



# CITY OF MILES CITY AGENDA

*Regular Council Meeting  
City Council Chambers*

*November 25, 2014  
7:00 p.m.*

## CALL TO ORDER PLEDGE OF ALLEGIANCE ROLL CALL

1. APPROVAL OF COUNCIL MINUTES/COMMITTEE MINUTES
  - a. City Council Meeting 11/12/2014
  - b. Human Resources Committee 11/19/2014
2. SCHEDULE MEETINGS
3. REQUEST OF CITIZENS & PUBLIC COMMENT
4. APPOINTMENTS
  - Ex-Officio Member of Study Commission
  - City Council Member to the Solid Waste Board
5. PROCLAMATIONS
  - Small Business Saturday: November 29, 2014
6. STAFF REPORTS
7. CITY COUNCIL COMMENTS
8. MAYOR COMMENTS
9. COMMITTEE RECOMMENDATIONS
  - Human Resources Committee – 11/19/14
  - \* Approve Cameron Pavlicek as Police Officer
10. BID OPENING
  - NoneBID AWARDS
  - None

11. **PUBLIC HEARINGS**

- A. **ORDINANCE NO. 1280:** An Ordinance Amending Section 22-144 Of The Code Of Ordinances Of The City Of Miles City, Montana, So As To Designate School Zone Speed Limits Within The City Of Miles City

12. **UNFINISHED BUSINESS**

- A. **ORDINANCE NO. 1280:** *(Second Reading)* An Ordinance Amending Section 22-144 Of The Code Of Ordinances Of The City Of Miles City, Montana, So As To Designate School Zone Speed Limits Within The City Of Miles City

13. **NEW BUSINESS**

- A. **RESOLUTION NO. 3760:** A Joint Resolution Of The Board Of Commissioners Of Custer County, Montana And The City Council Of Miles City, Montana, Approving A Letter Of Agreement Pertaining To Rates For Services For Fy2014-2015
- B. **ORDINANCE NO. 1281:** *(First Reading)* An Ordinance Changing The Zoning Of Tract 1 Of The Armory Subdivision , From Agriculture District Zone To General Commercial Zone, And Providing For A Hearing Thereon
- C. **ORDINANCE NO. 1282:** *(First Reading)* An Ordinance Changing The Zoning Of Tract B Of Document #153542, Envelope 500b, And Located Within Section 11 Of Township 7 North, Range 47 East, M.P.M., From Agriculture District Zone To General Commercial Zone, And Providing For A Hearing Thereon
- D. **RESOLUTION NO. 3761:** A Resolution Authorizing The City Of Miles City To Enter Into A State-Local Disaster Assistance Agreement, Hazard Mitigation Grant Program, With The State Of Montana For Application For Funding Assistance For A Lift Station Retrofit Mitigation Project
- E. **RESOLUTION NO. 3763:** A Resolution Authorizing The City Of Miles City, Through Its Board Of Health, To Enter Into A Cooperative Agreement With The Montana Department Of Public Health And Human Services For Fees And Inspections For Calendar Year 2015
- F. **RESOLUTION NO. 3764:** A Resolution Authorizing The City Of Miles City To Enter Into An Extension Agreement With Tumblewood Development, Inc. For Sanitation Inspection Services For Calendar Year 2015

14. **ADJOURNMENT**

Public comment on any public matter that is not on the agenda of this meeting can be presented under Request 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, 2014**  
**7:00 p.m.**

**CALL TO ORDER**

The Regular Council meeting was held Wednesday, November 12, 2014, in the City Hall Conference Room at City Hall, 17 S. 8<sup>th</sup> Street, Miles City, Montana. Mayor C.A. Grenz called the meeting to order. Council Members present were Mark Ahner, Ken Gardner, Sheena Martin, John Hollowell, Dwayne Andrews and Jerry Partridge. Susanne Galbraith and Roxanna Brush were excused.

Also present were City Attorney Dan Rice, Public Works Director Scott Gray, Utility Director Allen Kelm, Police Chief Doug Colombik, Interim Fire Chief Cameron Duffin, Grant Writer/Planner in Training Dawn Colton, Historic Preservation Officer/Grant Administrator Connie Muggli, and Deputy City Clerk/Minute Recorder Connie Watts.

**PLEDGE OF ALLEGIANCE**

Mayor Grenz led the Council in the Pledge of Allegiance.

**APPROVAL OF COUNCIL & COMMITTEE MINUTES**

**City Council Minutes: 10/28/2014**

**\*\*** *Councilperson Ahner moved to approve the minutes of the Regular Council Meeting of October 28, 2014, seconded by Councilperson Gardner and passed unanimously, 6-0.*

**Special Council Meeting: 10/31/14**

**\*\*** *Councilperson Gardner moved to approve the Special Council Meeting Minutes of October 31, 2014, seconded by Councilperson Andrews and passed unanimously, 6-0.*

**Human Resources Committee Meeting: 10/30/14**

**\*\*** *Councilperson Gardner moved to approve the Human Resources Committee Minutes of October 30, 2014, seconded by Councilperson Partridge and passed unanimously, 6-0.*

**Finance Committee Meeting: 11/06/14**

- \*\* *Councilperson Hollowell moved to approve the Finance Committee Minutes of November 06, 2014, seconded by Councilperson Andrews and passed unanimously, 6-0.*

**SCHEDULE MEETINGS**

None

**REQUEST OF CITIZENS & PUBLIC COMMENT**

- ***Firefighter Justin Russell, MCFR:*** Reported that the Fire Department, Police Department and schools had conducted an “active shooting training session” this spring and, as a result, found some shortfalls in the Fire Department regarding the treating of patients, etc. As a result of that identification, the Fire Department was able to secure four vests, which will allow EMT’s to enter into the hot zone, with Police Department support. The vests contain gauze, compression bandages, chest seals, and everything needed in a trauma to rapidly stabilize and prepare a patient for transport to the hospital. This was a private donation from Steve and Julie Stanhope of Baker, Montana. He thanked them for their generous donation of \$1000 worth of equipment.

**APPOINTMENTS**

**Solid Waste Board Member:**

Mayor Grenz asked the Clerk to solicit letters of interest for this position.

**Tax Increment Finance District Interim Steering Committee:**

- Brent Leischner:** US Bank
- Amy Rolandson:** Stockman Bank
- Brady Patch:** First Interstate Bank
- Todd Gillette:** Community 1<sup>st</sup> Federal Credit Union
- Blake Mollman:** Downtown Business Representative

Grant Administrator/Historic Preservation Officer Muggli introduced the five individuals who have volunteered to serve on the Committee.

- \*\* *Councilperson Hollowell moved to approve the five people nominated for the Steering Committee, seconded by Councilperson Gardner and passed unanimously, 6-0. Mayor Grenz thanked the individuals for serving on the Committee.*

## PROCLAMATIONS

None

## STAFF REPORTS

*Interim Fire Chief Duffin* announced that Firefighters Brandon Stevens and Sarah Young have secured a \$25,000 non-matching grant for a new defibrillator. This brings the total defibrillators at the Fire Department to three. Chief Duffin hopes to obtain another grant in the near future to purchase one more unit.

*Steve Zeier*, consultant for development of the TIF District, thanked the Steering Committee for coming to the meeting and the Council for appointing them. He also thanked the Council for giving him the opportunity to participate in this project.

## CITY COUNCIL COMMENTS

*John Hollowell*: Referred to the 10/28/14 minutes where the Council had asked the Clerk to review the tape. Deputy Clerk Watts confirmed the Clerk had reviewed the tape and that the minutes, as presented to the Council, were correct.

## MAYOR COMMENTS

None

## STANDING COMMITTEE RECOMMENDATIONS

*Finance Committee - 11/6/14: Recommend Write-off of Ambulance Bill Hardship Case in the amount of \$628*

\*\* *Councilperson Andrews moved to accept the Finance Committee's recommendation to write off the ambulance bill as a hardship, seconded by Councilperson Martin.*

Councilperson Hollowell asked the Interim Fire Chief his opinion. Chief Duffin said he was not at the Finance meeting; however, he felt that there is probably no chance of the individual paying the bill if he has no income. He was concerned, however, about setting precedent. He felt that maybe a policy should be developed setting criteria for "hardship" cases.

Councilperson Ahner also expressed his concern about setting a precedent.

\* *On roll call vote, the motion was tied three to three. Mayor Grenz broke the tie with a "no" vote.*

Mayor Grenz asked the Deputy Clerk to inform the Payroll Department to take \$5.00 out of each of his paychecks (\$10.00 per month) to go towards the bill. After the meeting Councilperson Hollowell also asked to have the Payroll Department do the same for him.

### **BID OPENING**

None

### **BID AWARDS**

#### **4-Wheel Drive Loader**

Public Works Director Gray said three bids were received, of which the RDO Equipment bid in the amount of \$172,125 (John Deere Dealer) was the low bid. As the amount budgeted for this piece of equipment was \$182,000, this bid was \$9,875 under budget.

\*\* *Councilperson Ahner moved to accept the bid from RDO Equipment in the amount of \$172,125, seconded by Councilperson Partridge and, on roll call vote, passed unanimously, 6-0.*

### **PUBLIC HEARINGS**

A. **ORDINANCE NO. 1279:** An Ordinance Relating To The Creation Of The Miles City Downtown Renewal District And Adopting An Urban Renewal Plan, Including A Tax Increment Provision

Mayor Grenz called three times for comments from proponents, then opponents. Hearing none, the hearing was closed.

### **UNFINISHED BUSINESS**

A. **ORDINANCE NO. 1279:** An Ordinance Relating To The Creation Of The Miles City Downtown Renewal District And Adopting An Urban Renewal Plan, Including A Tax Increment Provision

**\*\*** *Councilperson Ahner moved to adopt Ordinance No. 1279, read by title only and seconded by Councilperson Andrews. On roll call vote the motion passed by unanimous consent, 6-0. **Ordinance No. 1279 was adopted.***

## **NEW BUSINESS**

### **A. Confirmation of Firefighter Taylor Lee**

Interim Fire Chief Duffin introduced Firefighter Taylor Lee and recommended his confirmation. He felt he would be an excellent addition to the Department and the community. He presented Firefighter Lee with his helmet shield and “full-time” reflective badge.

**\*\*** *Councilperson Ahner moved to confirm Firefighter Taylor Lee, seconded by Councilperson Gardner and, on roll call vote, the motion passed unanimously, 6-0. **Firefighter Taylor Lee was confirmed.***

### **B. Final Plat Approval of Southgate Meadows, Block 5**

**\*\*** *Councilperson Hollowell moved to approve the Final Plat of Southgate Meadows, Block 5, seconded by Councilperson Andrews.*

The property, owned by M & L Enterprises, consists of 24.5 acres and is located at Parkhill Drive and Horizon Parkway.

Councilperson Hollowell told the Council that approval of this Final Plat received unanimous approval from the Planning Board. He also said this only divides the original plat, which has already been approved.

Councilperson Ahner noted that there had already been a lot of dirt moved at that location. There was no storm water drainage plan developed prior to the movement of the dirt and, although the activity had been reported, Planner-in-Training Colton said it would not be a City issue, because it is under the authority of the Department of Environmental Quality.

Councilperson Ahner asked about traffic and storm water drainage, and mentioned that the second exit still has not been constructed. Planner-in-Training Colton said any future development will be subject to the site plan review, and the second exit will be addressed with the transportation plan.

Public Utilities Director Kelm said the issue of a second exit should not be the responsibility of the current developers. He felt the costs should be borne by the entire Southgate subdivision through, perhaps, an SID (Special Improvement District.)

\* *On roll call vote, the motion passed 4-2, with Councilpersons Ahner and Gardner voting no. **The Final Plat for Southgate Meadows, Block 5, was approved.***

C. **ORDINANCE NO. 1280:** An Ordinance Amending Section 22-144 Of The Code Of Ordinances Of The City Of Miles City, Montana, So As To Designate School Zone Speed Limits Within The City Of Miles City

\*\* *Councilperson Ahner moved to adopt Ordinance No. 1280, read by title only and seconded by Councilperson Andrews. On roll call vote, the motion passed by unanimous consent, 6-0. **Ordinance No. 1280 was approved on first reading and referred to the Public Safety Committee.***

Attorney Rice said that Director Gray has received a copy of the State's report, which has some recommendations that are not yet reflected in this draft of the ordinance. The Public Safety Committee will be provided with a copy of this letter, and a copy will also be provided in the next Council packet.

One of the recommendations is for the time period for the speed limits in the school zone to be in effect ½ hour before school starts and end ½ after school is over. There will also need to be clarification of the school speed limit zone in front of Trinity Lutheran church, where there is a school with grades from preschool through sixth grade. It would have to be determined where this stretch would be most properly included in the ordinance.

D. **RESOLUTION NO. 3759:** A Resolution Approving A Proposal From D.I.S. Technologies To Provide Computer Device Monitoring Services To The City Of Miles City And To Provide Computer Support And Maintenance Services

\*\* *Councilperson Hollowell moved to adopt Resolution 3759, read by title only and seconded by Councilperson Martin. After brief discussion and on roll call vote, the motion passed 5-1, with Councilperson Ahner voting no. **Resolution No. 3759 was adopted.***

E. **Approval of October Claims**

\*\* *Councilperson Andrews moved to approve the October claims, seconded by Councilperson Partridge. After brief discussion and on roll call vote, the motion passed unanimously, 6-0*



**ADJOURNMENT.**

**\*\*** *Councilperson Partridge moved to adjourn the meeting, seconded by Councilperson Hollowell and passed unanimously, 6-0.*

The meeting was adjourned at 8:00 p.m.

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**C.A. Grenz, Mayor**

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**Lorrie Pearce, City Clerk**

## Human Resources Committee November 19, 2014

The **Human Resources Committee** met Wednesday, November 19, 2014, at 6:00 p.m. in the Conference Room at City Hall. Present were Chairperson Roxanna Brush and Committee Members Sheena Martin, Mark Ahner and Ken Gardner. Also present was Captain Casey Prell, Officer Cameron Pavlicek, Mayor C.A. Grenz and City Clerk/Recorder Lorrie Pearce.

### 1. Request of Citizens:

None

### 2. Committee Member Comments

None

### 3. Police Officer Confirmation

- **Cameron Pavlicek**

Chairperson Brush read a letter from Chief Colombik stating that Officer Pavlicek is an exemplary employee and recommends his confirmation.

Captain Prell said that Officer Pavlicek has done a good job and has worked on some high profile cases with him and is glad that he is on board with the City of Miles City.

*\*\* Committee Member Ahner moved to recommend the confirmation of Officer Pavlicek. Motion seconded by Chairperson Martin, passed 4-0.*

### 4. Adjournment

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

The meeting was adjourned at 6:10 p.m.

Respectfully submitted,

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Lorrie Pearce, Recorder

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Chairperson Roxanna Brush

# *PROCLAMATION*

## *For Small Business Saturday*

**Whereas**, the government of Miles City, Montana celebrates our local small businesses and the contributions they make to our local economy and community; according to the United States Small Business Administration, there are currently 23 million small businesses in the United States, they represent more than 99 percent of American employer firms, create more than two-thirds of the net new jobs, and generate 46 percent of private gross domestic product; and

**Whereas**, small businesses employ over 55 percent of the working population in the United States; and

**Whereas**, 89 percent of consumers in the United States agree that small businesses contribute positively to the local community by supplying jobs and generating tax revenue; and

**Whereas**, 87 percent of consumers in the United States agree that small businesses are critical to the overall economic health of the United States; and

**Whereas**, 93 percent of consumers in the United States agree that it is important for people to support the small businesses that they value in their community; and

**Whereas**, Miles City Montana supports our local businesses that create jobs, boost our local economy and preserve our neighborhoods; and

**Whereas**, advocacy groups as well as public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

**Now, Therefore**, I, C.A.Grenz, Mayor of Miles City, Montana do hereby proclaim, November 29, 2014, as:

### ***SMALL BUSINESS SATURDAY***

**And** urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

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C.A. Grenz, Mayor

ATTEST:

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Lorrie Pearce, City Clerk

# ORDINANCE NO. 1280

## AN ORDINANCE AMENDING SECTION 22-144 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY, MONTANA, SO AS TO DESIGNATE SCHOOL ZONE SPEED LIMITS WITHIN THE CITY OF MILES CITY

**WHEREAS**, pursuant to the authority granted by Section 61-8-310(3), MCA, the City of Miles City, Montana, has the authority to establish school zone speed limits for all designated arterial streets, which may be greater or less than the speed limits called for in 61-8-303, MCA, for an urban district;

**AND WHEREAS**, upon completion of an engineering and traffic investigation, the City of Miles City has the authority to decrease the statutory speed limit in school zones if so warranted by the investigation, pursuant to Section 61-8-310(1)(d);

**AND WHEREAS**, the City of Miles City has obtained an engineering and traffic investigation from the Montana Department of Transportation which supports a speed limit of 15 miles per hour in the areas within ½ block of school property for schools located within the City of Miles City.

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

**Section 1.** Section 22-144(f) shall be amended to read as follows:

**“Sec. 22-144. – Speed Limits.**

...

(f) The following school zones shall have a reduced speed limit of 15 miles per hour, day or night, and whether school is in session or not.

1. Highland Park School:
  - i. Stower St. from the midpoint of the block between Stacey Avenue and Cale Avenue, to the midpoint of the block between Earling Avenue and Sewell Avenue.
  - ii. Comstock St., from the midpoint of the block between Stacey Avenue and Cale Avenue, to the midpoint of the block between Earling Avenue and Sewell Avenue.

- iii. Cale Avenue, from the midpoint of the block between Butler St. and Comstock St., to the midpoint of the block between Stower St. and Batchelor St.
  - iv. Earling Avenue, from the midpoint of the block between Butler St. and Comstock St., to the midpoint of the block between Stower St. and Bachelor St.
  
- 2. Lincoln School:
  - i. Pearl St. From the midpoint of the block between Cottage Grove and Lake St., to the midpoint of the block between Custer Avenue and Jordan Avenue.
  - ii. Fort St., from the midpoint of the block between Cottage Grove and Lake St., to the midpoint of the block between Custer Avenue and Jordan Avenue.
  - iii. Lake Avenue, from the midpoint of the block between Dickinson St. and Pearl St., to the midpoint of the block between Fort St. and Bridge St.
  - iv. Custer Avenue, from the midpoint of the block between Dickinson St. and Pearl St., to the midpoint of the block between Fort St. and Bridge St.
  
- 3. Custer County District High School:
  - i. Pearl St., from the midpoint of the block between Montana Avenue and Prairie Avenue, to the midpoint of the block between Center Avenue and Cottage Grove.
  - ii. Fort St., from the midpoint of the block between Montana Avenue and Prairie Avenue, to the midpoint of the block between Center Avenue and Cottage Grove.
  - iii. Center Avenue, from the midpoint of the block between Dickinson St. and Pearl St., to the midpo
  
- 4. Jefferson School:
  - i. Strevell Avenue, from the midpoint of the block between Main St. and Pleasant St., to the midpoint of the block between Palmer St. and Clark St.
  - ii. Stacey Avenue, from the midpoint of the block between Main St. and Pleasant St., to the midpoint of the block between Palmer St. and Clark St.
  - iii. Pleasant St., from the midpoint of the block between Merriam St. and Strevell St., to the midpoint of the block between Stacey Avenue and Winchester Avenue.

- iv. Palmer St., from the midpoint of the block between Merriam Avenue and Strevell Avenue, to the midpoint of the block between Stacey Avenue and Winchester Avenue.
5. Washington School:
- i. 9<sup>th</sup> St., from the midpoint of the block between Pleasant St. and Palmer St. to the midpoint of the block between Orr St. and Washington St.
  - ii. 10<sup>th</sup> St., from the midpoint of the block between Pleasant St. and Palmer St., to the midpoint of the block between Orr St. and Washington St.
  - iii. Palmer St., from the midpoint of the block between 8<sup>th</sup> St. and 9<sup>th</sup> St., to the midpoint of the block between 10<sup>th</sup> St. and 11<sup>th</sup> St.
  - iv. Orr St., from the midpoint of the block between 8<sup>th</sup> St. and 9<sup>th</sup> St., to the midpoint of the block between 10<sup>th</sup> St. and 11<sup>th</sup> St.
6. Garfield School:
- i. Woodbury St., from the midpoint of the block between Ivy St. and Milwaukee St., to the midpoint of the block between Roosevelt St. and Lincoln St.
  - ii. Garland St., to the midpoint of the block between Ivy St. and Milwaukee St., to the midpoint of the block between Roosevelt St. and Lincoln St.
  - iii. Milwaukee St., from the midpoint of the block between the Tongue River Slough and Woodbury St., to the midpoint of the block between Garland St. and Knight St.
  - iv. Roosevelt St., from Woodbury St., to the midpoint of the block between Garland St. and Knight St.
7. Sacred Heart School:
- i. Leighton Blvd., from the midpoint of the block between Knight St. and Montana Avenue, to the midpoint of the block between Center Avenue and Cottage Avenue.
  - ii. Phillips. from the midpoint of the block between Knight St. and Montana Avenue, to the midpoint of the block between Center Avenue and Cottage Grove.
  - iii. Montana Avenue, from the midpoint of the block between Palmer St. and Leighton Blvd., to the midpoint of the block between Phillips St. and Gordon St.
  - iv. Center Avenue, from the midpoint of the block between Palmer St. and Leighton Blvd., to the midpoint of the block between Phillips St. and Gordon St.

8. Head Start:
  - i. Merriam St., from the midpoint of the block between Robinson St. and McKenzie St., to the midpoint of the block between Edgewood St. and Jackson St.
  - ii. Strevell St., from the midpoint of the block between Robinson St. and McKenzie St., to the midpoint of the block between Robinson St. and Jackson St.
  - iii. Edgewood St., from the midpoint of the block between Jordan Avenue and Merriam St., to the midpoint of the block between Strevell St. and Daly St.
  
9. MCC:
  - i. Dickinson St., from the midpoint of the block between Earling Avenue and Sewell Avenue, to the east right of way line of Moorehead Avenue.
  - ii. Moorehead Avenue, from the midpoint of the block between Stower St. and to the right of way line of Dickinson St.
  - iii. Sewell St., from the midpoint of the block between Main St. and Bridge St., to the midpoint of the block between Batchelor St. and Dickinson St.

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

Said Ordinance read and put on its passage this <sup>25<sup>th</sup></sup>12<sup>th</sup> day of November, 2014.

\_\_\_\_\_  
C.A. Grenz, Mayor

ATTEST:

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Lorrie Pearce, City Clerk

**FINALLY PASSED AND ADOPTED** this <sup>25<sup>th</sup></sup>12<sup>th</sup> day of November, 2014.

\_\_\_\_\_  
C.A. Grenz, Mayor

ATTEST:

\_\_\_\_\_  
Lorrie Pearce, City Clerk



Montana Department of Transportation  
PO Box 201001  
Helena, MT 59620-1001

**Memorandum**

To: Shane Mintz, Glendive District Administrator  
From: Danielle C. Bolan, P.E. - Traffic Operations Engineer  
Date: October 21, 2014  
Subject: Speed Limit Investigations  
Miles City School Zones

The city of Miles City requested engineering and traffic studies on those federal-aid routes located within school areas. Within the request **they specified an informal opinion** regarding the appropriate speed limit for the non-arterial streets located along school property in Miles City. Five separate elementary schools – areas and six on-system federal-aid urban routes were identified within the request. This list included:

*Lincoln School – Pearl Street (U-8007)*

*Highland Park School – Stower Street (U-8009)*

*Jefferson School – North Strevell Avenue (U-8006)*

*Sacred Heart School – Leighton Boulevard (U-8001) and North Montana Avenue (U-8004)*

*Garfield School – Milwaukee Street (U-8014)*

All five schools serve elementary age students, and are located well within established residential areas. Each associated urban route was constructed by and is under the local maintenance jurisdiction. They are not maintained or part of MDT's daily operation. See the attachments for site plans of each campus for existing school crosswalk and posted speed limit information.



### **Lincoln School – Pearl Street (U-8007)**

Pearl Street (U-8007) is located along the south side of the school campus located behind a chain-link fence between the intersections with Lake Avenue and Custer Avenue, and continuing ½ block beyond Custer Avenue. Custer Avenue is closed to thru-traffic where it passes through the Lincoln School campus. School crosswalks are designated on all legs of the intersections with Lake Avenue and Custer Avenue (see attached site plan). Pearl Street has a posted speed limit of 15 mph that extends beyond the campus boundaries. Average annual daily traffic volume is 780.

Grades 4<sup>th</sup> – 6<sup>th</sup> attend Lincoln School with an approximate student body population of 212. School-age pedestrian activity was monitored between the hours of 7:00 AM to 8:30 AM and 2:30 PM to 3:30 PM, Monday September 8<sup>th</sup>. Weather conditions were favorable. The highest concentration of students observed crossing Pearl Street was at the intersection with Custer Avenue with 26 crossings in the AM period and 37 crossing in the PM period. Student pedestrian volumes also reach 30 crossings in the PM period at the intersection with Lake Avenue. On-street parking along Pearl Street can obscure visibility.

Vehicular travel speeds were sampled directionally at three locations. Mid-block between the intersections with Lake Avenue and Custer Avenue the 85<sup>th</sup> percentile speeds ranged between 21 mph and 22 mph with the pace of the traffic stream being (15 mph – 25 mph) with 97 percent to 98 percent of the free-flow traffic stream traveling within the pace.

Crash history was reviewed for a three-year period from January 1, 2011 to December 31, 2013. Two crashes (single vehicle and rearend) were reported within the study area. The single vehicle crash occurred mid-day at the intersection of Pearl Street and Lake Avenue. The rearend crash (non-school day) occurred mid-block west of the intersection with Lake Avenue.

### **Highland Park School – Stower Street (U-8009)**

Highland Park School campus covers a two-block area. It is a PK-3<sup>rd</sup> grade school with an approximate student body population of 160. Stower Street (U-8009) is located along the northern property line of a fenced "open space" area of the campus. School buildings and other primary points of activity are located 1-block south of Stower Street.

There are no signed and marked crosswalks designated on Stower Street

within the Highland Park school zone. A 15 mph school zone speed limit is posted ½-block in advance of both sides of the school zone, Cale Avenue to the west and Earling Avenue to the east. Further east beyond the intersection with Sewell Avenue there is an unapproved 15 mph speed limit posted for eastbound traffic. Average annual daily traffic volume is 2,850. Visually Stower Street and the adjacent boulevard-sidewalks are clear and free of sight obstructions. Available on-street parking had little or no use during this investigation.

Stower Avenue was monitored for school-age pedestrian activity between the hours of 7:15 AM to 8:20 AM and 2:00 PM to 3:30 PM during favorable weather conditions. During both the AM and PM crossing periods the volume of students crossing Stower Street was less than 5. No conflicts or unusual circumstances were observed.

Vehicular travel speeds were sampled directionally near the intersection with Stacey Avenue, mid-block within the school zone and east of the intersection with Sewell Avenue. Traffic operation is at its slowest in the mid-block area within the school zone. Overall, the 85<sup>th</sup> percentile speeds ranged from 21 mph to 26 mph with the 10 mph range in the pace at 15 mph – 25 mph. Within the school zone the greatest proportion of motorists are traveling in the 15 mph to 18 mph range, whereas east of the school zone the preferred travel speeds increased to the 18 mph to 24 mph range.

From January 1, 2011 to December 31, 2013 four crashes were reported within the study area. A single vehicle and a rearend crash were reported at the intersection of Stower Street and Cale Avenue. One block further west there was a single vehicle crash reported at the intersection Stacey Avenue. The remaining crash was rearend in type. It occurred mid-block between the intersections with Earling Avenue and Sewell Avenue.

#### **Jefferson School – North Strevell Avenue (U-8006)**

Jefferson School encompasses a one-block area along the east side of North Strevell Avenue two blocks north of the signalized intersection with Main Street (P-23). Average annual daily traffic volume is 930. Student body is made-up of approximately 175 PK-3<sup>rd</sup> grade students. There are marked (parallel line) crosswalks at the intersections with Pleasant Street and Palmer Street. However, they are not designated as school crosswalks with the school crosswalk warning sign assemblies at the pavement markings. The speed limit is posted at 15 mph ½-block in advance of either side of the school.

School-age pedestrian activity was monitored September 9<sup>th</sup> from 7:30 AM to 8:30 AM and 2:30 PM to 3:30 PM. Weather conditions were cool with some light rain during the AM crossing period. Student crossing volumes were around 10 or less during both the AM and PM crossing periods at both the intersections with Pleasant Street and Palmer Street. There was some additional mid-block activity generated by parents dropping off and escorting students across Strevell Avenue mid-block.

The mid-block 85<sup>th</sup> percentile speeds between the intersections of Pleasant Street and Palmer Street were 21 mph and 22 mph. Pace of the traffic stream was (15 mph – 25 mph) with 96 percent to 97 percent of motorists traveling within the pace. The speed statistics were virtually identical 1 ½-blocks north near the intersection with Clark Street.

In the last three years there have been no reported crashes along the segment of Strevell Avenue within the Jefferson School zone.

**Sacred Heart School – Leighton Boulevard (U-8001) and North Montana Avenue (U-8004)**

Sacred Heart School's campus covers a two block area with two federal-aid eligible urban routes located within the school zone. Student body consists of approximately 80 students in grades K-8<sup>th</sup>. Leighton Boulevard (U-8001) is located on the fenced south side of campus, and has an average annual daily traffic volume ranging from 2,100 west of Montana Avenue to 4,680 east of the intersection with Albert Drive. At the time of our investigation the 24-hour traffic volume near the intersection with Prairie Avenue was 3,430. Montana Avenue (U-8004) traveling north and south along the fenced west side of the campus has an average annual daily traffic volume of 3,400. Speed limit is posted at 15 mph along both routes within the school zone and approximately ½-block beyond.

School-age pedestrian counts were collected from 7 AM to 8:30 AM on September 10<sup>th</sup>. Weather conditions were less than ideal with temperature around 38-degrees and rain showers. Four students were observed crossing Leighton Boulevard and an additional 10 crossed Montana Avenue. Seven of those 10 Montana Avenue crossings occurred at the northwest corner of the school campus at the intersection with Phillips Street. No PM counts were collected due to inclement weather.

Within the Sacred Heart School zone the 85<sup>th</sup> percentile speeds were 23 mph

and 24 mph with the pace being (15 mph - 25 mph) with over 90 percent of the traffic stream traveling within the pace. There was a slight increase in the travel speeds along Leighton Boulevard east of the Sacred Heart School with 85<sup>th</sup> percentile speeds of 24 mph and 25 mph. The pace of the traffic stream ranged up to (18 mph – 28 mph) with 86 percent of the traffic stream traveling within the pace. Speed limit compliance is good.

Crash history was reviewed for a three-year period from January 2011 to December 2013. Two crashes (a single vehicle and one right angle) occurred along the Montana Avenue portion of the Sacred Heart School zone. Both of those crashes occurred at the 4-way stop sign controlled intersection with Leighton Boulevard. There were no additional crashes reported within the school zone along Leighton Boulevard.

#### **Garfield School – Milwaukee Street (U-8014)**

Garfield School is located along Milwaukee Street (U-8014). It has an approximate student body population of 259 in grades PK-6<sup>th</sup>. At the time of our investigation Milwaukee Street was under construction, project STPE 8014(2). Both work zone traffic control and work activity was taking place directly in front of the school. Final signing and pavement markings were not in place. However, the project calls for a school crosswalk at the stop sign controlled intersection with Woodbury Street and a crosswalk at the intersection with Garfield Street. The design is to concentrate the pedestrian activity at each intersection to the one leg leading direct to the school. Presently, the speed limit is statutorily 25 mph. Average annual daily traffic volume is around 350.

The pedestrian patterns may have been disrupted by the construction activity. Weather conditions were cool with some intermittent light rain showers. During the AM crossing period 14 students were observed crossing Woodbury Street and 35 students crossed at the intersection with Garfield Street. There were also 20 student drop-offs observed mid-block between the two intersections. Similar student crossing volumes in the 20 – 30 volume range were observed during the PM crossing period.

The vehicular travel speed data sample in front of the school was compromised by the construction activity taking place and in street traffic control devices. However, speeds were sampled along the newly constructed portion of Tatro Street in the residential area west of the slough.

The 85<sup>th</sup> percentile speeds were 24 mph and 26 mph with the pace ranging from (15 mph – 25 mph) to (18 mph – 28 mph) with over 80 percent of the traffic stream traveling within the pace.

We are unable to provide a crash history summary for the new construction.

### **Conclusions and Recommendations**

From the speed statistics gathered the prevailing travel speeds are below the statutory 25 mph speed limit within the school zones of each elementary school. Outside the school zones there is also good voluntary motorist compliance in the statutory 25 mph speed limit.

There are no special reduced school zone speed limits on record in our files for the federal-aid eligible urban routes covered in this investigation. From our position only the statutory 25 mph speed limit for an urban district is documented. However, local officials may have or do have the authority to invoke special school zone speed limits at their discretion taking into account the results of an engineering and traffic investigation. Reduced school zone speed limits may be set at a level below that supported by an engineering and traffic investigation, and do not require approval by the Montana Transportation Commission. The traffic data gathered and our review in this investigation supports the "15 mph" school zone speed limits as being applicable, as defined by MCA Section 61-8-310 subsection (1),(d) "When local Authorities may and shall alter limits or alter area of a school zone". All school zone speed limits should be supported by local resolution or an ordinance.

*In implementing the 15 mph school zone speed limits for the areas studied we recommend a uniform application of the boundaries of each speed zone and the re-posting of the statutory 25 mph speed limit departing the school zone. The recommended boundaries for each school zone speed limit on the urban routes is ½-block in advance of school property with the suggested duration of the speed limit in effect being ½ hour before to ½ hour after traditional school hours on school days. Outside those periods the speed limit would revert back to 25 mph. This may be accomplished with a specifically designed speed limit assembly. See section 7B.15 (pages 735 & 742) in the Manual on Uniform Traffic Control Devices.*

Beyond the scope of this request for an informal review of the speed limits we also feel it is appropriate to draw attention to the school crosswalk configurations in place. It is our first choice that those designated locations

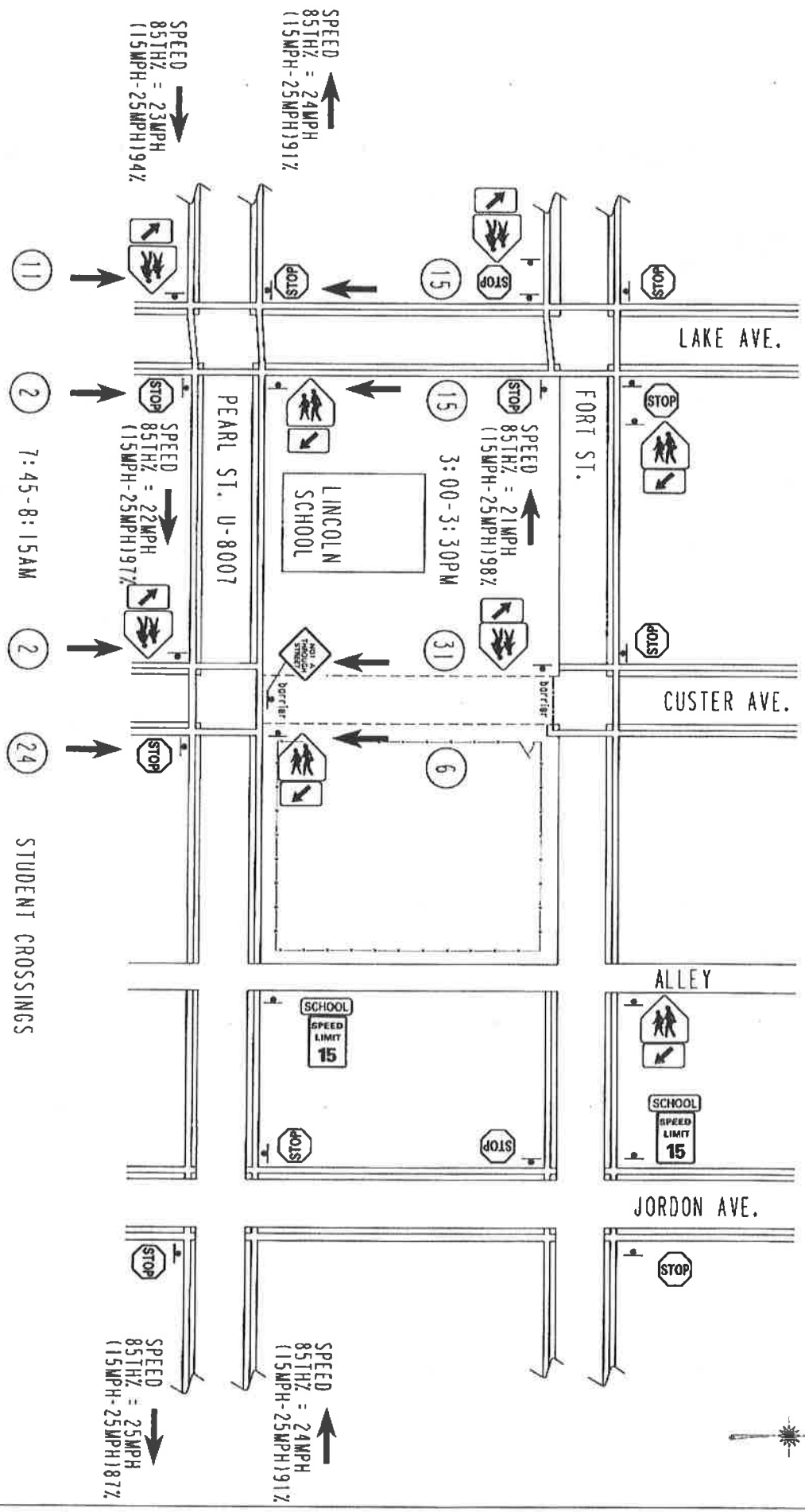
having a demonstrated crossing demand greater than 10 students (guideline) per crossing period should be delineated with the ladder style pavement marking configuration with the standardized school crossing warning sign assemblies as defined in the MUTCD. This is the uniform minimum practice preferred on all federal-aid eligible routes. Specific limitations in the availability of parking adjacent to school crosswalks should also be applied without exception to ensure good visibility of students about to enter the crosswalk. Having a dedicated clear unobscured crossing area is paramount to student safety.

We also recognize that this topic is beyond the scope of a spot improvement at one or two locations, but a larger undertaking involving multiple schools. We would welcome further insight from or possibly a meeting involving both the District office and local officials to further discuss the subject of upgrading the school crossings in Miles City.

DCB:DRB:TRF:mcity-schoolzones\_rpt

attachments

copies R.A. Peterson  
D.R. Bailey  
e-file



SPEED  
85th% = 23 mph  
(15mph-25mph)94%

SPEED  
85th% = 23 mph  
(15mph-25mph)93%

STACEY AVE.

STACEY AVE.

STOWER ST.

BRISBIN ST.

COMSTOCK ST.

ALLEY

CALE AVE.

CALE AVE.

U-8009

PLAYGROUND

HIGHLAND  
PARK  
SCHOOL

SPEED  
85th% = 21 mph  
(15mph-25mph)97%

SPEED  
85th% = 22 mph  
(15mph-25mph)96%

EARLING AVE.

EARLING AVE.

STOWER ST.

BRISBIN ST.

COMSTOCK ST.

ALLEY

SEWELL AVE.

SEWELL AVE.

SPEED  
85th% = 26 mph  
(15mph-25mph)82%

SPEED  
85th% = 25 mph  
(15mph-25mph)87%

STUDENT CROSSINGS (3)

HIGHLAND PARK  
SCHOOL  
STOWER ST. U-8009  
MILES CITY





CLARK ST

CLARK ST

N MERRIAM AV

N STREVELL AV

SPEED 85THZ = 22MPH (15MPH-25MPH)97%

SCHOOL SPEED LIMIT 15

N STACY AV

N WINCHESTER AV



PALMER ST

PALMER ST

7:30-8:30AM

SPEED 85THZ = 21MPH (15MPH-25MPH)97%

SCHOOL SPEED LIMIT 15

SCHOOL SPEED LIMIT 15

STOP

STOP

STOP

PLEASANT ST

PLEASANT ST

2:30-3:30PM  
7:30-8:30AM

SPEED 85THZ = 21MPH (15MPH-25MPH)97%

SCHOOL SPEED LIMIT 15

NO PARKING 55' 2:30-3:30PM

STOP

STOP

STOP

MAIN ST

P-23

7:30-8:30AM  
2:30-3:30PM

SPEED 85THZ = 21MPH (15MPH-25MPH)97%

SCHOOL SPEED LIMIT 15

SCHOOL SPEED LIMIT 15

STOP

STOP

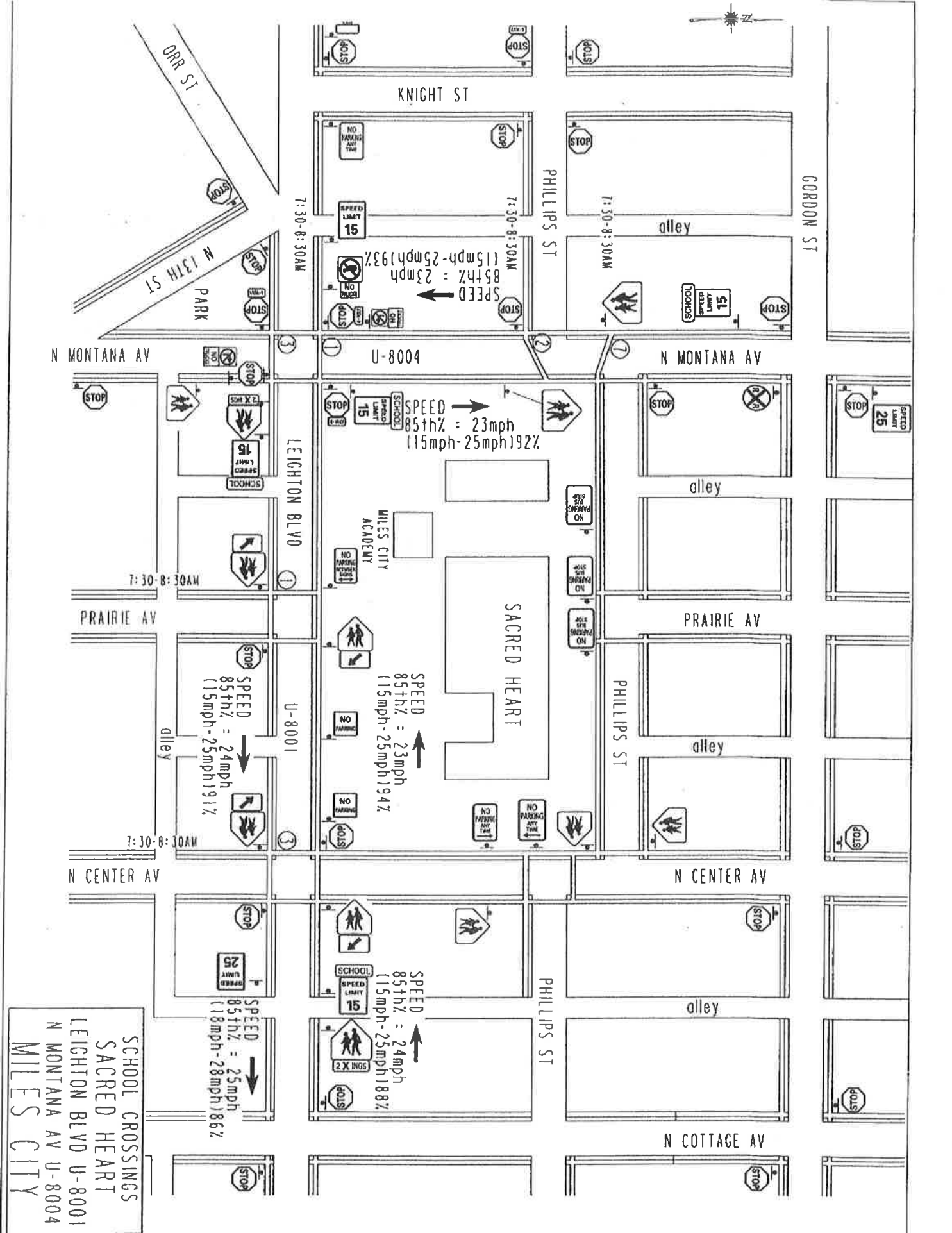
STOP

U-8006

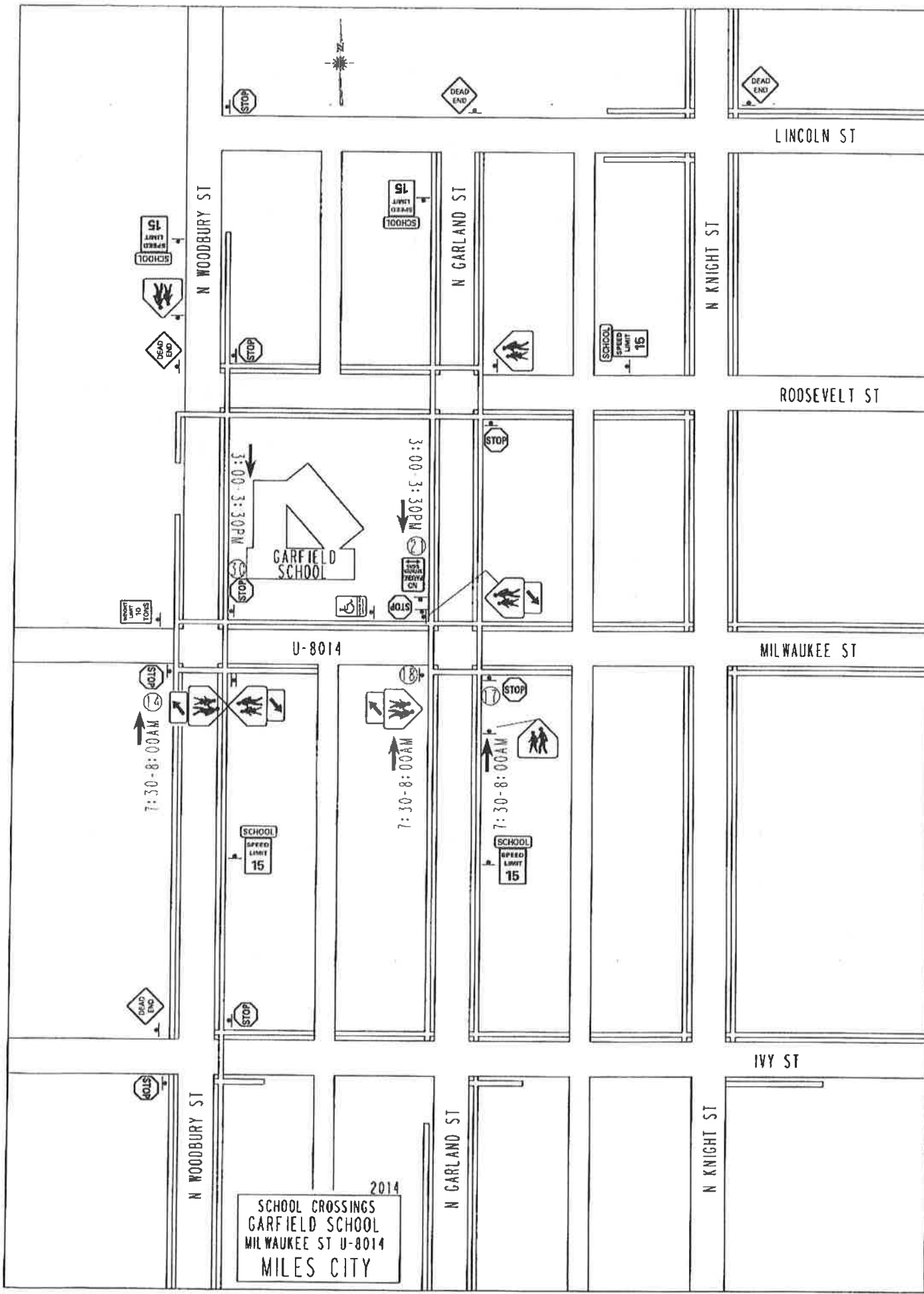
JEFFERSON SCHOOL

SCHOOL CROSSINGS  
JEFFERSON SCHOOL  
N STREVELL AV U-8006  
MILES CITY





SCHOOL CROSSINGS  
 SACRED HEART  
 LEIGHTON BLVD U-8001  
 N MONTANA AV U-8004  
 MILES CITY



2014  
 SCHOOL CROSSINGS  
 GARFIELD SCHOOL  
 MILWAUKEE ST U-8014  
 MILES CITY

# CITY RESOLUTION NO. 3760

## COUNTY RESOLUTION NO. \_\_\_\_\_

### A JOINT RESOLUTION OF THE BOARD OF COMMISSIONERS OF CUSTER COUNTY, MONTANA AND THE CITY COUNCIL OF MILES CITY, MONTANA, APPROVING A LETTER OF AGREEMENT PERTAINING TO RATES FOR SERVICES FOR FY2014-2015

*WHEREAS*, in the interests of economical provision of services to the citizens of Custer County and Miles City, the City of Miles City and Custer County have agreed to provide certain services to the other at a reasonable compensation for such services, and have reduced their agreement to writing in the form of an Interlocal Agreement for Services which has been approved by the parties for FY2013-2104, with an automatic renewal term during FY2014-2015;

*AND WHEREAS* the parties agreed to adjust certain price terms of such Interlocal Agreement for FY2014-2015, which have been reduced to writing in the form of a Letter of Agreement between the parties;

*AND WHEREAS* the provisions of Title 7, Chapter 11, Part 1, MCA, permit public agencies to contract with other public agencies for the provision of services;

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

1. The Letter of Agreement, attached hereto as Exhibit "A," is hereby approved by the respective agencies, and the Custer County Commissioners and the Mayor of the City of Miles City are hereby authorized to execute the same, and to bind their respective agency.
2. The County Commissioners and the Mayor of the City of Miles City are hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of both such agreements.

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A MAJORITY VOTE OF THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, MONTANA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.**

---

Kevin Krausz, Commissioner

---

Vicki Hamilton, Commissioner

---

Keith Holmlund, Commissioner

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY  
CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY,  
MONTANA, THIS 25<sup>th</sup> DAY OF NOVEMBER, 2014.**

---

C.A. Grenz, Mayor

ATTEST:

---

Lorrie Pearce, City Clerk

Exhibit "A"

**MILES CITY/CUSTER COUNTY**

**LETTER OF AGREEMENT**

**Re: Interlocal Agreement For Services FY2014-2015 Rates**

This **LETTER OF AGREEMENT** entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, by and between **CUSTER COUNTY, MONTANA**, a political subdivision of the State of Montana, hereinafter referred to as "*COUNTY*", and the **CITY OF MILES CITY, MONTANA**, a Montana municipal corporation, hereinafter referred to as "*CITY*".

**WHEREAS**, a certain Interlocal Agreement for Services between the parties for FY2013-2014 was agreed to automatically renew for FY2014-2015 subject to certain adjustments to the costs paid for certain services;

**AND WHEREAS**, the parties wish to reduce said updated costs to writing;

**NOW, THEREFORE, IT IS HEREBY AGREED AMONG THE PARTIES AS FOLLOWS:**

1. **Central Dispatch:** Paragraph 4(c). The County agrees to pay the City the amount of \$73,921.00 for Central Dispatch services.
2. **Ambulance Services:** Paragraph 4(e). The County and City agree to base ambulance calls at the rate of \$115.0 per hour, per unit dispatched.
3. **School Resource Officer:** The County agrees to contribute 1/3 of the cost of the City providing a School Resource Officer to the school district, subject to a cap in the amount of \$15,947.70 for the County's responsibility of such costs.
4. **Reference to Letter of Agreement re: Detention and Transportation and Water at County Fairgrounds.** The parties have previously negotiated services related to Detention and Transportation services payable from the City to the County in the amount of \$9,000 during FY2014-2015; and that the City waive the fee for unmetered water at the County Fairground during FY2014-2015. The foregoing are set forth in more detail in a certain Letter of Agreement between the parties, which was passed by a Joint Resolution between the City and the County, identified by City Resolution No. 3659.

**CITY OF MILES CITY**

By: \_\_\_\_\_  
C.A. Grenz, Mayor

Dated: \_\_\_\_\_

**CUSTER COUNTY, MONTANA**

By: \_\_\_\_\_  
Kevin Krausz, Commissioner

By: \_\_\_\_\_  
Vicki Hamilton, Commissioner

By: \_\_\_\_\_  
Keith Holmlund, Commissioner

Dated: \_\_\_\_\_

# ORDINANCE NO. 1281

**AN ORDINANCE CHANGING THE ZONING OF TRACT 1 OF THE ARMORY SUBDIVISION , FROM AGRICULTURE DISTRICT ZONE TO GENERAL COMMERCIAL ZONE, AND PROVIDING FOR A HEARING THEREON.**

**WHEREAS**, the owner of the below described real property, Debra LaFontaine, on behalf of the Montana National Guard, has made application for the property to be rezoned from Residential zone to General Commercial District (GC) zone;

**AND WHEREAS**, such property is situated within the incorporated city limits of the City of Miles City, Montana;

**AND WHEREAS**, Section 24-8 of the Miles City Code requires that such application be referred to the City Zoning Commission for public hearing and recommendation to the City Council prior to any action by the City Council upon such application;

**AND WHEREAS**, the Miles City Zoning Commission, on November 5, 2014, held a public hearing upon said application, and upon deliberation, recommended to the City Council that such zoning change be approved.

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

**Section 1.** Zoning for the following described real property located within the incorporated city limits of the City of Miles City, Custer County, Montana, is hereby rezoned from Residentail zone to General Commercial District (GC) zone, to wit:

Track 1 of the Armory Subdivision of the City of Miles City, Montana, according to the official plat and survey thereof, on file and of record with the Clerk and Recorder in and for Custer County, Montana.

**Section 2.** A public hearing shall be held upon this proposed zoning change before the City Council at 7:00 P.M. on the 23<sup>rd</sup> day of December, 2014, in the Council Chambers at City Hall, 17 S. Eighth Street, Miles City, Montana.

**Section 3.** The City Clerk shall give notice of the date, time and place of such hearing by publication in the Miles City Star at least 15 days prior to the date of such hearing, in accordance with MCA Sections 76-2-303 and 305.



**Section 4.** This ordinance shall be in full force and effect thirty (30) days after its final passage and approval.

Said Ordinance read and put on its passage this 25<sup>th</sup> day of November, 2014.

---

C.A. Grenz, Mayor

ATTEST:

---

Lorrie Pearce, City Clerk

**FINALLY PASSED AND ADOPTED** this 23<sup>rd</sup> day of December 2014.

---

C.A. Grenz, Mayor

ATTEST:

---

Lorrie Pearce, City Clerk

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

November 5, 2014

Mayor Grenz and City Council,

RE: Proposed re-zone for Tract 1 of the Armory Subdivision (2500 Main Street) from Residential to General Commercial.

The Miles City Zoning Commission conducted its public hearing on November 5, 2014 to consider the request to re-zone the above described area in the Armory Subdivision. After reviewing comments from the public hearing, the Zoning Commission recommends approval of the zone change to general commercial.

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

Respectfully,

*Amber Trenka by Nancy Mitchell*  
*Vice Chair*  
Amber Trenka, Chair  
Zoning Commission



# City of Miles City

## ZONE CHANGE APPLICATION

17 South 8<sup>th</sup> Street  
Miles City, MT 59301

Date Received: \_\_\_\_\_  
to be filled out by City

Note: If more than one property/petitioner a list of signatures and legal descriptions may be attached to this application.

I, Debra LaFountain is/are petitioning the City of Miles City to rezone  
signature  
the following property:

### LEGAL DESCRIPTION OF PROPERTY:

Street Address or General Location 2500 Main St., Miles City, MT  
Tract/s 1 in Section 34 Township 08N Range 47E OR  
Lot/Tract/s \_\_\_\_\_ of Armoury Subdivis in Section 34 Township 08 Range N  
Subdivision Name  
Assessor Number/s or Geocode 14704034112010000

### PRIMARY CONTACT:

Applicant Name: Debra LaFountain If a business: Contact Name \_\_\_\_\_  
Please print Please print

Address: P.O. Box 4789  
1956 Mt Majo St., Fort Harrison MT 59636

Phone: 406-324-3134 Cell Phone: \_\_\_\_\_ Email: debra.lafontaine,ntg@mail.mil

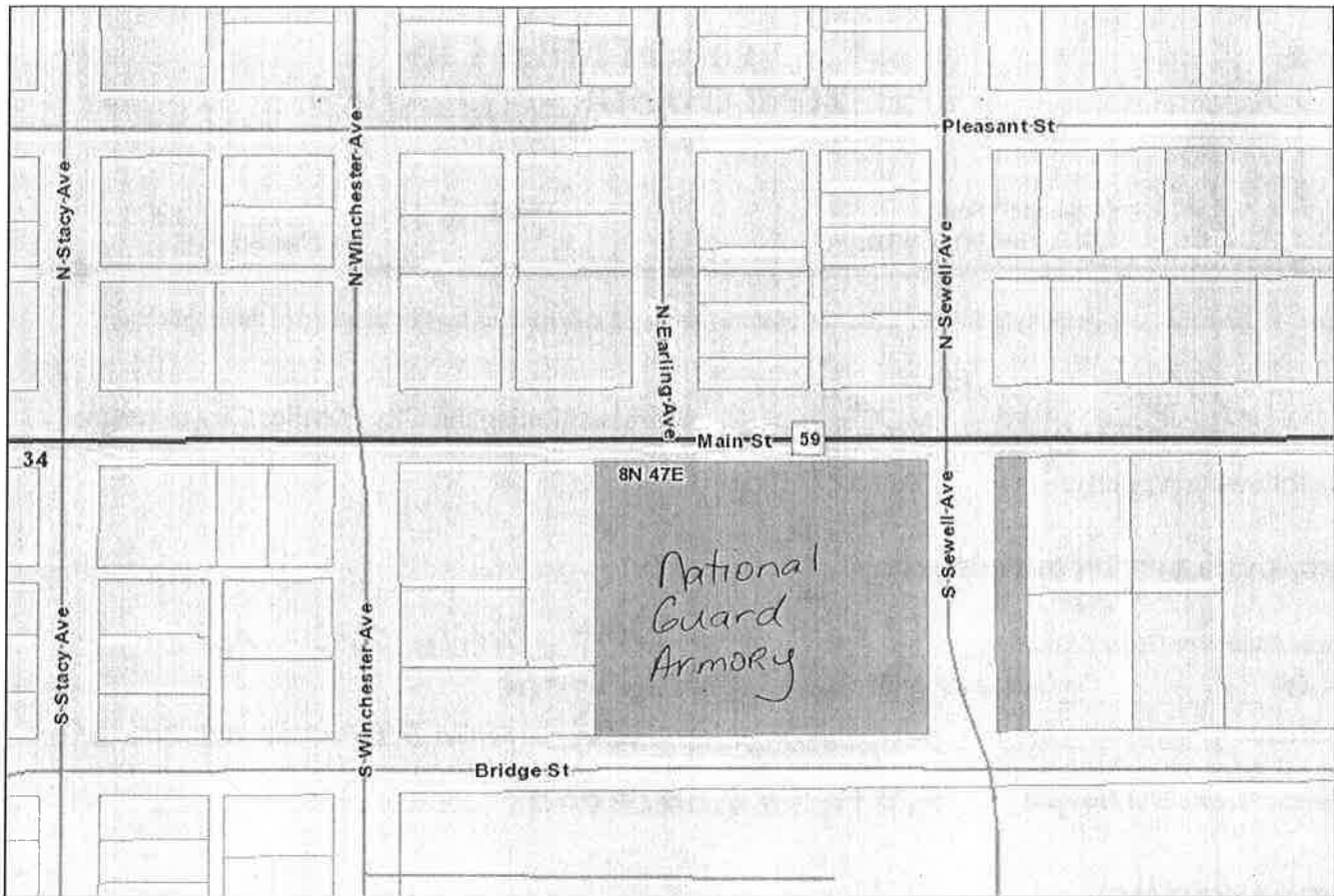
### DESCRIPTIVE DATA:

Total area in acres: 2.43  
Existing Zoning: Residential Proposed Zoning General Commercial  
Existing Use Armoury

Yes  No Purpose of the zone change is for pending development (sale) If so please explain the nature of the proposal or state any other reason for requested change

We are surrounded on three sides with General Commercial zoning

Note: All information must be filled in for the application to be complete. Submission of an application is not a guarantee that a zone change will be approved.



**Miles City Zoning Commission  
17 South 8<sup>th</sup> Street  
Miles City, MT 59301**

**PUBLIC NOTICE**

The Miles City Zoning Commission will conduct a public hearing to receive comments on a proposed re-zone for 2500 Main Street (National Guard Armory). The petitioner is requesting a re-zone from Residential "A" to General Commercial.

The hearing will be held Wednesday, November 5, 2014 at 6:00 p.m. in the City Hall Conference Room, 17 South 8<sup>th</sup> Street, Miles City, Montana, 59301. For more information contact the Public Works Department (406) 234-3493.

---

**RE-ZONE**  
**Property Owner List**  
**for**  
**National Guard Armory**

State of MT National Guard  
PO Box 4789  
Ft. Harrison, MT 59636

Big Sky Financial Planning Corp  
11 S. 7<sup>th</sup> St.; Ste 165  
Miles City, MT 59301

Jeffrey & Lynn Johnson  
2402 Main Street  
Miles City, MT 59301

Morgan & Sarah Ann Pett  
14 S. Winchester  
Miles City, MT 59301

James R & Timothy E Regan  
PO Box 1164  
Miles City, MT 59301

Mac's Frontierland Inc.  
PO Box 430  
Miles City, MT 59301

East Mont Auto Supply Inc.  
35 Monday Drive  
Miles City, MT 59301

Miles City Federal Credit Union  
PO Box 27  
Miles City, MT 59301

Ronald J Watts  
PO Box 370  
Miles City, MT 59301

R L Mann, Inc.  
1023 Cottonwood Lane  
Miles City, MT 59301

Barney & Bonnie Hofer  
10 N. Earling  
Miles City, MT 59301

Scotts Glass Inc.  
PO Box 1410  
Miles City, MT 59301

EMCAC Inc & BAM LLC  
73 Balsam Circle  
Miles City, MT 59301

VA Hospital  
210 S. Winchester  
Miles City, MT 59301

Miles Community College  
2600 Dickinson  
Miles City, MT 59301

Pierson Companies Inc.  
2610 Main Street  
Miles City, MT 59301

Eastern Montana Community  
PO Box 1530  
Miles City, MT 59301

James & Teresa Kale  
13 N. Earling Ave.  
Miles City, MT 59301

Darrel & Jacqualine Rost  
14 N. Winchester  
Miles City, MT 59301

Squatters Knob LLC  
PO Box 1231  
Miles City, MT 59301

Robert & Shannon Dinardi  
20 N. Sewell  
Miles City, MT 59301

Susan L Cadlo  
13 N. Sewell  
Miles City, MT 59301

## Miles City Zoning Committee

### Staff Report

November 5, 2014

#### Zone Change Request-National Guard Armory

Debra Lafontaine from The Department of Military Affairs has requested a change in the zoning designation from Residential A to General Commercial on property the State of Montana owns in the Armory Addition. Located on the property today is the National Guard Armory. The proposed zone change would make it possible for the Department of Military Affairs to have the property assessed so that it can be sold in the future. Surrounding land uses include General Commercial to the north, east and west, and Residential to the south of the property.

#### Finding of facts

The following is an evaluation of the zone change request under the criteria and guidelines for zoning regulations provided in Montana code Annotated 76-2-304.

1. Does the proposed zone change comply with the Miles City Growth Policy?

The Growth policy does not include a future land use map or other information designating the property for specific land uses or zoning designations.

The Growth Policy includes a statement that is applicable to this proposal:

"Zoning amendments shall consider the needs of the petitioner, neighboring property owners, and the greater community." (Zoning, p.36). In this case, the landowner (petitioner) has requested a change in zoning designation. No concerns have been voiced to date by neighboring property owners and a general commercial designation would result in better options for this property. Based on this information, the proposal generally complies with the 2008 Miles City Growth Policy.

2. Is the proposed zone change designed to secure safety from fire and other dangers?

The property would be served by city water with a fire hydrant to the northwest of the property, a fire hydrant to the south of the property on VA property, a fire hydrant to the southeast on VA property, and a fire hydrant to the northwest of the property, which would help with fire protection. The property is assessable by Main St to the north of the property, Bridge St. to the south of the property, and S.Sewell St. to the east of the property and would provide adequate emergency access. Therefore, the proposal is generally designed to secure safety from fire and other dangers.

3. Is the proposed zone change designed to promote public health, public safety, and the general welfare?

The building is not located in a designated floodplain, but the storage lot area for their equipment is located in the designated floodplain. There is power lines located to the south on VA property, and fiber optic and utilities are also located to the south. Therefore, the proposed

zone change will have little impact on public health, safety or general welfare other than possibly providing more commercial property for this area, which could be considered a benefit to the public.

4. Is the proposed zone change designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities?

Transportation – The property is served by three roads. Pedestrian traffic is available by a sidewalk to the north and no bicycle facilities are available to the property.

Water and Sewer – Adequate city water and sewer are available.

Schools – School facilities are available to the surrounding properties.

Parks – Adequate parks are available to this property.

Other Public Requirements – Solid waste, mail delivery, and public utilities are available to this property.

Based on the above information, the proposed zone change is generally designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities.

5. Does the proposed zone change provide reasonable provision of adequate light and air?  
The proposed property is 2.63 acres in size, which is sufficient size to provide adequate light and air.

6. How would the proposed zone change effect motorized and non- motorized transportation systems?

As stated previously, adequate motorized vehicular access is available via a state highway, and city streets. There is pedestrian traffic available by a sidewalk, but no bicycle facilities are available in the vicinity of the property.

7. Does the proposed zone change promote compatible urban growth and is it suitable for the proposed land use?

According to the map entitled, Miles City & Surrounding Jurisdiction Zoning Map (9/20/12), the zoning designation to the north is residential, zoning to the west is heavy commercial, and zoning to the south and east is agricultural. This is an area with a mixture of General Commercial and Residential nearby. Changing the zoning to general commercial, will allow a mixture of land uses and would therefore promote compatible urban growth. The proposed land use is for the property to be sold as General commercial to bring in more revenue with the sale of the land.

8. Would the proposed zone change conserve the value of building and encourage the most appropriate use of the land?

As stated above, this area contains a mixture of land uses, ranging from residential to General Commercial. Changing the zoning on the subject property to general commercial would continue this pattern and therefore conserve the value of building and encourage the most appropriate use of the land.

Recommendation:

Adopt this report as findings of fact and recommend approval of the zone change to City Council.



# ORDINANCE NO. 1282

**AN ORDINANCE CHANGING THE ZONING OF TRACT B OF DOCUMENT #153542, ENVELOPE 500B, AND LOCATED WITHIN SECTION 11 OF TOWNSHIP 7 NORTH, RANGE 47 EAST, M.P.M., FROM AGRICULTURE DISTRICT ZONE TO GENERAL COMMERCIAL ZONE, AND PROVIDING FOR A HEARING THEREON**

**WHEREAS**, the owner of the below described real property, Brad Certain on behalf of T.O.N. LLC, a Montana limited liability company, has made application for the property to be rezoned from Agriculture District (AG) zone to General Commercial District (GC) zone;

**AND WHEREAS**, such property is situated outside of the boundary of the incorporated city limits of the City of Miles City, but within the 2 mile area surrounding the City of Miles City where the City maintains zoning jurisdiction pursuant to Montana Code Annotated Section 76-2-310 and Section 24-3 of the Miles City Code;

**AND WHEREAS**, Section 24-8 of the Miles City Code requires that such application be referred to the City Zoning Commission for public hearing and recommendation to the City Council prior to any action by the City Council upon such application;

**AND WHEREAS**, the Miles City Zoning Commission, on November 5, 2014, and upon deliberation, recommended to the City Council that such zoning change be approved.

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

**Section 1.** Zoning for the following described real property located within the two mile area surrounding the incorporated city limits of the City of Miles City, Custer County, Montana, is hereby rezoned from Agriculture District (AG) zone to General Commercial District (GC) zone, to wit:

**TOWNSHIP 7 NORTH, RANGE 47 EAST, M.P.M.**

Section 11: Tract B of Document #15342, Envelope 500B, on file with the Clerk and Recorder in and for Custer County, Montana.

**Section 2.** A public hearing shall be held upon this proposed zoning change before the City Council at 7:00 P.M. on the 23<sup>rd</sup> day of Dec., 2014, in the Council Chambers at City Hall, 17 S. Eighth Street, Miles City, Montana.

**Section 3.** The City Clerk shall give notice of the date, time and place of such hearing by publication in the Miles City Star at least 15 days prior to the date of such hearing, in accordance with MCA Sections 76-2-303 and 305.

**Section 4.** This ordinance shall be in full force and effect thirty (30) days after its final passage and approval.

Said Ordinance read and put on its passage this 25<sup>th</sup> day of November, 2014.

\_\_\_\_\_  
C.A. Grenz, Mayor

ATTEST:

\_\_\_\_\_  
Lorrie Pearce, City Clerk

**FINALLY PASSED AND ADOPTED** this 23<sup>rd</sup> day of Dec., 2014.

\_\_\_\_\_  
C.A. Grenz, Mayor

ATTEST:

\_\_\_\_\_  
Lorrie Pearce, City Clerk

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

November 5, 2014

Mayor Grenz and City Council,

RE: Proposed re-zone for Tract B, owned by Brad Certain T.O.N.L.L.C, located at 722 Hwy 59 South from Agriculture (AG) to General Commercial (GC).

The Miles City Zoning Commission conducted its public hearing on November 5, 2014 to consider the request to re-zone the above described area. After reviewing comments from the public hearing, the Zoning Commission recommends approval of the zone change, to general commercial, contingent upon the applicant meeting the access requirements of the Montana Department of Transportation.

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

Respectfully,

*Amber Trenka by Nancy Mitchell*  
*Vice chair*

Amber Trenka, Chair  
Zoning Commission

Revenue Code: 4060-323040

Fee: \$200.00

### City of Miles City ZONE CHANGE APPLICATION

Date Received: 10-1-14  
to be filled out by City

17 South 8<sup>th</sup> Street  
Miles City, MT 59301

Note: If more than one property/petitioner a list of signatures and legal descriptions may be attached to this application.

I, Brad Certain T.O.N.L.L.C. is/are petitioning the City of Miles City to rezone  
signature  
the following property:

**LEGAL DESCRIPTION OF PROPERTY:**

Street Address or General Location 722 Hiway 59 S

Tract/s \_\_\_\_\_ in Section 11 Township 51N Range 47E OR

Lot/Tract/s B of Calvin in Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_  
Subdivision Name

Assessor Number/s or Geocode 000 RGC 2182

**PRIMARY CONTACT:**

Applicant Name: T.O.N.L.L.C. If a business: Contact Name Brad Certain  
Please print Please print

Address: 1920 Valley Dr E

Phone: 234-1234 Cell Phone: 951-1234 Email: abc@midrivers.com

**DESCRIPTIVE DATA:**

Total area in acres: 28.85

Existing Zoning: Ag Proposed Zoning Commercial General

Existing Use Ag

Yes  No Purpose of the zone change is for pending development/sale. If so please explain the nature of the proposal or state any other reason for requested change Build commercial building

Note: All information must be filled in for the application to be complete. Submission of an application is not a guarantee that a zone change will be approved.



**Miles City Zoning Commission  
17 South 8<sup>th</sup> Street  
Miles City, MT 59301**

**PUBLIC NOTICE**

The Miles City Zoning Commission will conduct a public hearing to receive comments on a proposed re-zone for Sec 11, Township 7N, Range 47E, Tract B (722 Hwy 59S). The petitioner is requesting a re-zone from Agriculture to General Commercial.

The hearing will be held Wednesday, November 5, 2014 at 6:00 p.m. in the City Hall Conference Room, 17 South 8<sup>th</sup> Street, Miles City, Montana, 59301. For more information contact the Public Works Department (406) 234-3493.

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**RE-ZONE  
Property Owner List  
For  
Brad Certain-T.O.N.L.L.C.**

Dean Gillette  
53 Balsam Circle  
Miles City, MT 59301

Peggy Pyle  
268 Cemetery Road  
Miles City, MT 59301

Susan L. Colvin & Mary Jo Zent  
287 McIver Road  
Great Falls, MT 59404-6311

Arlo D Nansel  
11 Nansel Lane  
Miles City, MT 59301

Barbara Ann Nicholas  
114 Wells Road  
Richmond, KY 40475

Frank E & Mary Jane Nelson  
PO Box 396  
Miles City, MT 59301

Brad Certain  
1920 Valley Dr. East  
Miles City, MT 59301

Mike & Linda Corbett  
917 S. Cale  
Miles City, MT 59301

John Todoroff Jr.  
986 Oilmont Street  
Oilmont, MT 59466

Clifford A & Marilyn M Schantz  
136 Schantz Lane  
Miles City, MT 59301

Miles City Zoning Committee

Staff Report

November 5, 2014

Zone Change Request

Brad Certain has requested a change in the zoning designation from Agricultural to General Commercial on property he owns on the west side of Highway 59 South. The proposed zone change would make it possible for a Commercial shop to be built on the property, among other land uses. Surrounding land uses include Agricultural use to the south and west of the property and General Commercial to the east of the property.

## **FINDINGS OF FACT**

### Part 1

The following is an evaluation of the zone change request under the criteria and guidelines for zoning regulations provided in Montana code Annotated 76-2-304.

1. Does the proposed zone change comply with the Miles City Growth Policy?

The growth policy does not include a future land use map or other information designating the property for specific land uses or zoning designations. The Growth Policy includes a statement that is applicable to this proposal: "Zoning amendments shall consider the needs of the petitioner, neighboring property owners, and the greater community." (Zoning, p.36).

The needs of neighbors and the community should be carefully considered. In this case, the landowner (petitioner) has requested a change in zoning designation to provide greater options for development of the property. Some concerns have been voiced to date by neighboring property owners because, depending on what future land use is developed on the property, land uses allowed in the GC district could result in greater impacts to neighboring landowners than typical AG district land uses.

The growth policy states that future growth in the Miles City community will most likely be to the east and to the south of the established community. Based on this information, the proposal generally complies with the 2008 Miles City Growth Policy.



2. Is the proposed zone change designed to secure safety from fire and other dangers?

The property would be served by fire protection from the Rural Fire Department. The property is accessible by State Highway 59 South to the east of the property and the highway would provide emergency access. As stated in #3 below, there could be a visibility issue with accessing the highway from the property, which must be addressed by the Montana Department of Transportation (MDOT) prior to a zone change being final. Assuming this issue can be adequately addressed, the proposal would generally be designed to secure safety from fire and other dangers.

3. Is the proposed zone change designed to promote public health, public safety, and the general welfare?

The property is not located in a designated floodplain. There is a high voltage power line to the south of the property; gas lines are located along the easement next to the highway. It appears there could be a visibility problem with traffic entering onto a busy road, therefore the proposed zone change will have some impact on public health, safety or general welfare and the MDOT would have to address this with the property owner as to what the approved right away approaches or highway improvements would be required prior to the zone change being finalized.

4. Is the proposed zone change designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities?

Transportation – The property is served by one road: Highway 59 South. MDOT will be consulted in order to ensure adequate transportation.

Water and Sewer – There are no city water or sewer services to this property. A well will provide for water and the wastewater system design is being handled by the sanitarian and the state in accordance with adopted policies.

Schools – School facilities and bus service are available if necessary.

Parks – No parks are immediately available to this property. Assuming a commercial business is developed on the property, the proposal should not generate additional demand for city parks.

Other Public Requirements – Mail delivery and utilities are available to this property.

Based on the above information, the proposed zone change is generally designed to facilitate the adequate provision of transportation, water, sewerage, schools, and other facilities.

5. Does the proposed zone change provide reasonable provision of adequate light and air?

The proposed property is approximately 28.85 acres in size, which is sufficient size to provide adequate light and air.

6. How would the proposed zone change effect motorized and non- motorized transportation systems?

As stated previously, motorized vehicular access is available via a state highway which the MDOT would have to authorize in order to ensure impacts from the development of this property are minimal.

7. Does the proposed zone change promote compatible urban growth and is it suitable for the proposed land use?

According to the map entitled, Miles City & Surrounding Jurisdiction Zoning Map (9/20/12), the zoning designation surrounding this property is Agricultural to the south and west of this property, General Commercial to the east of this property and the property to the north is zoned Agricultural, but some debate arose during another recent rezone request across the road. A General Commercial business has been operated on this property for the last 50 years so there has been some debate as to what designation this property really is.

To the north of this property toward Miles City are several commercial developments. During a recent, similar zone change request, the City Council found extending GC designation to the south in this area is a logical and compatible extension of the South Haynes commercial development.

8. Would the proposed zone change conserve the value of building and encourage the most appropriate use of the land?

Changing the zoning on the subject property to general commercial would conserve the value of building and would be appropriate use of the land.

## Part 2

The following is an evaluation of the Little Factors for Spot Zoning based on legal precedent established in *Little v. Board of County Com'rs*, 193 Mont. 334 (1981) and other judicial decisions.

Little Factor 1: Is the proposed land use significantly different from the prevailing use in the area?

A change to GC would allow for a wide range of commercial land use options and also multiple-family residential. To the north approximately 1,000 feet is a similar mix of commercial and (away from Haynes Avenue) multi-family residential. Immediately surrounding the subject property are residential, agricultural and commercial land uses. Because of the mixture of existing uses in the area, the proposed land use would not be significantly different from the prevailing uses in the area.

Little Factor 2: Is the area rather small from the perspective of the number of separate landowners benefited from the proposed change?

A zone change requested by one landowner is small from the perspective of the number of separate landowners benefited from the proposed change.

Little Factor 3: Would the change be special legislation designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public?

In a way this would be special legislation designed to benefit one landowner. However, City Council recently recognized in a similar zone change decision that commercial use with some residential is likely to be the future land use in this area. Changing the designation would open the door for other landowners to benefit due to the establishment of precedent. Also, while acknowledging that certain members of the public might be harmed by the impacts of commercial development on this property, other segments of the public might benefit due to additional jobs, tax base and the goods and services that will be produced at the site. On balance, this proposal would primarily benefit one landowner but not at the overall expense of the general public.

Finding: Based on the above analysis of the three Little Factors for Spot Zoning, this proposal does not appear to be illegal spot zoning.

### Part 3

Recommendation: Adopt this report as findings of fact and recommend approval of the zone change to City Council contingent upon the applicant meeting the access requirements of the Montana Department of Transportation prior to the zone change being finalized by City Council.

GARY RYDER  
LAWYER  
P.O. Box 72  
HYSHAM, MONTANA 59038  
406-342-5546

November 5, 2014

Ms. Amber Trenka, Chairperson  
Zoning Commission  
City of Miles City  
17 South 8<sup>th</sup>  
Miles City, Montana 59301

***RE: Objection to Certain re-zone request***

Dear Chairperson and Members of the Zoning Commission,

Please consider this objection to the re-zone on behalf of my clients, the Todoroff's. When the same property was proposed for rezoning in April of 2014, the matter went to the Zoning Commission and City council. It was denied in a written decision by the City council.

The property is located in a zoning district that is designated as agricultural.

Since that time, neither the law nor the facts have changed. The only thing that has changed is the politics. The spot zoning issue still exists.

There was a significant amount of information provided to the Zoning Commission and the City council at a series of public hearings. Very little of this is contained in the staff report.

As an example, Mr. Certain indicated that there is no available industrial property in Miles City. That is not accurate. The Bullpen Subdivision located by the new National Guard Armory. That property has City water and sewer available, and is compatible with the other properties in the area.

Brad Certain, at a City council meeting, indicated that Diamond J, LLC was not going to go back into this. However, the staff report has nothing addressing this issue including restricted covenants.

The staff report s only addresses issues favored by Certain. It is not balanced. The Growth Policy is an extensive document. It discusses many factors, including annexation, extension of water and sewer services on surrounding properties outside of town, and maintaining open spaces of agriculture. This zoning area will be adversely affected. There are several well-maintained and

valuable residences, which are not compatible with the proposed use. The statements made by staff in their report indicating that the Growth Policy is being complied with is not accurate.

I am submitting a letter from Dennis Mullen. He is not taking sides, but providing general information as to the adverse effect on property values of mixed zoning

There is little doubt that this re-zone is special legislation that is only for the financial benefit of the real estate speculators who purchased the property in 2012. It was zoned agriculture at the time of purchase. This change will adversely affect the landowners, and does not comply with the Growth Policy. It is not compatible use. It should be denied.

Sincerely yours,



Gary Ryder  
Attorney at Law

GR/cabs

- c. Dan Rice, City Attorney (w/o exhibits)
- Scott Gray, Public Works (w/o exhibits)

Exhibit List: (not emailed)

1. City council document of July 8<sup>th</sup>, 2014
2. DNRC website – Bullpen pictures
3. Dennis Mullen letter
4. Map of opposing landowners – Tract A – Certain / Gillette

**CITY COUNCIL – MILES CITY**

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**In Re the Zoning Change**

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**Petition of Diamond J. Construction, LLC**

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**FINDINGS OF FACTS**

**AND**

**CONCLUSIONS OF LAW –**

\*

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A public hearing on this matter was held before the City council on June 24<sup>th</sup>, 2014. The Zoning Commission held a previous public hearing on this matter on April 24<sup>th</sup>, 2014 and took additional comments on May 7<sup>th</sup>, 2014.

The Zoning Commission submitted a written recommendation to the council recommending a denial of the change.

Zoning Commission members, Nancy Mitchell and Muriel Rost, provided a written basis for the recommendation.

With that background, the City council of Miles City submits the following Findings of Facts and Conclusions of Law.

**FINDINGS OF FACTS - BACKGROUND**

1. Diamond J, LLC, is a local construction contractor, John Peila, owner. Diamond J started construction for a building on property zoned agricultural south of town in February of 2014.

They submitted an application for a zoning change was submitted to the City in March of 2014.

2. Diamond J Construction is a concrete and excavation contractor, and the building being constructed was approximately 11,800 square feet in size and used as a shop to store supplies and maintain equipment, in addition to office space. The exterior would contain some

landscaping and a parking area for vehicles. The proposed use would be significantly different than the prevailing use in the area.

3. The property where the building is being constructed is located on a tract of property located approximately two (2) miles south of Miles City on Highway 59 South. The land was recently subdivided. It did not go through the required subdivision review. The tract where the construction is taking place is designated, Tract B of the Colvin Minor Subdivision. The land is approximately twenty-eight (28) acres.

4. The site plan for the property shows two (2) proposed buildings. Diamond J purchased the property from developer, Brad Certain, who owns Tract A of the Colvin Minor Subdivision. Tract C and D of that subdivision are owned by Susan Colvin of Great Falls, Montana and Mary Jo Colvin Kane of Liberty Lake, Washington.

5. The proponent had indicated at the May 28<sup>th</sup>, 2014 zoning hearing on the Certain property that he disagreed with the Zoning Commission's recommendation on this property, but had other suitable property elsewhere. He indicated he would hold on to this property (Tract B) until he received sufficient value.

#### **WRITTEN PROTEST**

6. The staff for the City of Miles City prepared a list of property owners for the proposed Diamond J Construction rezoning request. With the exception of Diamond J, Brad Certain and his partner, Dave Gillette, all of the other affected landowners filed written protests. Those landowners are: Peggy Pyle, Susan L Colvin and Mary Jane Kane, Arlo D. Nansel, Barbara Ann Todoroff-Nicholas (now of Richmond, Kentucky), and Frank and Mary Jane Nelson of Miles City.

7. In addition to the written protest by the property owners, other surrounding property owners outside the 150 feet project zone objected to the re-zone.
8. At the April hearing, landowner, Bill Oftedahl, also in the construction business, cited a variety of factors involving the high number of trucks entering in and out of the property, off hours of operation, and the general nature of the construction contracting business. Oftedahl's construction business is located north of town in the vicinity of other construction and trucking businesses.
9. At the June hearing, Mr. Oftedahl also testified that there is a need for additional residential housing. Given the current nature and use of the property, if the area is rezoned, that residential property is the more appropriate use.
10. In their written protests, the majority of the other property owners indicate that a change of zoning would adversely affect the value of their properties. Todoroff indicated that she would have difficulties in selling a current seven (7) acre tract she owns, located next to the Diamond J construction site. The current use of Todoroff's property is for a rural residential. Her mother has been residing there.
11. Property owner, Susan L. Colvin, indicates that her wish for the remaining forty-three (43) acres that her and her sister own would either remain in farm land or residential use.
12. Property owner, Ron Nansel, also believes that a construction business is not the best use of for their property as it should be considered for rural residential.
13. Property owner, Fred Nelson, currently has a residential property across the street from the property and believes his property value will decrease as a result of a re-zoning.
14. Other than developer Certain, none of the other surrounding property owners are in favor of the re-zone proposal.



## **GROWTH POLICY**

15. The City of Miles City Growth Policy was adopted in April of 2008. Montana law requires that zoning changes comply with a growth policy. It is very comprehensive and addresses issues involving zoning, annexation, and development. Both the Growth Policy and the City of Miles City ordinance establish a two (2) mile jurisdiction outside the City limits as their jurisdiction. The Tract B of the proposed zoning change is within that two (2) miles jurisdiction. The City's two (2) mile zoning jurisdiction is clearly stated in the introduction of the Growth Policy and in several places in that document.

16. Mr. Peila's contention that he was unaware of the zoning regulations did not carry much persuasion with either the Zoning Commission or with the City council.

## **WATER AND SEWER SERVICES - ANNEXATION**

17. The property in question does not currently have access to water and sewer services either through the Custer County Water and Sewer District or the City of Miles City. Diamond J owner, John Peila, stated that he would be willing to consider annexation as a condition of approval. There is no indication that Peila has taken any attempts to initiate annexation and meet the necessary legal requirements. The annexation issue is addressed on page 35 and 36 of the City of Miles City Growth Policy.

18. The determination is made that the proper steps for annexation have not been undertaken by Diamond J Construction.

## **ZONING STANDARDS – GROWTH POLICY**

19. The existing land is zoned as agricultural. The City of Miles City's Growth Policy addresses issues for consideration in zoning. The Zoning Commission will consider the needs of the Petitioner, neighboring property owners, and the greater community. Taking into account

both the legal effect of the protest, and the stated concerns of the neighboring property owners, the criteria for a zoning amendment has not been met by Diamond J, LLC. See page 36, Growth Policy.

### **SPOT ZONING**

20. The City council of the City of Miles City adopts the determination submitted by the Zoning Commission and the recommendations of the City Planner, Dave DeGrandpre on the spot zoning issue. Allowing the zoning amendment as presented would amount to spot zoning, as it would be only to the benefit of one entity, Diamond J Construction, LLC and to the detriment of the surrounding landowners. There is no apparent benefit of this construction company to the surrounding landowners. Those landowners all had a reasonable basis to believe their value of property would be decreased. The applicants existing business site located in north Miles City on Truscott also, gave concern to the other surrounding landowners.

### **CONCLUSIONS OF LAW**

1. The City of Miles City has jurisdiction over the proposed re-zoning change. See MCA §76-2-310.
2. The City council has considered the guidelines and zoning regulations under MCA §76-2-304. Zoning regulations and amendments should be made in conformance with the Growth Policy, as adopted by the City in April, 2008. Such Growth Policy requires the consideration of the surrounding property owners and the best use of the land, as a criteria to approve re-zoning.
3. The City council determines that because of the strong opposition of the surrounding property owners, in addition to the lack of planning of this development, is an adequate basis for the denial of this re-zoning request by the proponent. See also Englin v. Board of County Commissioners, 2002 MT 115 48 P.3d 39 (2002).

4. In addition, there have been sufficient protests filed to require an affirmative vote to recommend re-zoning by 75% of the City council.
5. The council finally determines that in addition to the zoning criteria under statute, and zoning references in the Growth Policy, that to grant this proposed re-zone would be in violation of the restriction against spot zoning. See the DeGrandpre report, Zoning Commission recommendation, also Little v. Board of County Commissioners, 193 MT 334, 631 P.2d 1282 (1981), and Greater Yellowstone Coalition, Inc. v. Board of County Commissioners of Gallatin County, 2001 MT 99 25 P.3d 168 (2001).

#### FINAL DETERMINATION

Based upon the information contained and referenced above, the City council determines that the re-zoning change as submitted is DENIED.

DATED this 16 day of July, 2014.



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City Council President – City of Miles City

## **APPRAISAL REVIEW REPORT**

Proposed Easement on Tracts 2 through 5 of Bull Pasture Subdivision

**Custer County, Montana**

Effective Date of Review: September 13, 2012

Date of Valuation: September 13, 2012

Prepared for:

State of Montana

Department of Natural Resources and Conservation

Trust Land Management Division

Real Estate Management Bureau

1625 11<sup>th</sup> Avenue

Helena, MT 59620

Prepared by:

John Grimm, Real Estate Section Supervisor

Department of Natural Resources and Conservation

Trust Land Management Division

Real Estate Management Bureau

1625 11<sup>th</sup> Avenue

Helena, MT 59620

## REVIEWER'S SUMMARY OF SALIENT FACTS

**Clients & Intended Users of Review:** The clients and intended users are the State of Montana, the Montana Board of Land Commissioners and the Department of Natural Resources and Conservation (DNRC). The purpose of the appraisal is to provide the clients with a credible opinion of current fair market value of the appraised subject property. The report is intended to be used in the decision making process concerning the amount of compensation to be paid for an easement.

**Intended Use of Review:** The purpose of the review is to provide the clients and intended users with an opinion of the credibility of the appraiser's opinion of current fair market value of the appraised property, and if this appraisal should be reviewed by a Montana certified appraiser. The intended use of the review will be for utilization in the decision making process concerning the amount of compensation to be paid for an easement.

**Present Owner:** State of Montana

**Property Interest Appraised:** Fee Simple

**Zoning:** Light Industrial (LI)

**Subject Property, Acreage, Legal Description & Location:** The property is located about half a mile east of the northeastern limits of the city of Miles City, Montana. The property is Tracts 2, 3, 4 & 5 of the Bull Pasture Minor Subdivision, all in the SW1/4 of Section 26, T8N, R47E of the P.M.M., Custer County Montana. This parcel of land is accessed by driving north on Haynes Avenue from Interstate 94, to Ashland Street, then turn east to access the tracts.

**Present Use:** Vacant, irrigated pasture

**Highest and Best Use:** Industrial Use, in line with current zoning.

**Dates:** The effective date of the appraisal is September 13, 2012 and effective date of the review is September 13, 2012.

**Purpose and Intended Use of the Appraisal:** The purpose of the appraisal is to provide the clients and intended users with a credible opinion of market value of the subject property, intended for use in the decision making process concerning the amount of compensation to be paid for an easement.

**Appraiser's Opinion of Value of Real Estate:** The appraiser reported the current fair market value for the subject property as of September 13, 2012:

Tract	Acres	Value per Acre	Total Value *
All Tracts	38.55±	\$35,000	\$1,300,000
Tract 2	16.93±	\$35,000	\$575,000
Tract 3	7.22±	\$35,000	\$245,000
Tract 4	7.21±	\$35,000	\$245,000
Tract 5	7.19±	\$35,000	\$245,000

\*Values calculated on net tract area less access easement, and rounded to nearest \$1,000

**Reviewer:** This reviewer is not a Montana certified appraiser and makes a recommendation to the DNRC if the report should be reviewed by a Montana certified appraiser. This reviewer checks the accuracy of information and analysis of the report.

**Reviewer's Comments:** This reviewer finds the report appears credible and that it is acceptable. This review is not a stand alone document and is expressly interrelated to the appraisal report.

**Reviewer's Conclusion of Value:** It is this reviewer's opinion that the appraiser's opinion of value for the subject sale parcel is appropriately supported.

## APPRAISAL REVIEW REPORT

**Clients & Intended Users of Review:** The clients and intended users are the State of Montana, the Montana Board of Land Commissioners and the Department of Natural Resources and Conservation (DNRC). The purpose of the appraisal is to provide the clients with a credible opinion of current fair market value of the appraised subject property. The report is intended to be used in the decision making process concerning the amount of compensation to be paid for an easement..

**Intended Use of Review:** The purpose of the review is to provide the clients and intended users with an opinion of the credibility of the appraiser's opinion of current fair market value of the appraised property, and if this appraisal should be reviewed by a Montana certified appraiser. The intended use of the review will be for utilization in the decision making process concerning the amount of compensation to be paid for an easement.

### Scope of Review:

The reviewer will be reviewing and making an opinion of the quality of the appraisal, along with providing an opinion of the credibility of the value reported. The reviewer's opinion of appraisal quality and opinion of the credibility of the value reported will be based mostly on the material submitted in the report. Limited use will also be made of information on the cadastral system, (such as legal descriptions, maps, aerial photos and topography maps, etc...), and limited information on the subject property in this reviewer's file. This reviewer did not perform a physical viewing of the subject property. The comparable sales were not inspected and were only "viewed" through use of the appraisal report and cadastral system. No in-depth market research was done. The reviewer's valuation opinion is limited to an orientation prospective of the appraiser's opinion, i.e., "the appraiser's opinion of value appears high, low, appropriate, or unsupported", etc. In the development of this reviewer's opinion of the credibility of the value estimated, an extraordinary assumption has been made that the material about the subject property and on the comparable sales, along with other market information submitted in the appraiser's report is credible. USPAP defines Extraordinary Assumption as: an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions. Use of the extraordinary assumption mentioned here and elsewhere in the report might have affected the assignment results. This review is not a stand alone document and is expressly interrelated to the appraisal report, which the reader may need to refer to for further detail.

### Subject Property, Acres, Legal Description, Location & Owner of Record:

The property is located about half a mile east of the northeastern limits of the city of Miles City, Montana. The property is Tracts 2, 3, 4 & 5 of the Bull Pasture Minor Subdivision, all in the SW1/4 of Section 26, T8N, R47E of the P.M.M., Custer County Montana. This parcel of land is accessed by driving north on Haynes Avenue from Interstate 94, to Ashland Street, then turn east to access the tracts. The State of Montana has owned the property since 1918.

### Appraiser's Estimate of Value:

**Appraiser's Opinion of Value of Real Estate:** The appraiser reported the current fair market value for the subject property as of September 13, 2012:

Tract	Acres	Value per Acre	Total Value *
All Tracts	38.55±	\$35,000	\$1,300,000
Tract 2	16.93±	\$35,000	\$575,000
Tract 3	7.22±	\$35,000	\$245,000
Tract 4	7.21±	\$35,000	\$245,000
Tract 5	7.19±	\$35,000	\$245,000

\*Values calculated on net tract area less access easement, and rounded to nearest \$1,000

**Date of Appraisal, Estate Appraised & Date of Review:**

The effective date of the appraisal is September 13, 2012 and the date of the report is October 26, 2012. Property rights appraised are unencumbered surface rights. The appraisal report provides more detail about the rights appraised and also the market value definition. The reader is referred to the report for more information. The effective date of the review is September 13, 2012, with the review report date being November 14, 2012.

**Client & Intended Users and Purpose & Intended Use of Appraisal Report:**

The clients and intended users are the State of Montana, the Montana Board of Land Commissioners, and the Montana Department of Natural Resources and Conservation (DNRC). The report is intended to be used in the decision making process concerning the amount of compensation to be paid for an easement.

**Appraiser's Subject Property Data & Analysis Summary:**

The appraiser appears to have provided sufficient information on and done an adequate analysis of, the subject property, the neighborhood and the market in general. To state again, in the development of this reviewer's opinion of the credibility of the value estimated, an extraordinary assumption has been made by this reviewer that this material is credible. This review is not a stand alone document and is expressly interrelated to the appraisal report.

**Appraiser's Highest and Best Use Analysis:**

The property is located about half a mile east of the northeastern limits of the city of Miles City, Montana. The subject property is zoned Light Industrial (LI). The appraiser determined that the Highest and Best Use of the subject property is Industrial Use, in line with current zoning. This reviewer concurs with the Highest and Best Use determination made. The reader is referred to the appraisal report for the appraiser's analysis and conclusions.

**Appraiser's Valuation Process:** The subject consists of vacant pasture land, which has been subdivided into tracts that are zoned Light Industrial (LI). The Cost approach and Income Approach were not considered relevant approaches to valuing the property. The appraiser appears to have done a thorough search of the subject's market area for comparable sales, comparable listings, and market data, done a sufficient job in the descriptions and explanations, done a rational examination of the various elements involved with the various value approaches and done a reasonable analysis of the vacant sales information. The reader is referred to the actual appraisal report for the appraiser's descriptions, analysis and conclusions. Again, in the development of this reviewer's opinion of the credibility of the value estimated, this reviewer has made the **extraordinary assumption** that the elements in the value approaches, the comparable vacant land sales, listings and other market information is credible.

**Reviewer:** This reviewer is not a Montana certified appraiser and makes a recommendation to the DNRC if the report should be reviewed by a Montana certified appraiser. This reviewer checks the accuracy of information and analysis of the report.

**Comments and Conclusions:** This reviewer finds the report appears credible and that it is acceptable given the intended use. The material appears sufficient, the data appears adequate and relevant, the adjustments appear proper, the appraisal methods and techniques appear appropriate, and the analysis, opinions and conclusions appear appropriate and generally reasonable. This review is not a standalone document and is expressly interrelated to the appraisal report.

**Conclusions of Values:** This reviewer did not replicate the steps completed by the original appraiser. This reviewer has concluded that the work under review is credible and in general compliance with the applicable development standards. It is this reviewer's opinion that the appraiser's estimate of value for the subject parcel is appropriately supported.



John Grimm, Reviewer/Lands Section Supervisor  
Montana Dept of Natural Resources & Conservation, Trust Land Mgt Div

Dated: November 14, 2012

**Mullen Appraisal Service**  
**Dennis Mullen**  
**P.O. Box 1125**  
**Miles City, MT 59301**  
**(406) 234-3681**  
**mullenappr@midrivers.com**

Mayor Butch Grenz  
City Council Members  
17 S. 8<sup>th</sup> St.  
Miles City, MT 59301

RE: Proposed Zone Change. Highway 59 South

August 27, 2014

Dear Mr. Grenz and City Council Members.

I have been asked to determine what, if any, impact the proposed zone change on Highway 59 South may have on neighboring residential property. It has been my experience as both a Real Estate Broker and Certified Residential Real Estate Appraiser that the proposed zone change from Agricultural use to Commercial use will have a negative impact on any adjacent existing or proposed residential property. It may also have a negative impact on the process of obtaining long-term secondary market residential financing for these properties. Commercial zoning allows a wide range of uses, which may have an equally expansive impact on the neighboring residential properties.

Please feel free to contact me if I may be of further assistance at any time.

Sincerely,



Dennis Mullen  
Real Estate Broker, Certified Residential Appraiser

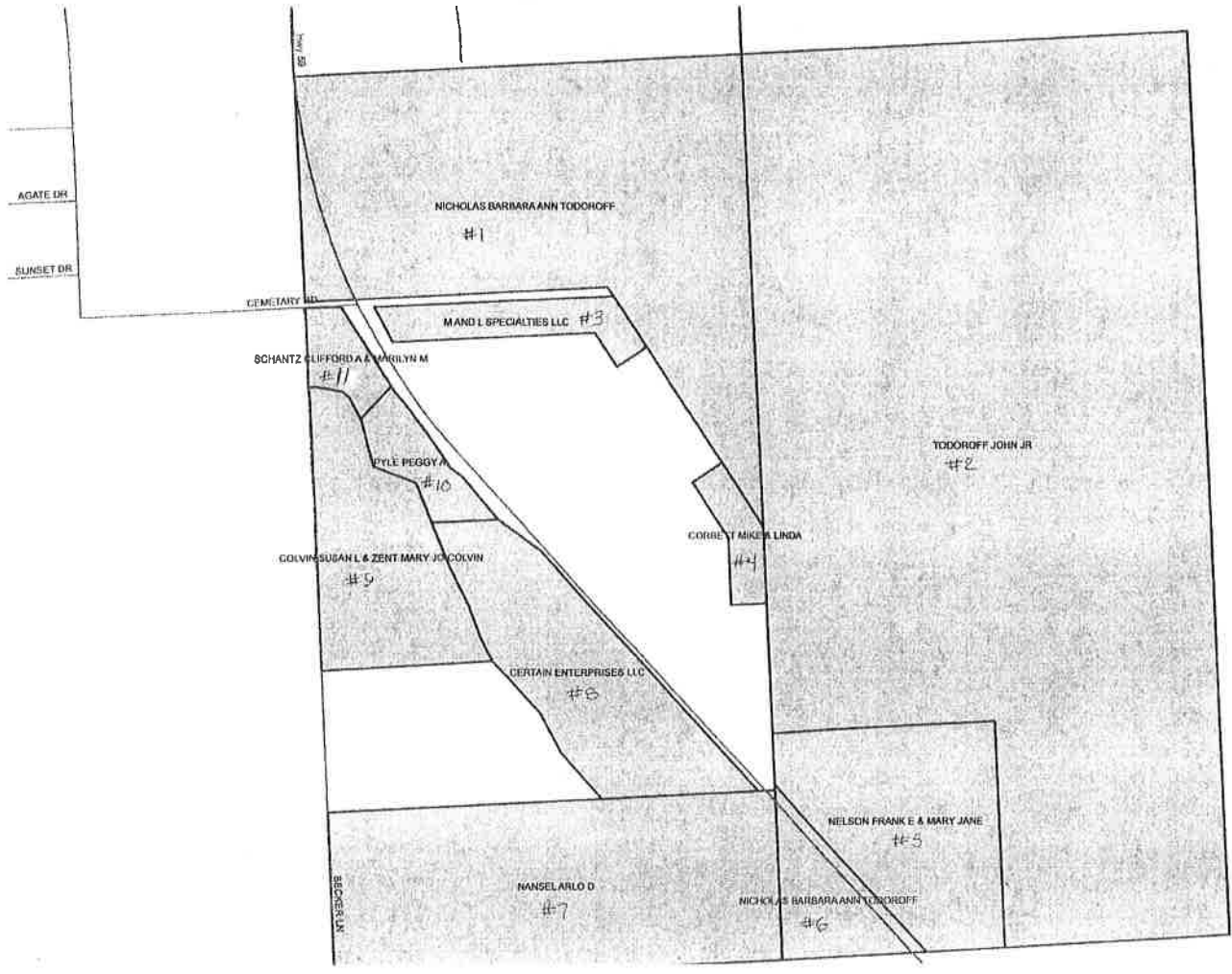


	Property Owner	Address	Zip Code	Opponent	Proponent
1	Barbara Nichols	778 Hwy 59S	59301	X	
2	John Todoroff	986 Oilmont St	59466	X	
3	Mike Corbett	917 S. Cale	59301		X
4	Mike Corbett	917 S. Cale	59301		X
5	Frank Nelson	PO Box 396	59301	X	
6	Barbara Nichols	778 Hwy 59S	59301	X	
7	Arlo Nansel	11 Nansel Lane	59301	X	
8	Certain Enterprises/Diamond J Const	PO Box 520	59301		X
9	Susan Colvin & Mary Jo Dent	287 Mclver Rd	59301	X	
10	Peggy Pyle	268 Cemetary Rd	59301	X	
11	Clifford Schantz	136 Schantz Lane	59301	No Response	

7

3

Number of Parcels: 11  
Opponents: 7  
Percentage: 64%



# RESOLUTION NO. 3761

**A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO A STATE-LOCAL DISASTER ASSISTANCE AGREEMENT, HAZARD MITIGATION GRANT PROGRAM, WITH THE STATE OF MONTANA FOR APPLICATION FOR FUNDING ASSISTANCE FOR A LIFT STATION RETROFIT MITIGATION PROJECT.**

*WHEREAS*, the City of Miles City has applied for a grant through the Hazard Mitigation Grant Program administered by the State of Montana for assistance in funding the Miles City Lift Station Retrofit Mitigation Project;

*AND WHEREAS*, the State of Montana requires that the City enter into a State-Local Disaster Assistance Agreement, and to appoint a representative to act on the City's behalf to establish and maintain a proper accounting system to record expenditures of disaster assistance funds, as a part of such application;

*NOW THEREFORE BE IT RESOLVED* by the City Council of Miles City, Montana, as follows:

1. The "State-Local Disaster Assistance Agreement" attached hereto as Exhibit "A", and made a part hereof, is hereby approved and adopted by this Council.
2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said Contract on behalf of the City of Miles City and bind the City of Miles City thereto;
3. The City hereby appoints Lorrie Pearce, City Clerk of the City of Miles City, to act as the City's representative pursuant to Paragraph 2 of the hereinbefore referenced Agreement;
4. The Mayor of the City of Miles City is hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of said 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, AT A DULY CALLED MEETING THIS 25<sup>th</sup> DAY OF NOVEMBER, 2014.**

\_\_\_\_\_  
C.A. Grenz, Mayor

ATTEST:

\_\_\_\_\_  
Lorrie Pearce, City Clerk

## EXHIBIT "A"

### STATE-LOCAL DISASTER ASSISTANCE AGREEMENT HAZARD MITIGATION GRANT PROGRAM

This agreement between the State of Montana and Miles City and is effective on the date signed by the state and the applicant. It shall apply to all Hazard Mitigation Grant Program (HMGP) funds provided by or through the state from DR-4127-P-01-F to the applicant for the purpose of the Miles City Lift Station Retrofit Mitigation Project.

The designated representative of the applicant certifies that:

1. He/she has legal authority to apply for assistance on behalf of the applicant.
2. The applicant will appoint by resolution/letter an Applicant's Representative to act on the town's behalf and will establish and maintain a proper accounting system to record expenditures of disaster assistance funds in accordance with generally accepted accounting standards or as directed by the Governor's Authorized Representative. [NOTE: Attach a copy of the resolution to the applicant.]
3. The applicant will provide all necessary financial and managerial resources to meet the terms and conditions of receiving federal and state disaster assistance.
4. The applicant agrees to provide necessary local share of funding for completion of the project.
5. The local cost share funding will be available within the specified time.
6. The applicant will use disaster assistance funds solely for the purposes for which these funds are provided and as approved by the Governor's Authorized Representative to include utilizing qualified and experienced contractors, preferably those who have been authors of prior FEMA approved Plans.
7. The applicant will give state and federal agencies designated by the Governor's Authorized Representative access to and the right to examine all records and documents related to use of disaster assistance funds.
8. The applicant will return to the state, within 15 days of such request by the Governor's Authorized Representative, any advanced funds which are not supported by audit or other federal or state review of documentation maintained by the applicant.
9. The applicant will comply with all applicable codes and standards as it pertains to this project and agrees to provide maintenance as appropriate.
10. The applicant will comply with all applicable provisions of federal and state law and regulation in regard to procurement of goods and services.
11. The applicant will begin project work within 90 days of approval of the grant and complete all items of work within the period of performance specified by FEMA unless an exception is granted by FEMA to extend the time frame.
12. The applicant will comply with all federal and state statutes and regulations relating to non-discrimination.
13. The applicant will comply with the provisions of the Hatch Act limiting the political activities of public employees.
14. The applicant will comply with the National Flood Insurance Program requirements.

15. The applicant will not enter into cost-plus-percentage-of-cost contracts for completion of Hazard Mitigation Grant Projects.
16. The applicant will not enter into contracts for which payment is contingent upon receipt of Federal funds.
17. The applicant will not enter into any contract with any party that is disbarred or suspended from participating in federal assistance programs.
18. The applicant will comply with one of the following (as appropriate for the type of applicant) for all audit requirements: OMB CIRCULAR NO. A-128 (Single Audit Act); or A-133 (for Private Non-profit Organizations); or 7 CFR Ch. XVII Subpart B-REA Audit Requirements Subsection 1773(d).
19. The applicant will comply, as applicable, with provisions of the Davis-Bacon Act relating to labor standards.
20. The State reserves the right to withhold 10% of the total Federal Funds until the project is complete and approved by FEMA.

SIGNED FOR THE APPLICANT:

C. A. Grenz, Mayor, City of Miles City

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

SIGNED FOR THE STATE:

Brad Livingston  
Governor's Authorized Representative (GAR)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## RESOLUTION NO. 3763

**A RESOLUTION AUTHORIZING THE CITY OF MILES CITY, THROUGH ITS BOARD OF HEALTH, TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES FOR FEES AND INSPECTIONS FOR CALENDAR YEAR 2015**

*WHEREAS*, the City of Miles City through its Board of Health conducts certain health inspections within the incorporated limits of the City of Miles City, and the Montana Department of Public Health and Human Services pays certain amounts to the City for conducting such inspections;

*AND WHEREAS* the obligations of the parties regarding the foregoing inspections and payments have been reduced to writing;

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

1. The Cooperative Agreement between the Miles City Board of Health and the Montana Department of Public Health and Human Services, attached hereto as Exhibit "A", and made a part hereof, is hereby approved and adopted by this Council.
2. The Chairperson of the City of Miles City Board of Health is hereby empowered and authorized to execute said Agreement on behalf of the City of Miles City and bind the City of Miles City thereto.
3. The Chairperson of the City of Miles City Board of Health is hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of said 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 25<sup>th</sup> DAY OF NOVEMBER, 2014.**

---

C.A. Grenz, Mayor

ATTEST:

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Lorrie Pearce, City Clerk

**EXHIBIT "A"**

**Cooperative Agreement**  
 Between  
**Montana Department of Public Health and Human Services**  
 And  
**Board of Health**

**Identity of Parties and Purpose Statement**

This **Cooperative Agreement** (Agreement) is between the **Montana Department of Public Health and Human Services**, (DPHHS) and the **Miles City Board of Health** (BOH).

The purpose of this Agreement is to establish a payment schedule for maximizing the disbursement of funds to the BOH to support inspections of licensed establishments and to determine which optional programs the BOH will conduct.

A failure to sign this agreement will result in the local health jurisdiction receiving quarterly payments for inspections completed. Each completed inspection will result in a payment equal to the license fee or the portion of that fee designated in the applicable statute.X

**Period of Performance and Termination of this Cooperative Agreement**

This Cooperative Agreement is effective from **January 1, 2015 through December 31, 2015** and cannot be terminated except by written notification from one of the parties with a minimum of 30-day notice. This agreement may not be extended.

**Sole Agreement**

This is the only Agreement between the parties with respect to payments for inspections for licensed establishments. This Agreement replaces any previous Cooperative Agreement(s) entered into by the parties with respect to payments and responsibilities for inspections of public establishments as defined in this agreement.

**Alterations or Amendments**

The parties may amend this Cooperative Agreement by mutual agreement. Any amendment is effective only when in writing and signed by both parties.

**Responsibilities of the parties:**

**The BOH agrees:**

1. To inspect the following types of licensed establishments within its jurisdiction on an annual basis:
  - a) Inspections required to be performed by local health jurisdictions
    - i. Retail Food Establishments

- ii. Wholesale Food Establishments
- iii. Trailer Courts & Campgrounds
- iv. Public Accommodation (see 2a for exceptions)

b) The BOH agrees to conduct the following activities:

i. Pools, Spas and Other Water Feature Inspections

No

ii. Body Art Establishment Inspections

No

iii. Body Art Establishment Plan Review

No

c) If the local health jurisdiction is not capable of performing inspections of pools, spas and other water features, and body art facilities they will be conducted by the department or its designee. A designee may include a neighboring county under contract with the Department.

2. To inspect public sleeping accommodations within its jurisdiction as follows:
  - a) Inspect each hotel, motel, rooming house/boarding house/hostel before initial license validation, upon complaint, and routinely inspected at least once annually;
  - b) Inspect each bed & breakfast and tourist/vacation home/condominium before initial license validation and upon complaint;
  - c) Complete follow-up inspections as determined necessary by the sanitarian; and
  - d) Make a reasonable effort to license all operating establishments, including tourist homes.
3. Inspections of licensed establishments must be performed by the local health officer, sanitarian, or sanitarian-in-training;
4. Enter inspection dates into the Department's database, within two weeks after the end of each quarter.
5. A minimum of one person in the County will obtain access to the Department's licensing database, receive training, and enter the date and name of person performing each inspection.
6. On a minimum of a quarterly basis, notify the Department of any status changes to establishment licenses (i.e. out of business; change of ownership);
7. Provide copies of inspection reports to the Department for auditing purposes, upon request;
8. Notify the Department when a sanitarian or the BOH takes enforcement action that may impact a license;



9. To be eligible for payment from the Local Board Inspection Fund (LBIF), the County must maintain a functioning local board of health as required by Title 50 of the Montana Code Annotated.

**The Department agrees:**

1. To pay the percentage required by statute of each licensing fee received by the Department into a Local Board Inspection Fund. Fees paid into the fund will be collected from licensees of retail food establishments, wholesale food establishments, public accommodations, trailer courts and campgrounds, and, if applicable, body art establishments (see Table 2), pools, spas, and other water features.
2. To pay the BOH all fees associated with an establishment from the local board inspection fund, so long as the licensed establishment is inspected or reported as permanently closed and the license fee or fees have been paid by the establishment;
3. If the BOH inspects all licensed establishments in program categories covered by this agreement before the end of the licensure year, payment from the Local Board Inspection Fund will be made at the rates below. Payment rules to be applied to the percentages can be found in Appendix A.
4. To provide copies of plan review correspondence to the county sanitarian; and
5. The amount available from the local board inspection fund is solely dependent upon fees paid by licensed establishments within the relevant jurisdiction. The percentage paid to the BOH under the schedule is intended to be a percentage of the actual amount available in that fund based on amounts paid in from licensees. Under no circumstances will the Department be obligated to pay an amount larger than has been paid into the Local Board Inspection Fund. Payment is also dependent on statutory authority available to the State to make payments from the Local Board Inspection Fund;
6. To provide training, education, technical assistance and information to staff of local board of health; and;
7. To maintain a record of inspections submitted by the staff of the local board of health department as required in rule.

**Table 1: Payment Schedule- Applies to Retail Food Establishments; Wholesale Food Establishments; Public Accommodations (except Tourist Homes and Bed & Breakfasts \*see note) Trailer Courts/Campgrounds; Body Art Establishments; Pools, Spas and Other Water Features (if applicable):**

Percent of Licensed Establishments Inspected by the County during the licensure year	LBIF Disbursement by Percentage
90% -100%	100% (of paid licenses)
< 90%	1 to 1 (per paid license)

\* Note: All license fees for Tourist Homes and Bed & Breakfast will be paid annually to the county and are not subject to Table 1.

**Table 2: License fees reimbursed to counties performing inspections of Body Art Establishments:**

License type	License fee	Reimbursement per inspection
Tattooing	\$135	\$121.50 (90%)
Body Piercing	\$135	\$121.50 (90%)
Ear lobe piercing only	\$75	\$67.50 (90%)

**Both parties agree that:**

1. The responsibilities of the parties are governed by the Montana Code Annotated and the Administrative Rules of Montana and nothing in this agreement is intended to contradict or supplant relevant provisions of the laws of Montana; and
2. The following process is to be used in the event of a disagreement between the BOH and the Food & Consumer Safety Section (FCSS) about the terms of this agreement.
  - a. If the BOH is unable to resolve their disagreement with FCSS, a written notification from the BOH must be provided to the Communicable Disease Control and Prevention Bureau Chief. The BOH shall provide in writing specific details about the remaining issues that are in dispute. The Bureau Chief shall attempt to resolve the dispute. If unable to resolve the dispute, the reasons for the department's position on the issues in dispute must be presented to the BOH in writing.
  - b. If resolution of the disagreement is not obtained, the BOH may request a review and written determination to be made by the Public Health and Safety Division Administrator.
  - c. The decision of the Division Administrator may be appealed to the Department Director, whose decision is final.

**Liaisons:**

These persons serve as the primary contacts between the parties regarding the performance of the task order.

1. Ed Evanson is the liaison for DPHHS (phone: 406-444-5309)
2. Liaison for the BOH: MICHAEL S RINALDI RS  
Environmental Health Officer  
*(Print name and title)*

**For: Montana Department of Public Health and Human Services**

Signature: \_\_\_\_\_  
Printed name and title: Todd Harwell, Division Administrator  
Date: \_\_\_\_\_

**By : MILES CITY Board of Health**

Signature: \_\_\_\_\_  
Printed name and title: \_\_\_\_\_  
Date: \_\_\_\_\_

Please mail signed Agreement to: Ed Evanson, Supervisor  
DPHHS-Food & Consumer Safety Section  
P.O. Box 202951  
Helena MT 59620-2951

## Appendix A – Payment Rules for Licensed Establishments

(These rules apply to permanent and temporary licenses)

The following scenarios describe how credit for an inspection will be applied to the percentage described in Table 1 of this Agreement. Any scenarios not covered by these business rules will be evaluated on a case by case basis.

<b>Scenario</b>	<b>License Fee(s) paid</b>	<b>Inspection(s) completed</b>	<b>Credit(s) toward percentage</b>
1	License fee paid	1 or more inspection(s) completed	1 credit toward percentage
2	License fee paid	0 inspections completed	0 credit toward percentage
3	License fee paid	0 inspection completed due to business closing	1 credit toward percentage
4	0 fees paid	0 inspections completed	0 credit toward percentage
5	2 license fees paid on 1 establishment due to change in ownership	2 inspections performed because of change in ownership	2 credits toward percentage
6	2 license fees paid on 1 establishment due to change in ownership	1 inspection performed	1 credit toward percentage
7	License fee paid for temporary food service	1 plan review and/or inspection performed	1 credit toward percentage
8	License fee paid for pool or spa operated throughout the year	1 full facility and 1 critical point inspection performed	1 credit toward percentage
9	License fee paid for seasonal pool or spa	1 full facility inspection performed	1 credit toward percentage

## **RESOLUTION NO. 3764**

### **A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO AN EXTENSION AGREEMENT WITH TUMBLEWOOD DEVELOPMENT, INC. FOR SANITATION INSPECTION SERVICES FOR CALENDAR YEAR 2015**

*WHEREAS*, the City of Miles City desires to contract for sanitation inspection services on behalf of its Health Board to perform sanitation inspections of facilities within the city limits of the City of Miles City as required or permitted by Title 50 MCA for all of calendar year 2015;

*AND WHEREAS* Tumblewood Development, Inc., a Montana Corporation, of Lewistown, Montana, has represented that it is qualified and authorized by applicable Montana law, rules and regulations to provide such sanitation inspection services for the City of Miles City;

*AND WHEREAS* the City of Miles City and Tumblewood Development, Inc., have previously negotiated mutually acceptable terms and conditions for the supplying of such contracted sanitation inspection services for the 2013 calendar year, which was extended for calendar year 2014 pursuant to an Extension Agreement approved by Resolution 3660, and wish to extend such Agreement through calendar year 2015;

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

1. The Extension Agreement between the City of Miles City, Montana and Tumblewood Development, Inc., a Montana corporation, attached hereto as Exhibit "A", and made a part hereof, is hereby approved and adopted by this Council.
2. The Chairperson of the City of Miles City Board of Health is hereby empowered and authorized to execute said Extension Agreement on behalf of the City of Miles City and bind the City of Miles City thereto.
3. The Chairperson of the City of Miles City Board of Health is hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of said 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 25<sup>th</sup> DAY OF NOVEMBER, 2014.**

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C.A. Grenz, Mayor

ATTEST:

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Lorrie Pearce, City Clerk

Exhibit "A"

**EXTENSION AGREEMENT**  
To Sanitation Inspection Service Agreement

This Agreement is entered into by and between **THE CITY OF MILES CITY HEALTH BOARD**, a board of the City of Miles City, Montana, of 17 South Eighth Street, Miles City, Montana 59301, hereinafter referred to as "the Board" and **TUMBLEWOOD DEVELOPMENT, INC.**, a Montana Corporation, of P.O. Box 743, Lewistown, Montana 59457, hereinafter referred to as "Sanitarian."

RECITALS

WHEREAS, the Board and the Sanitarian have previously entered into a Sanitation Inspection Service Agreement dated January 23, 2013, for sanitation services to the City of Miles City for calendar year 2013, which was extended for calendar year 2014 pursuant to an Extension Agreement approved by Resolution 3660;

AND WHEREAS, the parties hereto wish to extend said Agreement so that Sanitarian may provide the City of Miles City with sanitation services for calendar year 2015, under the same terms and conditions as the 2013 Agreement and 2014 extension;

AND WHEREAS, modification of the term of the 2013 Agreement must be made in writing and executed by all parties, pursuant to Paragraph 15 of the 2013 Agreement;

NOW, THEREFORE, the parties hereto agree as follows:

1. The foregoing Recitals are hereby incorporated as if fully set forth herein.

2. The 2013 Sanitation Inspection Service Agreement between the parties is hereby extended, and the terms of said Agreement shall remain in full force and effect until midnight on December 31, 2015, with an effective beginning date of January 1, 2015.

3. The compensation due for calendar year 2013, as extended through 2014, shall remain the same for calendar year 2015.

4. The 2013 Agreement shall remain unchanged in all respects other than the changing of the applicable calendar year.

5. This Agreement shall not become effective until it is approved and ratified by the City Council of the City of Miles City by appropriate resolution.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2014.

CITY OF MILES CITY HEALTH BOARD

By: \_\_\_\_\_  
Its Chairperson

TUMBLEWOOD DEVELOPMENT, INC.,  
a Montana corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_