provide Client with proof of Consultant's Errors and Omissions insurance issued by a reliable company or companies for professional liability, with policy limits in an amount not less than \$1.5 million for each occurrence, and naming Client as an additional named insured.

Section 11

TERMINATION

This Agreement may be terminated by either party with thirty (30) days written notice to the other party. In the event of termination under this Section by either party, Client shall be obliged to compensate Consultant at the rate established herein for services performed prior to the date of such termination.

Section 12

GOVERNING LAW; DISPUTE RESOLUTION

This Agreement is made under, and in all respects shall be interpreted, construed, and governed by and in accordance with, the laws of the State of Montana. The parties agree that they will use their best efforts to amicably resolve any dispute arising out of or relating to this Agreement. Any controversy, claim or dispute that cannot be so resolved shall be settled in the District Court of Custer County, Miles City, Montana.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on the day and year first above written.

By: C.A. Grenz,
Mayor

By: Dave DeGrandpre
Managing Member, Land Solutions, LLC

EXHIBIT A – SCOPE OF WORK

Under the direction of City Council and working with the Planning Board & Zoning Commission, Land Solutions will perform the tasks below on an as-needed basis:

- Development application review, including subdivisions, zone changes, use permits and variances as necessary
- Attend Planning Board and Zoning Commission meetings
- Attend City Council meetings
- Provide guidance to the public on zoning and subdivision regulations and application processes
- Periodically hold office hours
- Provide training to the Planning Board and Zoning Commission on various topics
- Update subdivision and zoning regulations and the growth policy
- Work with City staff on application review and long range planning projects
- Develop/update the City's impact fees
- Hold public planning meetings and workshops as necessary

RESOLUTION NO. 3637

A RESOLUTION AUTHORIZING APPLICATION FOR A COMMUNITY DEVELOPMENT BLOCK GRANT TO FUND A PORTION OF THE FLOOD CONTROL ASSESSMENT STUDY.

WHEREAS, the City of Miles City has budgeted \$187,000.00 in the FY2013-2014 budget to conduct a flood control assessment study;

AND WHEREAS, of the budgeted amount, \$60,000.00 was anticipated to be funded by a Community Development Block Grant (CDBG), half of which is to be applied for by the City of Miles City, and half of which is to be applied for by Custer County;

AND WHEREAS, the City of Miles City has indicated a willingness to provide matching funds for both the City of Miles City and the County of Custer County in connection with receiving the foregoing CDBG;

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

1. That the City of Miles City's grant writer, working with the South Eastern Montana Economic Development Council's grant writer, is hereby authorized to apply for a CBDG for the funding of a flood control assessment study on behalf of the City of Miles City.
2. That the City of Miles City agrees to contribute to the flood control assessment study the required 1/3 match on behalf of both the City of Miles City and County of Custer County for each CDBG grant which is awarded.

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 SEPTEMBER, 2013.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

RESOLUTION NO. 3638

A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO A CONSULTANT SERVICES AGREEMENT WITH DOWL HKM FOR CONSTRUCTION ADMINISTRATION SERVICES RELATED TO SIDEWALK CONSTRUCTION FOR SAFE ROUTES TO SCHOOL PROGRAM.

WHEREAS, the City of Miles City desires to construct certain sidewalks linking the Miles City Head Start to the existing sidewalks at the corner of North Montana Avenue and Lincoln Streets;

AND WHEREAS the Community Transportation Enhancement Program (CTEP) has selected DOWL HKM to provide construction administration services to the City of Miles City, Montana, and the City wishes to contract with DOWL HKM to provide such services;

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

1. The Consultant Services Agreement, between DOWL HKM and the City of Miles City, attached hereto as Exhibit "A", and incorporated herein, is hereby approved and adopted by this Council subject to final written approval of the City Attorney.
2. The Mayor of the City of Miles City, upon written approval of the City Attorney, is hereby empowered and authorized to execute said Construction Agreement 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 Construction Agreement 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 24th DAY OF SEPTEMBER, 2013.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

Exhibit A to
Res. 3638

CONSULTANT SERVICES AGREEMENT

This Agreement is made and entered into this 24th day of September 2013, by and between City of Miles City, from now on referred to as the Local Entity, and DOWL HKM, from now on referred to as the Consultant, whose principal office is located at 222 North 32nd Street, Suite 700, Billings, Montana 59101.

The Montana Department of Transportation, herein referred to as MDT, has approved the proposed Local Entity's enhancement project funded under Montana's Federal-aid Community Transportation Enhancement Program (CTEP).

The Local Entity desires to employ the Consultant to furnish certain specific services of an engineering nature. The Consultant agrees to provide such services in accordance with the conditions provided and to carry out all the duties and obligations imposed by the Agreement.

The Consultant agrees to provide the Local Entity with project development and design for Federal-aid Project Number SRTS 8099(10), Garfield Sch Walks – Miles City, Uniform Project Number 7982000.

This project will involve designing approximately 1-mile of six-foot wide sidewalk linking the Miles City Head Start to existing sidewalks at the corner of North Montana Avenue and Lincoln Street.

The Consultant may obtain copies of all manuals, guidelines and other MDT documents from the CTEP Section. Consultant may be charged for copies of documents.

Article I – Scope of Work

SECTION 1 – STANDARD OF CARE

The Consultant's performance on all services, obligations and responsibilities under this Agreement will be in a manner that is consistent with that degree of care and skill ordinarily exercised by members of the engineering profession currently practicing under similar circumstances at the same time and locality.

SECTION 2 – GENERAL

The Consultant, in performance of all work called for under this Agreement, will furnish all services for Miles City Safe Routes to School Sidewalk Construction called for in the specific project scope outlined in Section 4 of this Article. The Consultant will assist the Local Entity in the advertisement and award of the construction contract.

SECTION 3 – PROJECT DEVELOPMENT AND DESIGN

The Consultant will develop the project; conduct all necessary surveys, evaluations, environmental research, documentation and analyses; perform designs and prepare project manuals for the project.

Project development will be in accordance with the *MDT CTEP Manual*. The Consultant's work will be performed in accordance with the most current version of the following documents, as applicable:

- *MDT CTEP Manual,*
- *Appendix CTEP Manual of CSA,*
- *MDT Road Design Manual,*
- *MDT Structure Manual,*
- *MDT Hydraulics Manual,*
- *MDT Survey Manual,*
- *MDT Right-of-Way Operations Manual,*
- *MDT Traffic Engineering Manual,*

- *MDT Construction Administration Manual,*
- *MDT Environmental Manual,*
- *AASHTO Standard Specifications for Highway Bridges,*
- *MDT Detailed Drawings,*
- *MDT Project Development Procedures,*
- *MDT Standard Specifications for Road and Bridge Construction,*
- *MDT Consultant Services Manual,*
- *Manual on Uniform Traffic Control Devices (MUTCD),*
- *American Society for Testing and Materials (ASTM),*
- *Montana Materials Manual of Test Procedures,*
- *MDT CADD Standards Manual,*
- *Approach Standards for Montana Highways,*
- *MDT Public Involvement Handbook,*
- *AASHTO Guide for the Development of Bicycle Facilities,*
- *AASHTO Guide Specification for Design of Pedestrian Bridges, and*
- *Montana Public Works Standard Specifications.*

SECTION 4 – SPECIFIC PROJECT SCOPE

See Exhibit 'E'

SECTION 5 – REPORTS

- A. The Consultant will prepare the minutes for all meetings involved with the project and provide a copy of each to the Local Entity.
- B. The Consultant will identify and justify all exceptions to design standards (see Art. I, Sec. 3) that are found to be necessary during the design of the Project. The justification must include economic analysis. The Consultant will submit a Design Exception Request to the Local Entity for approval by MDT.

SECTION 6 – OBLIGATIONS OF THE LOCAL ENTITY TO THE CONSULTANT

In addition to the obligations of the Local Entity to the Consultant listed elsewhere in this agreement, the Local Entity will:

- A. Cooperate with the Consultant in making necessary arrangements with public officials as the Consultant may need to contact for advice, counsel and information.
- B. Provide timely approvals of the Consultant's formal submittals in writing in all instances. If verbal approvals are given in the interest of progressing the work, they must be confirmed in writing by the Local Entity at the earliest possible time.
- C. The Local Entity will provide the Consultant with any information needed by the Consultant for rendering the services required under this Agreement. If materials prepared by the Local Entity or its consultants are incomplete or erroneous, the Local Entity will compensate the Consultant for any work required to correct them. Information generated by sources other than the Local Entity, MDT or their consultants may be used by the Consultant, but the Local Entity and MDT assumes no liability for its accuracy or completeness.
- D. Furnish copies of the Local Entity's existing as-built construction and right-and-way plans (as available).

- E. The Local Entity will not reuse, make or permit to be made any modifications to the Consultant's final design and drawings without the prior written authorization of the Consultant. The Local Entity will make no claim against the Consultant arising from any unauthorized reuse or modification of the design and drawings.
- F. Give prompt written notice to the Consultant of any development that affects the scope or time of performance of the Consultant's services, or any defect or nonconformance in the Consultant's services or in the work of any subconsultant.

SECTION 7 – CONFERENCES, PROGRESS REPORTS AND LIAISON

- A. Conferences will be held as necessary between representatives of the Local Entity and the Consultant to review and discuss progress and any matters pertinent to any phase of work. Additional compensation will not be made for those conferences.
- B. The Consultant will be responsible to and will report to Dawn Colton, City of Miles City, for payment, submission of information, etc. All submittals will be made through Doug Enderson, P.E., PTOE, who will be the Consultant's liaison.
- C. Requests for visits to the site or at the office of the Consultant may be made by the Local Entity, representatives of the MDT, Federal Highway Administration or the Consultant in conjunction with any other party or parties for the purpose of review or inspection of the work.
- D. The Consultant will furnish to the Local Entity a brief narrative progress report on the first day of each month showing the status of the work on the Project. The report will cover all phases of work accomplished during the period of the report and show the percentage of work completed for each phase of the Project. Mention should be made of any matters that may have adversely affected the progress of the work.
- E. The Consultant, upon Local Entity's direction, will confer with public agencies, including planning authorities, giving consideration to suggestions and plans of these agencies.
- F. The Consultant will submit to the Local Entity the professional history, classification and salary of each person to be assigned to the Project. The Local Entity will reserve the right to approve all personnel and will so inform the Consultant of approval in writing.

SECTION 8 – PERSONNEL

The Consultant must employ a registered Professional Engineer or Architect in the State of Montana.

SECTION 9 – ENDORSEMENTS

The Consultant will furnish professional stamps, statements or other suitable means to signify responsible endorsement of work.

Article II – Time of Beginning and Completion

SECTION 1 – PROJECT COMPLETION TIME

- A. The Consultant agrees to start work on the professional services outlined in Article I of this Consultant Services Agreement within 10 days after receipt of written notice to proceed from the Local Entity.
- B. The mutually agreed to Project Schedule, Exhibit E, is made a part of this Agreement. Except as provided below, the Consultant must meet all deadlines and scheduled submittal dates. The Consultant will make reasonable efforts to improve on the schedule.
- C. Except as provided below, all work as specified in Article I of this Agreement must be completed by December 31, 2014.
- D. If during the Project development, the Consultant becomes aware of circumstances that have or may have an adverse affect on the scheduled completion of any or all phases of the Project, or that the Consultant will be unable to meet any schedule deadlines or submittal dates, the consultant will immediately notify the Local Entity in writing. The Local Entity and the Consultant will together take the steps necessary to maintain the Project on schedule. The Project completion schedule will be adjusted only if necessary.
- E. The Consultant is not responsible for delays caused by factors beyond the Consultant's control, including delays because of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of any governmental or other regulatory authority to act in a timely manner, failure of the Local Entity to furnish timely information or approve or disapprove of the Consultant's services or work product promptly or delays caused by faulty performance by the Local Entity.
- F. The Consultant submits the final contract plans package to the Local Entity and MDT for review. The Consultant will make any revisions to the plans that are required as a result of this review.
- G. Any alteration in the time schedule under Article II, Section 1C, shall be subject to the provisions of Article II, Section 2A.

SECTION 2 – CHANGES

- A. If additional work is requested by the Local Entity or delays beyond the control of the Consultant prevent completion of the services to be performed under this Agreement in the time specified, the Local Entity will grant an equitable adjustment of the Agreement amount and/or time for performance for all affected phases of the work. The Consultant shall provide a written request for an adjustment within 10 days from the date the Consultant receives notice of the reasons for the requested adjustment.

ARTICLE III – Payment

SECTION 1 – PAYMENT FOR SERVICES

This Agreement will be administered on a cost plus fixed fee basis. The salaries, overhead rate, salary additive rate and other compensatory rates, as included in the Consultant's cost proposal, Exhibit B, will remain fixed for the duration of this Agreement. However, the Consultant may make written request to the Local Entity to make revisions to the above rates. The Local Entity may approve revisions if they are reasonable and justified.

SECTION 2 – DEFINITIONS

A. Payroll Costs

1. Payroll costs shall be defined as the actual salaries and payroll items of all personnel working on the Project. The Local Entity agrees to pay actual payroll items including Social Security, Unemployment Compensation, excise and payroll taxes, employees' compensation insurance, sick leave, vacation, holiday pay and employees' retirement, employee medical and disability insurance, in addition to actual salaries. The Local Entity agrees to reimburse the Consultant for overtime at the rate of one and one-half (1½) times the hourly rate paid each employee. Requests for authorization of overtime will require prior written approval of the Local Entity.
2. Overtime is all hours worked in excess of 40 hours per week.
3. The hourly rate for salaried employees shall be determined from their annual salary divided by 2080 hours.

B. General Administrative Overhead

General administrative overhead of the Consultant is applicable to the payroll costs described in Paragraph A "Payroll Costs". Overhead may include, but not be limited to, the following: administrative, clerical and unallocated labor; employee bonuses and incentive awards; general travel expenses; depreciation; dues and subscriptions; computer and equipment expense; equipment rental; freight; general business insurance; employee travel accident and life insurance; legal and accounting; office, drafting room and laboratory supplies; professional society fees; recruiting; rent; building and equipment repairs and maintenance; taxes and licenses; telephone and telegraph (except toll charges specifically related to each individual project); general travel and employee relocation; utilities and janitorial services and office miscellaneous expense. Specifically excluded are bad debts and interest on borrowed capital.

C. Out-of-Pocket and Subcontract Costs

1. Subcontractor charges directly related to the Project will be reimbursed at cost. All subcontract costs require approval of the Local Entity.

D. Payment of Services

Payment will be made on the basis of and in accordance with the following schedules:

1. The Consultant will be reimbursed for the actual payroll costs as set forth in Article III, Section 2, Paragraph A, for the time employees are directly used on work necessary to fulfill the terms of this Agreement. To this amount will be added the general administrative overhead costs as set forth in Article III, Section 2, Paragraph B.
2. The Consultant will be reimbursed for actual out-of-pocket expenses and subcontract costs as specified in Article III, Section 2, Paragraph C.
3. The Consultant will be paid a fixed fee (profit) not to exceed \$6,458 dollars.
4. The total payment to the Consultant (including payroll costs, out-of-pocket expenses, subcontract costs and fixed fee) for the work covered under this Agreement will not exceed \$65,585 dollars.
5. All costs related to this project are to be in conformance with 48 CFR 31, *Contract Cost Principles and Procedures*.

E. Partial and Final Payments

Partial payments of the foregoing will be made at monthly intervals as the work progresses, based upon certified invoices received, compatible with current practices and acceptable to the Local Entity. Payments on the fixed fee will be based on the estimated percentage of completion of work. Every request for payment must include one original and 0 copies of the certified invoice, along with 0 copies of the progress report.

When the Consultant completes the work in accordance with the terms of the Agreement, the Local Entity's liaison will certify the completion and recommend final acceptance. The Local Entity will notify the Consultant that acceptance has been made.

The Local Entity reserves the right to withhold payment of the Consultant's final payment until any and all just claims filed with the Local Entity against the Agreement have been settled. Accomplishment of an affidavit on the final claim by the Consultant will constitute full Acceptance by the Consultant of the total amount shown as the entire amount due the Consultant under the agreement.

F. Consultant's Proposal and Cost Estimate

The attached Consultant's Proposal and Cost Estimate, Exhibits D & E, is made a part of this Agreement. If this document conflicts with the Agreement, the Agreement will govern.

SECTION 3 – INSPECTION AND AUDIT

All books, papers, records, payrolls, vouchers and invoices relating to costs and expenditures incurred as to the performance of the services specified in Article I by the Consultant or any of its subcontractors will be made available to the Local Entity, MDT, the Legislative Auditor and Legislative Fiscal Analyst, the Federal Highway Administration or their authorized representatives, for audit and review, at the Consultant's respective offices, at all reasonable times during the Agreement period and for 3 years from the date of final MDT payment.

SECTION 4 – TYPE OF CONTRACT

The Consultant agrees that this is a Consultant Services Agreement and that they are an independent contractor and not an employee of the Local Entity or MDT. It is further understood by the Consultant that no deductions from the payments under this Agreement for Federal or State income tax, FICA (social security), retirement or other reasons will be withheld by the Local Entity or MDT.

Article IV – Miscellaneous Provisions

SECTION 1 – TERMINATION OR ABANDONMENT

The Local Entity may terminate this Agreement at any time with 15 days written notice to the Consultant, for any of the following:

- If it is in the best public interest to abandon, reduce or change the Project covered by this Agreement. If the Local Entity believes this is appropriate, this Consultant Agreement will be terminated.
- Adverse weather, flood, earthquake, etc., or any other condition beyond the control of the Local Entity and/or Consultant, which may adversely affect the work to be performed, this Agreement may be terminated by the Local Entity.
- A change in the scope, character or complexity of all or any part of the work under this Agreement, the Local Entity may decide that it is in the best public interest to terminate this Agreement.

- If services of the Consultant prove unsatisfactory or because of the failure of the Consultant to perform its work with due diligence or to complete the required services or any part of it within the time limits specified, this Agreement may be terminated.

In these cases, the Consultant will be paid the reasonable value of services rendered up to the time of termination. The reasonable value of services will be based on the method of payment as defined in the Agreement. The approved percentage of completion will be determined by mutual agreement between the Local Entity and the Consultant.

SECTION 2 – GENERAL COMPLIANCE WITH LAWS

- A. The Consultant will observe and comply with existing laws, ordinances and regulations.
- B. The Consultant agrees to indemnify and hold harmless the Local Entity, State and MDT, their officials, agents and employees, while acting within the scope of their duties, from and against all claims, demands and causes of action of any kind or character (including reasonable attorneys fees and costs of defense), to the extent caused by the Consultant's non-negligent but wrongful acts, errors or omissions arising out of services performed or in any way resulting from a non-negligent but wrongful act, error or omission of the Consultant and/or its agents, employees, subcontractors or representatives under this Agreement.
- C. The Local Entity agrees to indemnify and hold harmless the Consultant from and against all claims, demands and causes of action of any kind or character (including reasonable attorneys fees and costs of defense), to the extent caused by the Local Entity's non-negligent but wrongful acts, errors or omissions arising out of services performed or in any way resulting from a non-negligent but wrongful act, error or omission of the Local Entity and/or its agents or employees under this Agreement.
- D. The Local Entity will furnish copies of the Local Entity's existing as-built construction and right-of-way plans (as available).
- E. The Local Entity will not reuse, make or permit any modifications to the Consultant's final design and drawings without the prior written authorization of the Consultant. The Local Entity will make no claim against the Consultant arising from any unauthorized reuse or modification of the design and drawings.

SECTION 3 – OWNERSHIP OF DOCUMENTS

On completion of services or termination of this Agreement, all drawings, map originals, survey notes, field books, calculations, reports and all data used will become the property of the Local Entity. Following their acceptance of these documents, the Consultant will be indemnified, defended and held harmless only for any changes or revisions to the plans and related documents that the Consultant prepares under this Agreement that are made without Consultant's knowledge and written consent.

SECTION 4 – SUBCONTRACTING, ASSIGNMENT OR TRANSFER

The subcontracting, assignment or transfer of any part of this Agreement, except as shown in the Consultant's proposal, is prohibited unless prior written approval is obtained from the Local Entity. Subcontracts that exceed \$10,000 in cost will contain all required provisions of the prime agreement.

SECTION 5 – CHANGES OF WORK

If, during the term of the Agreement, additional services are required, other than those services specified above, or major changes in the work become necessary or desirable, the Local Entity may make written request to the Consultant to perform these services or make changes. If the Consultant is of the opinion

that any work requested beyond the scope of this Agreement and constitutes extra work, the Consultant will promptly notify the Local Entity in writing prior to performing work. If the Local Entity agrees that this work does constitute extra work, the Consultant will be reimbursed on a mutually agreed basis, and additional time for completion of the Agreement shall be given. Before work is undertaken, the Consultant and the Local Entity will, by mutual written agreement, determine the scope of the work and the cost thereof.

Compensation will be determined before the operations begin and as soon as circumstances permit. If a mutual agreement is not reached in negotiations for an increase in work, the Local Entity will use other methods to accomplish the work.

SECTION 6 – MEETINGS AND PRESENTATIONS

The Consultant and its subcontractors, when directed by the Local Entity, will attend and make appropriate presentations at meetings conducted for the purpose of discussing with the public or local, State and Federal officials the effect and objectives of the proposed project or other matters pertaining to the Project.

The Consultant will prepare exhibits and visual aids necessary to clarify the proposed project to the participants of the meetings.

SECTION 7 – ACCURACY OF WORK

The Consultant will make necessary revisions or corrections resulting from errors and omissions on the part of the Consultant without additional compensation (see Art.I, Sec.1).

If any errors are made by the Consultant in any phase of its work under this Agreement that may require additional field or office work, the Consultant will be promptly notified in writing and will be required to perform additional work as necessary to correct these errors without undue delay and without additional cost to the Local Entity. Acceptance of its work will not relieve the Consultant of the responsibility for subsequent correction of any errors and the clarification of any known ambiguities.

Construction problems or conflicts arising as a Local Entity of design or plan errors or omissions will be considered the Consultant's responsibility. The Local Entity will be responsible for any unreasonable interpretation it makes of the Consultant's design, drawings and plans. The Consultant will be notified of all errors and omissions and will meet with Local Entity representatives to assist in determining corrective action at no cost to the Local Entity. If design errors are found to be a cause of the construction problem or conflict, the Consultant will have the opportunity to be involved in discussions to determine the desired corrective action. Following discussions between the Local Entity and the Consultant, the Local Entity will provide the Consultant with its written demand letter for the total costs of the corrective action.

The Consultant agrees to provide proof of errors and omissions insurance coverage not less than \$1,000,000 (one million dollars) for the entire period of the Project for which consultant services are required under this Agreement.

SECTION 8 – VENUE

In the event of litigation, venue shall be the 16th Judicial District in and for the County of Custer, State of Montana, and the Agreement shall be interpreted according to the laws of Montana.

SECTION 9 – NONDISCRIMINATION

Reference is made to Exhibit C, which by this reference is hereby made a part of this Agreement.

SECTION 10 – CERTIFICATION

The parties to this Agreement have each executed a certification. The certification of the Consultant, labeled Exhibit A, is attached and by this reference made a part of this Agreement. The certification of the Local Entity, labeled Exhibit B, is attached and by this reference made a part of this Agreement.

SECTION 11 – DBE GOAL

The Consultant will make all reasonable efforts to use MDT's currently certified DBE firms for applicable subcontracting services that are necessary. The Appendix CTEP Manual of CSA contains instructions for accessing the current Internet listing of MDT's certified DBE firms. Contact the MDT Compliance Section, should subcontracting opportunities arise.

Each invoice submitted in accordance with Article III, Section 2E, must state the established DBE goal for the project and the current and cumulative amounts expended to date towards that goal.

SECTION 12 – WORKER'S COMPENSATION COVERAGE

The Consultant agrees to provide proof that he has a policy for Worker's Compensation Insurance or proof that they have elected to be exempt from coverage and this election has been approved by the Department of Labor and Industry. The Consultant agrees to maintain Worker's Compensation Coverage or be self-insured for the entire period of this Agreement.

SECTION 13 – CONSULTANT'S PLANS RESPONSIBILITY

The Consultant will be responsible for the quality of the final plans package (see Art. I, Sec. 1), as the Local Entity will not make a detailed check of the plans. The Consultant will stamp and sign the title sheet of the final contract plans package. The Consultant's name will be shown on all plan sheets of the Project. If Specialty Plans are involved (e.g., Bridge Plans, Sewer/Water Plans prepared for a city and included into the Local Entity's plan package), the Consultant will stamp and sign each page of the plans. The final plans package will be assembled and shall take on the form of a Project Manual and drawings as defined in the *CTEP Manual*.

SECTION 14 – ENTIRE AGREEMENT AND MODIFICATIONS

This Agreement, including referenced or attached documents, is the entire agreement of the parties. Any modification requires a written amendment signed by authorized representatives of both parties.

SECTION 15 – THIRD PARTY BENEFICIARIES

This Agreement is not intended to create anyone as a third party beneficiary or to authorize anyone not a party to the Agreement to maintain an action for damages pursuant to the terms or provisions of this Agreement.

SECTION 16 – CONFIDENTIALITY OF INFORMATION

The Consultant understands that the information contained in this Agreement will be part of the public bidding process, and that it must remain confidential between the Consultant and the Local Entity until the Project has been awarded. Failure by the Consultant or its employees to keep that information confidential is considered a breach of this Agreement, and may require the Local Entity to have another consultant rework the product of this Agreement, potentially delaying the Project and costing the Local Entity additional funds. Such an act by the Consultant will be a violation of Art. IV, Sec. 2, and subject all persons or parties involved to possible debarment under ARM Sec. 18.d.101 et seq.

In witness, the parties have sealed this Agreement by their signatures.

Approved for the Consultant

Approved for the Local Entity

By/Date: _____

By/Date: _____

By/Date: _____

Attest By/Date: _____

Federal Employer's ID Number

Approved for Legal Content

Attest By/Date: _____

By/Date: _____
Local Entity Legal Services

EXHIBIT "A"

CERTIFICATE OF CONSULTANT

I am a duly authorized representative of the firm of DOWL HKM, whose address is 222 North 32nd Street, Suite 700, Billings, Montana 59101 and I hereby certify as follows:

1. That neither the firm nor any person associated therewith in a management capacity:
 - a. has employed or retained for commission, percentage, brokerage, contingent fee or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this Agreement;
 - b. has agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement; or
 - c. has paid or agreed to pay to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant), any fee, contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the Agreement; with no exceptions.
2. That neither the firm, nor any person who has critical influence on or substantial control in the firm, nor any person associated therewith in a management or supervisory capacity:
 - a. is currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any Federal agency or any agency of any State government;
 - b. has, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud; a criminal offense in connection with obtaining, attempting to obtain or performing a public transaction or contract under a public transaction; violation of antitrust statutes; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
 - c. is currently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses listed in paragraph 2.b of this certification; or
 - d. has had one or more public transactions terminated for cause or default within a three-year period preceding this Agreement.
3. That to the best of my knowledge and belief:
 - a. no Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement; and
 - b. if any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a

Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

I acknowledge that this certificate is to be furnished to the City of Miles City, State of Montana, Department of Transportation and the Federal Highway Administration, in connection with this Agreement involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Signature

EXHIBIT "B"

CERTIFICATE OF THE LOCAL ENTITY

I hereby certify that I am the _____ of the City of Miles City of the State of Montana, and that the above consulting firm, or his representatives, has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this Agreement, to:

- a. employ or retain, or agree to employ or retain, any firm or person, or
- b. pay, or agree to pay to any firm, person or organization, any fee, contribution, donation or consideration of any kind; with no exceptions.

I acknowledge that this certificate is to be furnished the Montana Department of Transportation and Federal Highway Administration in connection with this Agreement involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Chief Executive's Signature

EXHIBIT "C" NOTICE TO CONSULTANTS

During the performance of this Agreement, the Consultant, for itself, its assignees and successors in interest (hereinafter referred to as the "Consultant"), agrees as follows:

A. COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 FOR FEDERAL-AID CONTRACTS

1. Compliance with Regulations: The Consultant shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations, Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even though only State funding is here involved.
2. Nondiscrimination: The Consultant, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, any potential subconsultant or supplier shall be notified by the Consultant of the Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination.
4. Information and Reports: Consultant will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Local Entity, MDT or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Local Entity, MDT or the FHWA as requested, setting forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, Local Entity or MDT may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,
 - a. withholding payments to the Consultant under the Agreement until the Consultant complies, and/or
 - b. cancellation, termination or suspension of the Agreement, in whole or in part.
6. Incorporation of Provisions: Consultant will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. Consultant will take such action with respect to any subcontract or procurement as the Local Entity, MDT or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event Consultant is sued or is threatened with litigation by a subconsultant or supplier as a result of such direction, the Consultant may request the Local Entity to enter into the litigation to protect the interests of the Local Entity or State, and, in addition, the Consultant or the Local Entity may

request the United States to enter into such litigation to protect the interests of the United States.

B. COMPLIANCE WITH MONTANA GOVERNMENTAL CODE OF FAIR PRACTICES, 49-3-207, MCA

In accordance with Section 49-3-207, MCA, Consultant agrees that for this Agreement all hiring will be made on the basis of merit and qualifications and that there will be no 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 the Agreement.

C. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

1. Consultant will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.
2. Consultant will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: "The Consultant will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the Consultant. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the Consultant."
3. All video recordings produced and created under the Agreement will be closed-captioned.

D. COMPLIANCE WITH PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS, 49 CFR 26.

Each Agreement the Local Entity signs with a Consultant (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: "The Consultant, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate."

EXHIBIT "D" CTEP CONSULTANT COST ESTIMATE

PRELIMINARY & CONSTRUCTION ENGINEERING COST ESTIMATE										
	Tasks	Total Hours	Senior Proj. Mgr.	Project Manager	Project Engineer	Planner	Lab Technician	CADD Technician	Survey/Drill Crew	Clerc.
1	PROJECT MANAGEMENT									
	Project Development and Management	8		8						
	SUBTOTAL (HOURS)	8		8						
2	DATA COLLECTION									
	Request Plans & Documents	2		2						
	Site Visit & Minutes	11		10						1
	Utility Coordination	6		1	4					1
	SUBTOTAL (HOURS)	19		13	4					2
3	FIELD SURVEY & MAPPING									
	Search property corners	16			1				16	
	Topo survey	36			1				35	
	Mapping	22		2				20		
	SUBTOTAL (HOURS)	74		2	2			20	60	
4	PRELIMINARY ENGINEERING & SUBMITTALS									
	Preliminary Line & Grade	28		12				16		
	Drainage Evaluation	20		20						
	Plan Development									
	Cover	1						1		
	Notes / Control / Legend	3		1				2		
	Key Map	4		1				3		
	P&P Sheets (8)	24		8				16		
	Typicals & Intersection Details	10		4				6		
	Misc. Details	6		2				4		
	Project Manual	28		28						
	Opinion of Cost / Bid Form	15		13				2		
	SUBTOTAL (HOURS)	139		89				60		
5	SUBMITTALS									
	Preliminary Line & Grade	9		2				5		2
	Final PS&E	9		2				5		2
	Environmental Cat. Ex.	5		4						1
	SUBTOTAL (HOURS)	23		8				10		5
6	CONSTRUCTION BIDDING SERVICES									
	Advertisement	4		2	2					
	Distribution	12		2	2					8
	Prebid Meeting	11		8	2					1
	Questions & Clarifications	10		8						2
	Bid Opening / Award Rec.	6		2	3					1
	Award / Contracts	5		4						1
	SUBTOTAL (HOURS)	48		26	9					13
7	CONSTRUCTION STAKING & ADMINISTRATION									
	Preconstruction Meeting	10.5		2	8					1
	Submittal Review	14		2	8					4
	Construction Staking	56		2				4	50	
	Site Visits	20		2	16					2
	Acceptance Testing	102		2			100			
	Substantial Completion Inspection	11		8	2					1
	Final Inspection	5			4					1
	Project Closeout	12		2	4			4		2
	SUBTOTAL (HOURS)	230.5		20	42		100	8	60	10.5

EXHIBIT “E” SCOPE OF WORK AND SCHEDULE

Task 1: Project Management

Project Management for this work will mostly consist of correspondence and coordination with the City of Miles City, and the coordination of internal workloads to meet the schedule and scope of this project.

Task 2: Data Collection

DOWL HKM will perform one (1) site visit with the City and other interested parties to gain further understanding what the community's goals and needs are with the project.

DOWL HKM will request from the City the following information if available:

- Plats for the lots adjacent to the right-of-way in which the new sidewalk will be constructed.
- Applicable Zoning / City Ordinances
- Utility plans (e.g. sewer, storm & water)
- Storm Drain Master Plan
- Community Transportation Plan

DOWL HKM will coordinate with private utility companies for the location, type, and size of their utilities within the project corridor. This information will be determined through utility-provided atlas mapping and via Montana One Call.

Task 3: Field Survey & Mapping

DOWL HKM will survey and map the entire right-of-way width for each of the segments as described above. It is assumed that sufficient number of property corners on the right-of-way line along the sidewalk side will be locatable to reestablish the property lines from the plats. All drainage features including topography will be surveyed with the full right-of-way width and detailed point information will be collected in that portion of the right-of-way where the sidewalk is to be constructed (i.e. trees, shrubs, hydrants, utility poles, junction boxes, mailboxes, etc.). The survey will locate utility positions from surface features and as marked or indicated by the respective owners. The survey will also include a minimum of 50 feet of coverage for intersecting streets beyond the right-of-way on the sidewalk side only.

Task 4: Preliminary Engineering and Submittals

DOWL HKM will provide preliminary line and grade layout of the sidewalk based on existing conditions and the typical sections as identified in the Peaks to Plains Evaluation. This work will be submitted to the City and to CTEP for review and comment before moving forward with the preparation of plans and the project manual for bidding. This submittal will also include a preliminary opinion of construction cost to identify budget concerns. Prior to advertising, a final review set will be submitted to the City and to CTEP for review and permission to advertise.

The proposed improvements are assumed to meet the requirements for a Group (c) Categorical Exclusion. DOWL HKM will provide guidance to the City, who will prepare the documents they need to submit to CTEP.

A low-level drainage evaluation based on survey contours to determine potential flooding caused by the installation of sidewalk will be performed. A memorandum will be developed to document the analysis and determine potential flooding mitigation measures.

Drainage mitigation for this project is anticipated to be minor and within CTEP funding allowance and will be designed as part of the construction documents for this project. Mitigation measures recommended in the evaluation memorandum will be discussed with City of Miles City staff before creating design plans. If mitigation measures are above and beyond what CTEP funds will cover, then the City of Miles City and DOWL HKM will discuss how best to proceed.

Task 5: Construction Bidding Services

DOWL HKM will perform the following for bidding services for the project:

- Prepare the Advertisement to Bid, make arrangements with local newspaper to run the ad and document the publication dates in our files. The City will be billed directly by the paper for these publications or reimburse DOWL HKM directly as the case may be.
- Produce bid documents, maintain a plan holders list and distribute bid documents and addenda to those on the plan holders list.
- Schedule and conduct a prebid meeting at a City Facility and distribute meeting minutes documenting the discussion.
- Answer questions and issue clarification of the contract documents as necessary.
- Conduct a bid opening at the designated City Facility, prepare a tabulation of bids and recommend award of the contract.

Upon receiving concurrence of the award recommendation from CTEP and the City of Miles City, DOWL HKM will issue a Notice of Award to the successful contractor and the City will provide the contract for the contractor to execute and resubmit along with bonds and insurance.

Task 6: Construction Staking & Administration

DOWL HKM services are based upon a 30 to 45 calendar day construction contract. Assuming the contractor can place and finish 400 to 500 lineal feet of 6 foot wide sidewalk each day, 10 working days is assumed (14 calendar days) to complete the majority of this work. DOWL HKM obligations under this phase of the project will include:

- Conducting a preconstruction meeting
- Reviewing contractor submittals including pay requests
- Construction Staking – Construction staking will consist of providing offset hubs at 25-foot spacing, Points of Curvature & Points of Tangents at intersection locations for the contractor to use throughout the project. Our approach assumes staking 800 to 1000 feet per day. We allow five days to complete this task.
- Construction Administration – 12 hours per week for 6 weeks for site visits and documentation. Site visits will be conducted by the DOWL HKM Miles City staff.
- Acceptance testing of the subgrade, crushed base course and Portland Cement Concrete. Sampling and testing will be performed or collected by DOWL HKM Miles City Office staff. Base course and Portland Cement Concrete samples and cylinders will have to be transported to the DOWL HKM Materials Lab in Billings for testing. This scope of services assumes DOWL HKM will transport all samples and cylinders from Miles City to Billings. However, other arrangements can be accommodated if City of Miles City staff is available to transport. If anyone other than DOWL HKM staff transports samples, standard protocols will be established to ensure the integrity of the samples.
 - Acceptance testing of the subgrade will be per MPWSS 02230, Part 1.3. In-place density shall be at least 95% and one test will be performed every 1,000 square feet. Acceptance testing of the subgrade also includes reviewing moisture density curves from the contractor.

- Acceptance testing of the crushed base course will be per MPWSS 02235, Part 1.3. In-place density shall be at least 95% and one test will be performed every 1,000 square feet. Acceptance testing of the crushed base course also includes reviewing moisture density curves, gradations, LA abrasion test results, Liquid Limits, Plastic Limits and Plasticity Indexes of the base course from the contractor.
- Acceptance testing of the Portland cement concrete will be per MPWSS 02515. Air, slump, 7-day and 28-day compressive strength tests will be conducted every 50 cubic yards. Acceptance testing of the Portland cement concrete also includes reviewing the mix design submitted by the contractor.
- Conducting Substantial Completion and Final Inspections
- Processing the documentation for closeout of the project and issuing a Certificate of Completion to CTEP.

EXHIBIT "F"
CERTIFICATION OF INDIRECT COSTS

Firm Name: DOWL HKM

Indirect Cost Rate: 171.8%

Fiscal Period Covered: 4/1/13 to 3/31/14

I, the undersigned, certify that I have reviewed the proposal to establish the indirect cost rate(s) for the fiscal period as specified above and to the best of my knowledge and belief:

1. All costs included in this proposal to establish the indirect cost rate(s) are allowable in accordance with the cost principals of the Federal Acquisition Regulations (FAR) of title 48, Code of Federal Regulations (CFR), part 31.
2. This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rate(s) have been disclosed. I agree to immediately notify MDT of any changes that may affect the indirect cost rate(s).

Signature:

Name of Certifying Official:

Title (must be V.P., CFO, or higher):

Date of Certification: 3/20/13

RESOLUTION NO. 3639

A RESOLUTION AUTHORIZING THE HISTORIC PRESERVATION OFFICER TO APPLY FOR COMMUNITY DEVELOPMENT BLOCK GRANT AND MONTANA MAIN STREET PROGRAM GRANT.

WHEREAS, the City of Miles City desires to explore the revitalization of Main Street;

AND WHEREAS, the use of a Tax Increment Finance District (TIFD) is one available mechanism for funding such revitalization efforts;

AND WHEREAS, the City of Miles City desires to work with a qualified consultant to determine the feasibility of developing said TIFD in Miles City, Montana, and if the Council should decide, based on the advice of said consultant, the City desires to move forward with the goal of creating such TIFD;

AND WHEREAS, certain grants, to include Community Development Block Grant, and Montana Main Street Program Grant, are available to fund the hiring of a qualified consultant;

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

1. That the Historic Preservation Officer, Connie Muggli, is hereby authorized to apply for a Community Development Block Grant, and Montana Main Street Program Grant, on behalf of the City of Miles City, and on condition that the Historic Preservation Officer is able to obtain private funding for all required "match money" for such grants.
2. That the Historic Preservation Officer may provide such additional information to the administrative entities for whom application is being made, in connection with said applications, as may be required or requested.
3. That the City of Miles City, Montana agrees to conform with the regulations, statutes, terms and conditions described in the CDBC Certifications for Application, attached hereto as Exhibit "A."
4. That in the event the foregoing grants are awarded to the City of Miles City, the City will seek out, hire and work with a qualified consultant as to the feasibility of a TIFD.

**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 SEPTEMBER, 2013.**

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

**PLANNING GRANT APPLICATION – CERTIFICATION FORM
MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT
ECONOMIC DEVELOPMENT PROGRAM
MONTANA DEPARTMENT OF COMMERCE**

The Applicant hereby certifies that:

ACCEPTANCE OF CDBG-ED PROGRAM REQUIREMENTS

It will comply with all applicable parts of Title I of the Federal Housing and Community Development Act of 1974, as amended, which have not been cited herein as well as with other applicable federal laws and regulations.

It will comply with all requirements established by the Montana Department of Commerce and applicable State laws, regulations, and administrative procedures.

It accepts the terms, conditions, selection criteria, and procedures established by the Montana Community Development Block Grant - Economic Development (CDBG-ED) Program and expressly waives any statutory or common law right it may have to challenge the legitimacy and propriety of these terms, conditions, criteria, and procedures in the event that it is not selected for an award of CDBG-ED funds.

APPLICANT - CERTIFICATION

To the best of my knowledge and belief, the information provided in this application and in the attached documents is true and correct.

Name Chris A. Grenz

Title Mayor
(Chief Elected Official)

Signature _____



OFFICE OF HISTORIC PRESERVATION

MILES CITY, MONTANA

MEMO

Date: September 24, 2013

To: Mayor Grenz,
Mr. Hollowell, President
Council Members

From: Connie Muggli, Director,
Historic Preservation

Re: Tax Increment Finance District Proposal

The Historic Preservation Office, on behalf of the Revitalize Downtown project team, is proposing the City Council consider a Tax Increment Finance District as a potential financial incentive that will encourage investment in Miles City's Main Street. At the request of the Finance Committee we have provided extensive study material to council members for their consideration.

To fund this Revitalize Downtown initiative, the project team proposes using a combination of grants and private sector funding that reduces financial risk for the City. The funding proposed here will enable the city to contract with a qualified consultant to work with the Council and other stakeholders in the community to determine whether a Tax Increment Finance District will be of benefit to the City. The City is not obligated to create a TIFD, however should the city decide to move forward based on their findings, the total budget is sufficient to enable the City to continue working with the consultant to complete the process.

The goals of this meeting are:

- Answer any questions Council Members may have about Tax Increment Finance Districts,
- Present the grant funding proposed for the cost of hiring the consultant (Attached)
- Ask the committee for approval of **Resolution No. 3639** which grants authorization to apply for grants on behalf of the city, and
- if funded, accept private funding as grant match, and
- develop and publish a Request for Proposals (RFP) for consultants, based on the Scope of Work necessary to creating a Tax Increment Finance District in Miles City in accordance with state statute, and
- present the responses to the RFP process to the Finance Committee and City Council for selection of a qualified consultant

Tax Increment Finance District Budget:

Project Budget Funding		CDBG Planning Grant	Main Street Montana	Private Funding	Total Funding
Consulting Services	\$25,000	\$ 13,000	\$10,000	\$3,000	\$26,000
Administrative Costs	1,000				
Total Budget	\$26,000	\$ 13,000	\$10,000	\$3,000	\$26,000

The Revitalize Downtown proposes the city fund the cost of Tax Increment Finance District initiative as follows:

\$13,000: Community Development Economic Development Block Planning Grant:

Match Requirement: 1:1

Proposed Match: Main Street Montana Grant of \$10,000

<u>Private Funding</u>	<u>3,000</u>
Total Match	\$13,000

The City of Miles City is eligible for a CDBG Planning grant in the Economic Development category. An application for a planning grant in this category will not jeopardize the City's eligibility to apply for a second CDBG Planning grant in the "Facilities" category to fund the Dike Study. As a "Revitalize Downtown" team member, the Miles City Area Economic Development Council (MCAEDC) has provided the services of Julie Kurkow, SEMDC grant writer, to write this grant at no cost to the City.

The funding cap for a planning grant in this category is \$25,000; the match requirement is dollar for dollar. This grant can be matched with other grants which will be used for the same purpose. The Department of Commerce may also decide, upon request, to waive the match for cities that can demonstrate additional investment in economic development, infrastructure creation and historic preservation.

At the current time, funds are very low, with less than \$30,000 available. Because funds are low, grants that propose other funding sources and alternative matching will receive preference. Department of Commerce urges a prompt submission in order to capture the remaining available funds. The Grant Review Board meets tomorrow, September 25th and the DOC-CDBG section manager has agreed that Miles City's application will be included on their agenda, if approved in this Council meeting. Funding will be held in reserve pending the approval of the Main Street Program grant which will be awarded by late October, 2013.

Proposed Match: The dollar for dollar match will consist of a combination of \$10,000 Main Street Montana Program grant and a \$3,000 contribution from the Sandra K. Anderson private foundation. We had initially considered asking the Department of Commerce to waive the match based on Miles City's current heavy investment in infrastructure improvement including the Dike Study, Water and Sewer Capacity Study, Tatro Street and Safe Routes to Schools projects and other infrastructure related expenditures planned in this fiscal year, however with the cash match from Ms. Anderson that will not be necessary.

\$10,000: Montana Main Street Program (MMS)

Match Requirement: 1:5

Proposed Match: Private funding: \$2,000 (See attached Letter of Confirmation)

As a new Montana Main Street Program Affiliate member, Miles City is eligible for the new funding cycle which will be opening during late September or early October. The MMS grant allows each member community to develop the grant application based on specific community needs. The typical funding range for grants in this program is between \$1,500 and \$15,000, and requires at 20% or 1:5 match. A \$10,000 MMS grant will require a \$2,000 cash match, which will be met with the private funding from Anderson.

\$ 3,000: Sandra K. Anderson - Private Foundation

The Board of the L.P and Teresa Anderson Foundation has demonstrated their support of the "Revitalize Downtown" effort through a previous grant of \$7,258, which provided a total return of \$12,516 to the City. This additional \$3,000 is from the private foundation of Sandra K. Anderson as a further demonstration of her belief in the importance of working to encourage investment in our downtown. (See attached letter of confirmation.)

SANDRA K. ANDERSON

P.O. Box 190 * Miles City, MT 59301-0190 * 406/347-5336 (phone/fax) * 406/951-5336 (cell/voicemail)

September 19, 2013

Mr. Chris A. Grenz, Mayor
City of Miles City
P.O. Box 910
Miles City, MT 59301

Honorable Mayor Grenz:

I fully support the City's decision to work with a qualified consultant to determine the feasibility of creating a Tax Increment Finance District which incorporates our Main Street Historic District as a "Revitalize Downtown" project initiative.

The purpose of this letter is to confirm that I am happy to provide the City of Miles City with a check for \$3,000.00 to be used as match funding for the CDBG-ED Planning Grant and Montana Main Street Program Grant which will finance that initiative.

Upon notification from the City that the Department of Commerce and the Montana Main Street Program have approved grant funding, I will immediately provide a check to the city from my private foundation.

~ Sincerely,



Sandra K. Anderson
(406) 951-5336

SKA:/clm

cc: Miles City Preservation Commission
Foundation File