

AGENDA

*Regular Council Meeting
City Council Chambers*

*November 26, 2013
7:00 p.m.*

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

1. **APPROVAL OF COUNCIL MINUTES/COMMITTEE MINUTES**
City Council Minutes 11/12/2013
2. **SCHEDULE MEETINGS**
3. **REQUEST OF CITIZENS & PUBLIC COMMENT**
4. **APPOINTMENTS**
5. **PROCLAMATIONS**
6. **STAFF REPORTS**
7. **CITY COUNCIL COMMENTS**
8. **MAYOR COMMENTS**
9. **COMMITTEE RECOMMENDATIONS**
Zoning Commission Meeting of Wednesday, November 20, 2013
Recommend Approval of Zone Change Request at Horizon Park Subdivision, Tract F-1, A, B, C & D (Bobcat Property) from Heavy Commercial to General Commercial
10. **PUBLIC HEARINGS**
11. **BID AWARD**

BID OPENING
12. **OLD BUSINESS**

13. **NEW BUSINESS**

- a. **ORDINANCE NO. 1260:** (First Reading) An Ordinance Amending Section 24-53 And 24-54 Of The Code Of Ordinances Of The City Of Miles City, Montana, So As To Remove The Requirement For Site Plan Review For Four-Plex And Below.
- b. **RESOLUTION NO. 3650:** A Resolution Authorizing The City Of Miles City To Enter Into A Montana Renewable Resource Project Planning Grant Agreement With The Department Of Natural Resources And Conservation

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

November 12, 2013
7:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, November 12, 2013, in the City Council Conference room at City Hall, 17 S. 8th Street, Miles City, Montana. Mayor C.A. Grenz called the meeting to order. Council Members present were Dwayne Andrews, Roxanna Brush, Sue Galbraith, Mark Ahner, John Uden, Bill Melnik, Jerry Partridge and John Hollowell.

Also present were City Attorney Dan Rice, Fire Chief Dale Berg, Planner in Training/Grant Administrator Dawn Colton, Payroll/HR Officer Billie Burkhalter, RSVP Officer Betty Vail, Fire Captain Ryan Smith, Public Services Director Al Kelm and City Clerk/Council Recorder Lorrie Pearce.

PLEDGE OF ALLEGIANCE

Mayor Grenz led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

Regular Council Minutes – 10/22/2013

- ** *Councilperson Ahner moved to approve the minutes of the Regular Council Meeting of October 22, 2013, seconded by Councilperson Melnik and passed unanimously, 8-0 with a correction.*

Special City Council Minutes – 10/24/2013

- ** *Councilperson Galbraith moved to approve the minutes of the Special Council Meeting of October 24, 2013, seconded by Councilperson Brush and passed unanimously, 8-0.*

Human Resources Committee Minutes – 11/1/2013

- ** *Councilperson Uden moved to approve the minutes of the Human Resources Committee Meeting of November 1, 2013, seconded by Councilperson Melnik and passed unanimously, 8-0.*

Public Services Committee Meeting: 11/6/2013

- ** *Councilperson Andrews moved to approve the minutes of the Public Services Committee meeting of November 6, 2013, seconded by Councilperson Galbraith and passed unanimously, 8-0.*

Public Safety Committee Meeting: 11/6/2013

- ** *Councilperson Galbraith moved to approve the minutes of the Public Safety Committee meeting of November 6, 2013, seconded by Councilperson Hollowell and passed unanimously, 8-0.*

SCHEDULE MEETINGS

None

REQUEST OF CITIZENS & PUBLIC COMMENT

None

APPOINTMENTS

Mayor Grenz announced that Sharon Hogan and Sigrid Laird had applied for the position on the Library Board of Trustees. Mayor Grenz suggested appointing Sigrid Laird. Ahner asked if there was only one position and Mayor Grenz replied yes.

- ** *Councilperson Uden moved to approve the appointment of Sigrid Laird to the Library Board of Trustees, seconded by Councilperson Melnik and passed unanimously, 8-0.*

PROCLAMATIONS

None

STAFF REPORTS

Clerk Pearce reminded the Council that there was a Council meeting scheduled for December 24th. Mayor Grenz wanted to wait before deciding to cancel the meeting or rescheduling.

CITY COUNCIL COMMENTS

Councilperson Hollowell commended Administrator Colton and Southeastern Montana Development Commission Grant Administrator Julie Korkow for staying up past midnight to send a grant request for the Dike Study. Colton said that the City should be notified on the results in about a week.

Councilperson Melnik announced he will be in Colstrip next week for the Southeastern Montana Development Commission meeting.

Councilperson Ahner commended Bill Ronning and other City employees for all their work building the second trail loop at Spotted Eagle.

MAYOR COMMENTS

The street shutdown on Comstock was resolved the same day the Mayor received the complaint.

Mayor Grenz asked the Council their opinion on how to fund the dike. All Council Members thought that the funding should be City-wide because it is a community problem, not just a city property owner's problem. Attorney Rice felt that this issue will need extensive research. It is bigger than just an SID or a bond issue. He will research options and present them to Council when completed.

COMMITTEE RECOMMENDATIONS

None

PUBLIC HEARINGS

ORDINANCE NO. 1258: An Ordinance enacting a new section 24-96 of the code of Ordinances of the City of Miles City to provide for a process for site plan review.

Mayor Grenz called three times for comments from opponents, then three times for comments from proponents. Hearing no comments either for or against, the hearing was closed.

ORDINANCE 1259: An ordinance amending section 22-144 of the code of ordinances of the City of Miles City, so as to call for 15 miles per hour speed limits on portions of certain arterial streets.

Mayor Grenz called three times for comments from opponents, then three times for comments from proponents. Hearing no comments either for or against, the hearing was closed.

BID AWARDS

None

BID OPENING

None

OLD BUSINESS

ORDINANCE NO. 1258: An Ordinance enacting a new section 24-96 of the code of Ordinances of the City of Miles City to provide for a process for site plan review.

Councilperson Brush commented that the amendments to Ordinance 1252 were not added before it was signed and codified, and felt that it was not being followed, amendments added or not. Administrator Colton asked if Resolution 1252 had been passed. Councilperson Brush replied yes. Administrator Colton asked for time to go through the entire zoning code to make things consistent and appropriate. Mayor Grenz suggested that from here on out, everyone should follow the rules that are in place. Councilperson Hollowell asked Administrator Colton to be careful when making amendments, as to not break any laws.

*** Councilperson Uden moved to approve Ordinance 1258 by title only, seconded by Councilperson Melnik. Vote was not needed because of the Amendment.*

*** Councilperson Ahner moved to amend the original motion to defer action on Ordinance 1258 until such time as we receive a response from Contracted Planner Dave DeGrandpre, seconded by Councilperson Melnik. After a short discussion, Councilperson Ahner moved to amend his motion to include that the Ordinance will be reviewed by the Planning Board before presented to Council, seconded by Councilperson Melnik. On roll call vote, the **motion passed** to amend the first motion, unanimously, 8-0.*

ORDINANCE NO. 1259: An ordinance amending section 22-144 of the code of ordinances of the City of Miles City, so as to call for 15 miles per hour speed limits on portion of certain arterial streets.

****** *Councilperson Galbraith moved to approve Ordinance 1259 by title only, seconded by Councilperson Andrews. On roll call vote, the motion passed unanimously, 8-0.*

NEW BUSINESS

RESOLUTION NO. 3646: A Resolution Approving the Work Plan and Budget for Fiscal Year 2013-2014 for Business Improvement District No. 101.

Councilperson Ahner commented that when this project started about five years ago; the money available was around \$50,000, and now it's between \$119 and \$120 thousand a year. He thought it was a good opportunity for the City and it helped create tourism business. The Business Improvement District Board will accept applications as to how to spend \$15,000 for opportunity purposes. Mayor Grenz commented that the money comes from the bed tax.

****** *Councilperson Hollowell moved to approve Resolution No. 3646 by title only, seconded by Councilperson Galbraith. On roll call vote, the motion passed unanimously, 8-0. Resolution No. 3646 was adopted.*

RESOLUTION NO. 3647: A Resolution Approving the Extension of the Real Property Lease Agreement Between the City of Miles City and the U.S. Department of Veterans Affairs for RSVP Offices for an Additional One Year Term, Commencing April 1, 2013 and Expiring March 31, 2014.

****** *Councilperson Brush moved to approve Resolution No. 3647 by title only, seconded by Councilperson Melnik. On roll call vote, the motion passed by unanimous consent, 8-0. Resolution No. 3647 was adopted.*

RESOLUTION NO. 3648: A Resolution Authorizing The City of Miles City To Enter Into A Contract For Payment of Paving Expenses With M&L Enterprises Inc., A Montana Corporation, For Payment of Project Expenses Related To Special Improvement District Number 211.

Councilperson Ahner asked if the project is going out for bid. Attorney Rice explained the City is holding half of the project's money from M&L

Enterprises for security. The project will be let out for bid in the spring.

- ** *Councilperson Brush moved to approve Resolution No. 3648 by title only. Councilperson Hollowell seconded the motion. On roll call vote, the motion passed, 8-0. Resolution 3648 was adopted.*

RESOLUTION NO. 3649: A Resolution Revising City of Miles City Personnel Policies Regarding Background Investigations For Prospective Employees.

- ** *Councilperson Uden moved to approve Resolution No. 3649 by title only, seconded by Councilperson Hollowell. On roll call vote, the motion passed by unanimous consent, 8-0. Resolution No. 3649 was adopted.*

APPROVAL OF OCTOBER CLAIMS

- ** *After a brief discussion, Councilperson Uden moved to approve the October claims, seconded by Councilperson Melnik. On roll call vote, the motion passed by unanimous consent, 8-0.*

ADJOURNMENT

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

The meeting was adjourned at 8:09 p.m.

C.A. Grenz, Mayor

**Lorrie Pearce
City Clerk**

CITY OF MILES CITY
Zoning Commission
PO Box 910
Miles City, MT 59301

November 21, 2013

Mayor Grenz and City Council,

RE: Proposed re-zone for the Horizon Park Subdivision, Tract F-1, A, B, C & D from Heavy Commercial (HC) to General Commercial (GC).

The Miles City Zoning Commission conducted its public hearing on November 20, 2013 to consider the request to re-zone the above described area in the Horizon Park Subdivision. After reviewing comments from the public hearing, the Zoning Commission recommends for approval of the zone change request.

Please schedule this for review by the City Council at your earliest convenience.

Respectfully,



Amber Trenka, Chair
Zoning Commission

ORDINANCE NO. 1260

AN ORDINANCE AMENDING SECTION 24-53 AND 24-54 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY, MONTANA, SO AS TO REMOVE THE REQUIREMENT FOR SITE PLAN REVIEW FOR FOUR-PLEX AND BELOW.

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

Section 1. Section 24-53 shall be amended by deleting paragraph 24-53(e)(5). Said paragraph to be deleted is as follows:

- ...
- (5) Site plan approval. The site plan will be reviewed and approved by the City Planning board for proper site.

Section 2. Section 24-53 shall be amended by deleting paragraph 24-53(f)(5). Said paragraph to be deleted is as follows:

- ...
- (5) Site plan approval. The site plan will be reviewed and approved by the City Planning board for proper site.

Section 3. Section 24-54(b)(5) shall be amended by having the following paragraph inserted in its place:

- ...
- (5) Site plan review. The site plan for each multifamily project in excess of a four-plex shall be reviewed and approved by the City Planning Board for proper site development prior to the issuance of a building permit.

Section 4. 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. 3650

A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO A MONTANA RENEWABLE RESOURCE PROJECT PLANNING GRANT AGREEMENT WITH THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION.

WHEREAS, the City has applied for a grant from the Montana Renewable Resource Project, administered by the Department of Natural Resources and Conservation (DNRC), to assist in paying for a feasibility study and flood mitigation alternatives;

AND WHEREAS a grant in the amount of \$5,000.00 has been awarded to the City of Miles City, and an agreement has been provided to the City by DNRC in order to accept said grant.

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

1. The City hereby accepts the \$5,000.00 grant from DNRC, and the Mayor of the City of Miles City is hereby empowered and authorized enter into the Montana Renewable Resource Project Planning Grant Agreement, attached hereto as Exhibit "A," on behalf of the City of Miles City and bind the City of Miles City thereto; and

2. 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 award 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 26TH DAY OF NOVEMBER, 2013.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

Exhibit "A"

**Project Planning Grant Agreement
Conservation and Resource Development Division
Montana Department of Natural Resources and Conservation**

Project Sponsor: City of Miles City

Project Name: Feasibility Study for Flood Mitigation Alternatives

Agreement Number: RPG-14-0340

Declarations

- Section 1. Purpose
- Section 2. Term
- Section 3. DNRC's Role
- Section 4. Project Scope
- Section 5. Project Budget
- Section 6. Availability of Grant Funds
- Section 7. Grant Disbursements
- Section 8. Reports
- Section 9. Records and Audits
- Section 10. Project Monitoring and Access for Inspection and Monitoring
- Section 11. Employment Status and Workers' Compensation
- Section 12. Equal Employment
- Section 13. Indemnity and Liability
- Section 14. Compliance with Applicable Laws
- Section 15. Copyright - Government Right to Use
- Section 16. Failure to Comply
- Section 17. Assignment and Amendment
- Section 18. Montana Law and Venue Section

FOR DNRC USE ONLY

Approved

Maximum amount under this Agreement: \$ 5,000

Agreement No. RPG-14-0340

Source of Funds

Amendment No. _____

Natural Resource Projects Account

Division OK DMB

Accounting Entity Name

Fund

C.S.D. _____

Natural Resource Projects Account

02577

Legal CS

Sub-Class

ORG

Percent

54016

3414101

100%

Appropriation Authority: 63rd Legislature/2013 H.B. 6

Workers Comp: _____

N/A

Attached _____

Exempt _____

Will be forwarded _____

**MONTANA RENEWABLE RESOURCE
PROJECT PLANNING GRANT AGREEMENT**

THIS GRANT, approved, appropriated, and awarded by the Montana Legislature and administered by the Montana Department of Natural Resources and Conservation (DNRC) is consistent with the policies, procedures and objectives of the Montana Renewable Resource Grant and Loan Program (MCA Title 85, Chapter 1, Part 6) for the enhancement of Montana's renewable natural resources. This grant is accepted by the city of Miles City hereinafter referred to as the Project Sponsor and represented by **Chris Grenz, Mayor, PO Box 910, Miles City, MT 59301, 406-874-8603** according to the following terms and conditions:

SECTION 1. PURPOSE. The purpose of this Agreement is to establish mutually agreeable terms and conditions, specifications, and requirements to grant funds to the Project Sponsor for a **feasibility study for flood mitigation alternatives**.

SECTION 2. TERM. The Project Sponsor shall have until **December 31, 2014**, to complete the project and work described in Section 4, Project Scope. DNRC may grant an extension for completion upon request and showing of good cause by the Project Sponsor. A request for extension submitted less than 45 days prior to the termination date may or may not be considered. The effective date of this Agreement is the date of last signing.

SECTION 3. DNRC's ROLE. DNRC is administering grant funds awarded by the legislature to ensure that the funds are used according to the intent of the legislature and the purposes, objectives, and procedures of the Renewable Resource Grant and Loan (RRGL) Program. Upon request from the Project Sponsor or its agent, DNRC will explain or clarify the terms and conditions of this Agreement and may provide limited technical assistance. DNRC will monitor project expenditures to assure payment eligibility. DNRC assumes no responsibility for the Project Sponsor's obligation to faithfully perform the tasks and activities necessary to implement and complete a project. The Project Sponsor shall contact DNRC's liaison **Pam Smith, at 406-444-6839, PO Box 201601, Helena, MT 59620**. All requests, information, and assistance shall be submitted to DNRC liaison / designee.

SECTION 4. PROJECT SCOPE.

Subsection 4.1 Supporting Documents/attachments: RRGL Planning Grant Application, dated **June 2013**. The scope of work for this project is attached to this agreement as Attachment A and incorporated herein by this reference.

SECTION 5. PROJECT BUDGET. Grant funds are allocated as follows:

(1) Sources of Funds:	
DNRC Project Planning Grant	\$ 5,000
Project Sponsor	<u>\$182,000</u>
Total Project Cost	\$187,000
(2) Use of Funds:	
Contracted Professional Services	\$187,000
Total	\$187,000

SECTION 6. AVAILABILITY OF GRANT FUNDS. The Project Sponsor acknowledges and understands that grant funds become available through earnings from certain natural resource based taxes deposited in the natural resources projects state special revenue account. Renewable Resource Grant and Loan Program funds will be released to the extent they are available. Costs incurred prior to this Agreement are not eligible for reimbursement but may be counted as match funds upon written approval by DNRC.

SECTION 7. GRANT DISBURSEMENTS. The Project Sponsor shall submit claims for grant funds to DNRC. Receipts, vendor invoices, inspection certificates, and other documentation of costs incurred shall be submitted with the claims. DNRC will verify the claims and check them against the Reports required in Section 8 and the Budget provided in Section 5. DNRC will disburse grant funds to the Project Sponsor upon approval. Reimbursement of Project Sponsor expenditures will only be made for expenses included in the Budget provided in Section 5 and that are clearly and accurately supported by the Project Sponsor's records and that show the Project Sponsor has fully complied with Sections 11, 12 and 14.

A maximum of 50% of the total DNRC grant shall be available for payment within 30 days of receipt of an approved draft Report. It is not expected that the document will be complete; however, it must show clearly that all applicable items required in SECTION 4. PROJECT SCOPE are being addressed and that the consultant is proceeding toward the preparation of a complete and acceptable final product.

The balance of the grant funds shall be payable within 30 days of receipt by DNRC of an approved final Report. The final version shall be complete and shall address the terms as defined in SECTION 4. PROJECT SCOPE. Prior to final payment, the Project Sponsor must submit a financial statement showing the sources and uses of funds. Total payment for all purposes under this Agreement shall not exceed \$5,000.

SECTION 8. REPORTS. Quarterly progress reports for the periods ending each March, June, September, and December shall be submitted to DNRC during the term of the Agreement. Reports will provide status information for each project implementation objective. Status information will include, at a minimum, the percentage complete, costs incurred, funds remaining and projected completion date. The Project Sponsor shall report on total project costs including those funded by the Project Sponsor and other matching funds. Significant problems encountered shall be noted and necessary scope and/or time line modifications requested.

Quarterly reports must be submitted to DNRC within fifteen (15) calendar days following the close of the quarterly period. No claims for disbursements will be honored if the quarterly report has not been approved or if there is a delinquent report.

SECTION 9. RECORDS AND AUDITS. The Project Sponsor will maintain appropriate and adequate records showing complete entries of all receipts, disbursements, and other transactions relating to the project. DNRC, the Legislative Audit Division or the Legislative Fiscal Division may, at any reasonable time, audit all records, reports, and other documents that the Project Sponsor maintains under or in the course of this Agreement to ensure compliance with its terms and conditions.

SECTION 10. PROJECT MONITORING AND ACCESS FOR INSPECTION AND MONITORING. DNRC or its agents may monitor and inspect all phases and aspects of the Project Sponsor's performance to determine compliance with legal, technical and administrative requirements in this Agreement, including the adequacy of records

and accounts. DNRC may present specific areas of concern to the Project Sponsor providing the Project Sponsor the opportunity to better accomplish the goals and objectives of the conditions of this Agreement.

Because these grant funds are from public funds, public access to the project site and project records must be available. The Project Sponsor shall accommodate requests for public access to the site and records with due consideration for safety, private property rights, and convenience of everyone involved.

SECTION 11. EMPLOYMENT STATUS AND WORKER'S COMPENSATION. The project is for the benefit of the Project Sponsor. DNRC is not an owner or general contractor for the project, and DNRC does not control the work activities or work-site of the Project Sponsor or any contractors who might be engaged for completion of the project. The Project Sponsor is independent from and is not an employee, officer or agent of the State of Montana or DNRC. The Project Sponsor, its employees, and contractors are not covered by the Workers' Compensation laws applicable to DNRC as an employer. The Project Sponsor is responsible for making sure that its employees are covered by Workers' Compensation Insurance and that its contractors are in compliance with the coverage provisions of the Workers' Compensation Act. The Project Sponsor must acquire Workers' Compensation coverage or the appropriate exemption.

SECTION 12. EQUAL EMPLOYMENT. Any hiring of employees under this Agreement shall be on the basis of merit and qualifications, and there shall be no discrimination on the basis of race, color, religion, creed, sex, national origin, age, disability, marital status, or political belief. "Qualifications" mean qualifications as are generally related to competent performance of the particular occupations task.

SECTION 13. INDEMNITY AND LIABILITY. The Project Sponsor shall defend, indemnify and hold harmless DNRC and the State of Montana and its agents from and against any and all claims, demands, or actions for damages to property or injury to persons or other damages to persons or entities arising out of or resulting from the performance of the work or services funded by this Agreement. This Agreement is not intended to relieve a liable party of financial or legal responsibility.

SECTION 14. COMPLIANCE WITH APPLICABLE LAWS. All work must be in accordance with all federal, state and local law, statutes, rules and ordinances.

14.1. It shall be the Project Sponsor's responsibility to obtain all permits, licenses or authorizations that may be required from government authorities prior to initiation of the project or required to be obtained by the time of completion of the project and to be eligible for reimbursement funds under this Agreement. Permits or authorizations may include but are not limited to, Beneficial Water Use Permits (85-2-302(1) MCA; Change in Appropriation Right Authorization (85-2-402(1)(a), MCA or other requirement under the Montana Water Use Act that may apply; 310 permitting requirements, or other permits or authorizations that may be required by state, local, or federal agencies prior to beginning work on the project or prior to completion of the project.

14.2. Procurement of labor, services, supplies, materials, and equipment shall be conducted according to applicable federal, state, and local statutes. The award of a grant or by grantee entering into this Agreement shall not be taken to imply that any required permits, or authorizations issued by DNRC or other state, federal or local agency will be approved.

SECTION 15. COPYRIGHT - GOVERNMENT RIGHT TO USE. Any graphic material developed under this Agreement may be copyrighted with the proviso that the State of Montana will have a royalty-free, nonexclusive, and irrevocable right to produce, publish or otherwise use, and authorize others to use the work for state government purposes.

SECTION 16. FAILURE TO COMPLY. If the Project Sponsor fails to comply with the terms and conditions of this Agreement, or reasonable directives or orders from DNRC, DNRC may terminate the Agreement and refuse disbursement of any additional funds under the Agreement. Such termination will become a consideration in any future application for grants from the Renewable Resource Grant and Loan Program.

SECTION 17. ASSIGNMENT AND AMENDMENT. This Agreement is not assignable. Amendment may be accomplished only by express written agreement of the parties. Amendments will be attached as an integral component of the Agreement.

SECTION 18. MONTANA LAW AND VENUE. Any action brought by any party to this Agreement that is based on enforcement or performance under this Agreement or interpretation of any term or condition of this Agreement, shall be governed by the laws of the State of Montana. Venue shall be in the First Judicial District, Lewis and Clark County, Montana. Pursuant to Section 85-1-605(6), MCA, Project Sponsor, *if a tribal government*, by executing this agreement, hereby waives any right it may have of tribal government immunity from suit on any issue specifically arising from the transaction of this Agreement and Project Sponsor waives any right to exhaust tribal remedies.

The Project Sponsor hereby accepts this Agreement according to the above terms and conditions.

By: _____ Date _____
Project Sponsor, Title

Federal Tax ID #

By: _____ Date _____
Department of Natural Resources and Conservation

ATTACHMENT A

Background: The existing levee was constructed by local efforts with portions of the levee built as a Works Progress Administration (WPA) project, circa 1940-1950. In the years since construction and ever more stringent governmental regulations, construction of a new levee has been proposed to residents on at least 3 occasions. Each time the proposal has been abandoned due to high project costs, lack of funding, and low public interest. The signing of the Biggert-Waters Flood Insurance Act prompted urgency in conducting this study. The possibility of insurance rates rising to unaffordable levels has alarmed owners with mortgaged properties in the floodplain, realtors and business owners.

Scope of Work: The project sponsor shall use the funds provided under this Agreement to pay for:

Feasibility Study costs up to the maximum amount under this Agreement:

1. Prepare and submit to DNRC or its designee a draft Feasibility Study to evaluate mitigation alternatives. A registered professional engineer licensed to practice in his or her area(s) of competence and expertise in the State of Montana shall prepare this report.
1. Prepare and submit to DNRC or its designee a final Feasibility Study that reflects any comments on the draft made by DNRC or its designee.

Schedule: The draft Feasibility Study will be submitted in September 2014. A final Feasibility Study will be submitted by December 2014.

