



CITY OF MILES CITY AGENDA

*Regular Council Meeting
City Council Chambers*

*March 24, 2015
7:00 p.m.*

CALL TO ORDER PLEDGE OF ALLEGIANCE ROLL CALL

1. APPROVAL OF COUNCIL MINUTES/COMMITTEE MINUTES

A. City Council Meeting	3/10/2015
B. Human Resources Committee	3/05/2015
C. Human Resources Committee	3/18/2015
2. SCHEDULE MEETINGS
3. REQUEST OF CITIZENS & PUBLIC COMMENT
4. APPOINTMENTS
Appointment of Fire Chief
5. PROCLAMATIONS
Mayor's Day of Recognition for National Service
6. STAFF REPORTS
7. CITY COUNCIL COMMENTS
8. MAYOR COMMENTS
9. COMMITTEE RECOMMENDATIONS
10. BID OPENING
BID AWARDS
11. PUBLIC HEARINGS
12. UNFINISHED BUSINESS

13. NEW BUSINESS

- A. **Approval of Site Plan Review:** Midrivers: (*US Highway 12, approximately .2 miles east of the ~~intersection~~ with Herzog Road*)
- B. **Approval of Site Plan Review:** Ingraham & Sons: (*808 N. Montana*)
- C. **ORDINANCE NO. 1287:** An Ordinance Revising Section 24-6 Through 24-10 Of The Code Of Ordinances Of The City Of Miles City, Montana, With Respect To Amendment Of Zoning Chapter Or District Map
- D. **ORDINANCE NO. 1288:** An Ordinance Revising Section 24-164 Of The Code Of Ordinances Of The City Of Miles City, Montana, With Respect To Compensation Of Members Of The Board Of Adjustment
- E. **RESOLUTION NO. 3788:** A Resolution Creating A Leave Administration Policy Within The City Of Miles City Personnel Policies
- F. **RESOLUTION NO. 3789:** A Resolution Authorizing The City Of Miles City To Enter Into A Subrecipient Agreement For The Miles City Area Transportation Plan
- G. **RESOLUTION NO. 3790:** A Resolution Authorizing The City Of Miles City To Enter Into An Agreement Entitled "State Of Montana Agreement" With The State Of Montana Historic Preservation Office For Partial Funding Of The Historic Preservation Officer Position
- H. **RESOLUTION NO. 3791:** A Resolution Approving New By-Laws For The Miles City Airport Board

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 **March 10, 2015** 7:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, March 10, 2015, in the Council Chambers at City Hall, 17 S. 8th Street, Miles City, Montana. Mayor Grenz called the meeting to order. Council Members present were Roxanna Brush, Sheena Martin, Dwayne Andrews, Mark Ahner, Ken Gardner, Jerry Partridge and John Hollowell. Susanne Galbraith was excused.

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

PLEDGE OF ALLEGIANCE

Mayor Grenz led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

City Council Minutes: 2/24/2015

** *Councilperson Brush moved to approve the minutes of the Regular Council Meeting of February 24, 2015, seconded by Councilperson Gardner and **passed** unanimously, 7-0.*

Finance Committee Meeting: 2/19/15

** *Councilperson Andrews moved to approve the minutes of the Finance Committee Meeting of February 19, 2015, seconded by Councilperson Hollowell and **passed** unanimously, 7-0.*

Finance Committee Meeting: 3/05/15

** *Councilperson Andrews moved to approve the minutes of the Finance Committee Meeting of March 5, 2015, seconded by Councilperson Gardner and **passed** unanimously, 7-0.*

SCHEDULE MEETINGS

- Miles City Study Commission: 3/19/15 @ 5:15 p.m.
- Planning Board: 3/17/15 @ 6:00 p.m.
- ~~Human Resource~~ Committee: 3/18/15 @ 6:00 p.m.
- Zoning Board: 3/11/15 @ 6:00 p.m.

REQUEST OF CITIZENS & PUBLIC COMMENT

None

APPOINTMENTS

Economic Development Board:

Councilperson Hollowell said that he sits on the board now, and there are three board meetings that the appointee would have to attend. His appointment has expired and an appointee from the Council is needed.

** *Councilperson Brush moved to appoint Councilperson Hollowell to the Economic Development Board, seconded by Councilperson Gardner and passed unanimously, 7-0.*

PROCLAMATIONS

None

STAFF REPORTS

Grant Administrator/Historic Preservation Officer Connie Muggli: TIF District (Tax Increment Finance District)

Officer Muggli said the Department of Revenue has determined that it will not grant the City of Miles City a base year of 2014 for the Tax Increment Finance District. The denial was due to the omission in the data provided by DOR of owners of personal and centrally assessed properties for the required mail notification. Attorney Rice proposed sending a waiver of notice to all affected property owners, and post adoption public hearings for ratification of the Ordinance to cure the deficiency of notice. DOR did not find these methods a satisfactory method to cure the deficiency that the State requires.

Officer Muggli added that an application for a base year of 2015 will be submitted and, on the bright side this gives the Interim Committee more time to better structure the administrative mechanism, work with MSU-B to complete the

feasibility plan and prepare a business recruitment and marketing plan for the district.

Public Utilities Director Allen Kelm: Request for Qualifications for Engineering Services (Update)

Public Utilities Director Kelm reported that the Request for Qualification on hiring an Engineer for a 5 year period has closed and 10 requests were received. The scoring committee is Scott Gray, Dawn Colton and himself. He asked Council if anyone would like to be on the scoring committee. Councilperson Andrews volunteered.

Director Kelm also reported that the City received the final invoice for Phase I of the Waste Water Treatment upgrade for an amount of \$81,220. He said the invoice will be paid from the R&D account instead of asking for a larger loan. This would save money on the interest to the loan.

Interim Fire Chief Duffin reported that out of the 37 applications for the Fire Chief position, 7 were interviewed. He said he was one of the interviewees, and asked for the continuation of support from the Council and the Mayor.

Chief Colombik reported that there have been some major arrests on marijuana and meth in the recent months. The police officers are staying on top of the drug trafficking and he's very pleased with the work they are doing.

CITY COUNCIL COMMENTS

Roxanna Brush: Noted that spring is in the air and yards filled with junk are being noticeable. She asked the Public Safety Committee to look at the Public Nuisance ordinance to see if some of the problems could be from mental illness. If it is, maybe the fines could be lowered if they seek help that is offered.

An issue on the minor subdivision platt for Oakland and Ingraham has come to her attention. The DEQ waiver in the review on the platt is signed by the wrong person. She has found that most of the waivers for the subdivisions that were completed by the City were signed by the property owners, not by the proper DEQ official or City official. This is causing problems with DEQ and the site plan review. Director Kelm said that any engineering company can complete a retracement and a City Official can sign off on it.

John Hollowell: Reported that the Economic Development Board has finished their year-end, and listed some of their accomplishments.

- Helped a new business get started
- Helped expand another business
- 1 Million dollars out in loans
- Continually investigating funding for water and sewer
- Recently passed a Resolution to proceed with a \$26,000 grant for planning

MAYOR COMMENTS

- Noted that at the last Council meeting two easements were passed for the Airport. He worked with Attorney Rice to retrieve from Landmark Land Company, the Attorney fees that were paid by the City to process the paperwork.

STANDING COMMITTEE RECOMMENDATIONS

None

BID OPENINGS/AWARDS

None.

PUBLIC HEARINGS

- A. **ORDINANCE NO. 1286:** An Ordinance Changing The Zoning Of Lots 9, 10, 11 And 12 In Block 86 Of The Miles City Original Townsite From Residential A Zone To General Commercial Zone, And Providing For A Hearing Thereon (*Request by Douglas Emeline – 816 Atlantic*)

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

- B. **RESOLUTION NO. 3778:** (*Second Reading*) A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2014-2015 To Increase The Budgeted Amount In Fund # 2510-107-430233-350 To Fund Overage Expenses For The Tatro Street CTEP Project

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

UNFINISHED BUSINESS

- A. **ORDINANCE NO. 1286:** (*Second Reading*) An Ordinance Changing

The Zoning Of Lots 9, 10, 11 And 12 In Block 86 Of The Miles City Original Townsite From Residential A Zone To General Commercial Zone, And Providing For A Hearing Thereon (*Request by Douglas Emeline – 816 Atlantic*)

- ** Councilperson Brush moved to adopt Ordinance No. 1286, read by title only and seconded by Councilperson Gardner. *On roll call vote, the motion passed 7-0. Ordinance No. 1286 was adopted.*

B. **RESOLUTION NO. 3778:** (*Second Reading*) A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2014-2015 To Increase The Budgeted Amount In Fund # 2510-107-430233-350 To Fund Overage Expenses For The Tatro Street CTEP Project

- ** *Councilperson Brush moved to adopt Resolution No. 3778, read by title only and seconded by Councilperson Hollowell.*

Councilperson Ahner explained that the minutes from the Finance meeting reported that the amount should be reduced from \$18,691 to \$5830.

Director Gray and Clerk Pearce agreed with Councilperson Ahner.

- *Councilperson Ahner moved to amend the motion to reduce the payment from \$18,691 to \$5,830. The motion was seconded by Councilperson Brush and, on roll call vote, the motion passed 7-0.*

**On roll call vote, Councilperson Brush's original motion passed 7-0. Resolution No. 3778 was adopted as amended.*

NEW BUSINESS

A. **FINAL PLAT SUBDIVISION APPLICATION:** Meadows Subdivision (*Dairy Queen & Farm Credit Services*)

- ** *Councilperson Brush moved to approve the application of Meadows Subdivision, Lot 3A-1, Block 2 and seconded by Councilperson Gardner. On roll call vote, the motion passed 7-0.*

B. **RESOLUTION NO. 3776:** A Resolution Approving A Department Of Administration Local Government Services Bureau Standard Audit Contract For Financial Audit Services Between The City Of Miles City

And Olness & Associates, PC, CPA's

****** *Councilperson Gardner moved to adopt Resolution No. 3776, read by title only and seconded by Councilperson Hollowell. On roll call vote, the motion **passed** by unanimous consent, 7-0. **Resolution No. 3776 was adopted.***

C. RESOLUTION NO. 3781: A Resolution Adopting An Ambulance Bill Collection Policy For The City Of Miles City, Montana

****** *Councilperson Hollowell moved to adopt Resolution No. 3781, read by title only and seconded by Councilperson Gardner. On roll call vote, the motion passed by unanimous consent, 7-0. **Resolution No. 3781 was adopted.***

D. RESOLUTION NO. 3783: A Resolution Adopting A Reimbursement Agreement For Police Academy Expenses

E. RESOLUTION NO. 3784: A Resolution Adding A Reimbursement Requirement For Academy Expenses To The 283-B Union Contract

****** *Councilperson Ahner moved to defer Resolution Nos 3783 and 3784 until such time that the Police Chief is satisfied, seconded by Councilperson Gardner. On roll call vote, the motion **passed** 7-0.*

F. RESOLUTION NO. 3785: A Resolution Adopting Findings Of Fact And Approving The Amended Plat For The Purpose Of Boundary Line Relocation Of Lots 2-6 In Block 8 Of The Hunter's Addition To The City Of Miles City

****** *Councilperson Gardner moved to adopt Resolution No. 3785, read by title only and seconded by Councilperson Brush.*

Mayor Grenz explained that the boundary line as it is now runs East and West. The resolution would be to approve the boundary line to run North and South.

***** *On roll call vote, the motion **passed** 7-0. **Resolution No. 3785 was adopted.***

G. APPROVAL OF FEBRUARY CLAIMS

****** *Councilperson Hollowell moved to approve February claims and seconded by Councilperson Brush. After a brief conversation and on roll*

*call vote, the motion **passed 6-1**, with Councilperson Ahner voting no. February claims were approved.*

ADJOURNMENT

****** *Councilperson Brush moved to adjourn the meeting, seconded by Councilperson Ahner and passed unanimously.*

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

C.A. Grenz, Mayor

Lorrie Pearce, City Clerk

Human Resources Committee March 5, 2015

The **Human Resources Committee** met Thursday, March 5, 2015, at 6:00 p.m. in the Conference Room at City Hall. Present were Chairperson Roxanna Brush, Committee Members Sheena Martin, Ken Gardner and Mark Ahner. Also present was City Clerk Lorrie Pearce and HR/Payroll Officer /Committee Recorder Billie Burkhalter.

1. REVIEW BENEFITS/COMPENSATION OF ELECTED OFFICIALS:

HR Officer Burkhalter explained she surveyed other like cities and towns for wage and benefit information concerning elected officials. She discovered that a lot of cities that responded did insure their elected officials, along with providing stipends. She reported wages that were paid to the City Council and Commissioners were often higher than what is currently being paid in Miles City.

HR Officer Burkhalter handed out payroll spreadsheets for the Council that reflected the current cost of health insurance, along with other payroll spreadsheets that showed projected costs of increased salaries.

Chairperson Brush had researched cities in surrounding states that were like in size to Miles City and reported wages from these communities.

Committee Member Gardner stated he felt the Committee recommending an increase to the Council's wages is a conflict of interest. Chairperson Brush explained that it has been over ten years since the last increase and it needed to be looked at and, as a City, they needed to be able to attract good people to run for office.

Committee Member Ahner explained that the last time the City Council had been given an increase it was only given to the newly elected officials when he or she took office. After discovering that he was making more money than other City Council members, he moved to have their pay increased. He felt it was only fair to pay everyone equally. Committee Member Gardner agreed.

*** Committee Member Brush moved to recommend to the City Council beginning January 1, 2016, that City Council pay be increased \$1000 per year; (to total \$4000 per year) and, furthermore, these wages be reviewed when the other City employees' wages are reviewed. The motion was seconded by Committee Member Martin and passed unanimously.*

Chairperson Brush explained in her research she found that most cities and towns did offer elected officials insurance and, most commonly, the official would have to choose to accept it or not at the start of his or her term.

After the Committee reviewed the costs of providing health insurance to all elected officials, it was decided that this was not something the City could fiscally afford.

****** *Committee Member Brush moved to recommend to the City Council that beginning January 1, 2016, the pay for the elected positions of City Judge; Treasurer and Mayor be increased \$2000 per year; furthermore, the benefit of health insurance would be kept with the Mayor's position. These wages will be reviewed when the other City employees' wages are reviewed. The motion was seconded by Committee Member Martin and, on roll call vote, motion passed unanimously.*

2. APPROVAL OF UPDATED POSITION DESCRIPTION:

- **Assistant Utility Billing Clerk**

City Clerk Pearce had requested HR Officer Burkhalter to clean up the Assistant Utility Billing Clerk's position description along with adding "other duties as assigned". City Clerk Pearce explained that there is a lot of work in the City Clerk's office and she would like the ability to be able to request employees do additional duties.

HR Officer Burkhalter explained that the original position description does not accurately reflect what the duties are of the Assistant. The intent of the position is for the Assistant Utility Billing Clerk to be able to do the same duties as the Utility Billing Clerk. In reviewing the current position description, she felt it was short sighted. HR Officer Burkhalter developed the updated description to conform to the Utility Billing Clerk description and added additional duties as assigned by the City Clerk.

Committee Member Ahner recommended that the word "very" be deleted from the Education and Experience and Minimum Qualifications section. Under the Job Performance section he recommended the semi-colon be deleted after the word tactfully. The Committee was in agreement.

****** *Committee Member Ahner moved to recommend to adopt the presented Assistant Utility Billing Clerk position description with noted changes. The motion was seconded by Committee Member Martin, and on roll call vote, motion passed unanimously.*

3. REVIEW AND RECOMMENDATION OF UPDATED PERSONNEL POLICY MANUAL:

- **Section 5: Leave Administration**

HR Officer Burkhalter explained that she updated and remodeled the entire Personnel Policy Section 4: Leave; replacing it with a new Section 5: Leave Administration. She did submit this information to City Attorney Rice, who made corrections and approved her forwarding it on to this Committee.

- **Section 5: Leave Administration**
 - **Vacation Leave**

****** *Committee Member Martin moved to recommend to City Council to adopt the presented Vacation Leave Policy. The motion was seconded by Committee Member Martin and motion passed unanimously.*

- **Section 5: Leave Administration**
 - **Sick Leave**

** *Committee Member Brush moved to recommend to City Council to adopt the presented Sick Leave Policy. The motion was seconded by Committee Member Ahner and motion passed unanimously.*

- **Section 5: Leave Administration**
 - **Holiday Leave**

Committee Member Ahner requested this policy be deferred to the next meeting until more information can be given regarding the Mayor's and Governor's ability to declare a holiday.

- **Section 5: Leave Administration**
 - **Jury Duty and Witness Leave**

** *Committee Member Ahner moved to recommend to City Council to adopt the presented Jury Duty and Witness Leave Policy. The motion was seconded by Committee Member Brush and motion passed unanimously.*

- **Section 5: Leave Administration**
 - **Military Leave**

Committee Member Ahner requested that "in a calendar year" be added in the Policy section after the word leave.

** *Committee Member Brush moved to recommend to City Council to adopt the presented Military Leave Policy with the above noted changes. The motion was seconded by Committee Member Ahner and, on roll call vote, motion passed unanimously.*

- **Section 5: Leave Administration**
 - **Funeral Leave**

** *Committee Member Ahner moved to recommend to City Council to adopt the presented Funeral Leave Policy. The motion was seconded by Committee Member Gardner.*

After further discussion, it was decided this was not a policy the Committee would support.

** *Committee Member Ahner moved to amend the original motion to recommend to not adopt the presented Funeral Leave Policy. The motion was seconded by Committee Member Gardner and motion passed unanimously.*

- **Section 5: Leave Administration**

- **Disaster and Emergency Leave**

** *Committee Member Brush moved to recommend to City Council to adopt the presented Disaster and Emergency Leave Policy. The motion was seconded by Committee Member Martin and motion passed unanimously.*

- **Section 5: Leave Administration**
 - **Maternity and Paternity Leave**

** *Committee Member Brush moved to recommend to City Council to adopt the presented Maternity and Paternity Leave Policy. The motion was seconded by Committee Member Martin and motion passed unanimously.*

- **Section 5: Leave Administration**
 - **Family Medical Leave (FMLA)**

** *Committee Member Brush moved to recommend to City Council to adopt the presented Family Medical Leave Policy. The motion was seconded by Committee Member Gardner and motion passed unanimously.*

- **Section 5: Leave Administration**
 - **Leave without Pay**

** *Committee Member Martin moved to recommend to City Council to adopt the presented Leave without Pay Policy. The motion was seconded by Committee Member Ahner and motion passed unanimously.*

4. REQUEST OF CITIZENS:

-None.

5. COMMITTEE MEMBER COMMENTS:

-None.

6. ADJOURNMENT:

The next Human Resources Committee meeting is scheduled for March 18th, 2015, at 6:00 p.m.

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

The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Human Resources Committee March 18, 2015

The **Human Resources Committee** met Wednesday, March 18, 2015, at 6:00 p.m. in the Conference Room at City Hall. Present were Chairperson Roxanna Brush, Committee Members Sheena Martin, Ken Gardner and Mark Ahner. Also present was 911 Supervisor Heather Roos and HR/Payroll Officer /~~Committee~~ Recorder Billie Burkhalter.

1. UPDATE JOB DESCRIPTION FOR DISPATCHER:

911 Supervisor Roos explained the current job description for Dispatchers is from 1994 and very outdated. The proposed position description was developed by the former police chief and more accurately reflects the duties of a dispatcher.

HR Officer Burkhalter stated that, with the approval of 911 Supervisor Roos she combined the new position description with the current one and came up with what is now being presented. She explained that she made sure the proposed position description conformed to City policy.

Committee Member Ahner recommended that the "Chief of Police" be deleted from Accountable To. Under the Areas of Job Accountability and Performance: 911 Telecommunicator Duties and Responsibilities section the word "public" be inserted after the word general in the 17th bullet sentence. The Committee was in agreement.

*** Committee Member Ahner moved to recommend to adopt the presented Custer-Garfield Emergency Telecommunicator position description with noted changes. The motion was seconded by Committee Member Gardner and, on roll call vote, motion passed unanimously*

2. REVIEW AND RECOMMENDATION FOR LEAVE ADMINISTRATION POLICY:

- **Section 5: Leave Administration**
 - **Holiday Leave**

Chairperson Brush explained the Committee requested HR Officer Burkhalter to research the Holiday Leave policy concerning the section that gives the authority to the Mayor and Governor to declare a holiday.

HR Officer Burkhalter presented City Attorney Rice's email that states that the Mayor and/or Governor has the ability to declare a legal holiday for the level of government he or she oversees.

Committee Member Ahner stated he still disagrees with the Mayor or Governor having the ability to randomly declare a holiday. He believes the City employees receive enough benefits and, if they are going to be paid, that they either be at work or take vacation time. He is going to recommend to the Council to strike this sentence out of the policy.

Chairperson Brush noted that if the Council feels it's necessary, they can make the recommendation to put it back in.

****** *Committee Member Ahner moved to recommend to City Council to adopt the presented Holiday Leave Policy with the sentence "Every day declared a legal holiday by the Governor of Montana or the Mayor of Miles City" removed. The motion was seconded by Committee Member Brush.*

HR Officer Burkhalter questioned whether taking this sentence out of the Holiday Leave Policy really takes the authority away. If this is an Executive Order, then the Mayor and/or Governor would still be able to declare a holiday.

The Committee requested HR Officer Burkhalter to contact City Attorney Dan Rice concerning this issue and get back to them prior to the next City Council meeting.

****** *On original motion, and on roll call vote, motion passed unanimously.*

3. REQUEST OF CITIZENS:

-None.

4. COMMITTEE MEMBER COMMENTS:

-None.

5. ADJOURNMENT:

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

The meeting was adjourned at 6:30 p.m.

Respectfully submitted,

Billie D. Burkhalter, Recorder

Chairperson Roxanna Brush

Mayors Day of Recognition for National Service

WHEREAS, service to others is a hallmark of the American character, and central to how we meet our challenges; and

WHEREAS, the nation's mayors are increasingly turning to national service and volunteerism as a cost-effective strategy to meet city needs; and,

WHEREAS, AmeriCorps and Senior Corps (RSVP) address the most pressing challenges facing our cities and nation, from educating students for the jobs of the 21st century and supporting veterans and military families to preserving the environment and helping communities recover from natural disasters; and

WHEREAS, national service expands economic opportunity by creating more sustainable, resilient communities and providing education, career skills, and leadership abilities for those who serve; and

WHEREAS, national service participants serve in more than 70,000 locations across the country, bolstering the civic, neighborhood, and faith-based organizations that are so vital to our economic and social well-being; and

WHEREAS, national service participants increase the impact of the organizations they serve with, both through their direct service and by recruiting and managing millions of additional volunteers; and,

WHEREAS, national service represents a unique public-private partnership that invests in community solutions and leverages non-federal resources to strengthen community impact and increase the return on taxpayer dollars; and,

WHEREAS, AmeriCorps members and Senior Corps (RSVP) volunteers demonstrate commitment, dedication, and patriotism by making an intensive commitment to service, a commitment that remains with them in their future endeavors; and

WHEREAS, the Corporation for National and Community Service shares a priority with mayors nationwide to engage citizens, improve lives, and strengthen communities; and is joining with mayors across the country to support the Mayors Day of Recognition for National Service on April 7, 2015.

THEREFORE, BE IT RESOLVED that I, Chris Grenz, Mayor of Miles City, do hereby proclaim April 7, 2015 as National Service Recognition Day, and encourage residents to recognize the positive impact of national service in our city, to thank those who serve; and to find ways to give back to their communities.

Signed: _____ Dated: _____

SITE PLAN REVIEW

FOR:

MID-RIVERS OPERATIONS CENTER

US HIGHWAY 12, APPROXIMATELY .2 MILES EAST

OF THE INTERSECTION WITH HERZOG ROAD

CITY OF MILES CITY
MILES CITY PLANNING BOARD
P.O. BOX 910
MILES CITY, MT 59301

March 17, 2015

Mayor Chris Grenz
City Council Members

RE: Site Plan Review for the Mid-Rivers Operations Center, File # SPR-2015-01

The City Planning Board has reviewed the proposed development of the Mid-Rivers Operations Center and recommends to the City Council that the proposal be approved subject to the following conditions:

Prior to occupancy, the developer shall demonstrate compliance with the following conditions:

Standard Conditions:

1. All site development and use of the property shall be in accordance with the Miles City Zoning Codes, the approved application and plans, and as discussed in Staff Report SPR-2015-01. Any modifications shall require additional review by the City of Miles City.

Site-Specific Conditions:

2. The owner or authorized representative shall obtain a Building Permit prior to start of construction. A permit is required for construction, additions, alterations, repairs, relocation, demolition, change of occupancy, or electrical, gas, mechanical or plumbing system projects. Exemptions are listed in IBC 2012 Section 105.2.

3. The owner shall submit a letter of review from the State Fire Marshall indicating adequate fire protection plans have been developed and the department can adequately respond to emergencies at the facility. Any fire department requirements, such as fire hydrants, access plans/improvements, sprinkler systems, and other fire code requirements shall be approved by the fire department prior to occupancy.

4. The owner shall maintain adequate parking space for employees at a minimum of one space per employee and reasonably adequate spaces for visitor parking as required by Miles City Code of Ordinances for the Heavy Commercial (HC) District Section 24-61.

5. Hard copies of the storm water drainage plans shall be submitted for review to the Miles City Sanitarian. Miles City Sanitarian approval of the storm water drainage plans shall be required prior to construction.

6. In the event, construction activity disturbs an area equal to or greater than one acre, a Stormwater Pollution Prevention Plan Permit from Montana DEQ will need to be obtained prior to start of site improvements and construction. Prior to construction, the applicant will need to document the entire area of disturbance, not just the finished construction area.

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MILES CITY PLANNING BOARD
P.O. BOX 910
MILES CITY, MT 59301

7. Sand and oil separators will need to be installed on drains in the shop area.
8. The water, sewer and other utilities connections shall be approved by the applicable service providers prior to construction.
9. The owner or authorized representative must follow the conditions laid out in the approach permit issued by MDT.

APPEAL PROCESS:

76-3-625. Violations – actions against governing body.

(1) A person who has filed with the governing body an application for a subdivision under this chapter may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to this chapter that is arbitrary or capricious.

(2) A party identified in subsection (3) who is aggrieved by a decision of the governing body to approve, conditionally approve, or disapprove a proposed preliminary plat or final subdivision plat may, within 30 days after the decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.

(3) The following parties may appeal under the provisions of subsection

(a) the subdivider;

(b) a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;

(c) the county commissioners of the county where the subdivision is proposed; and

(d) (i) a first-class municipality as described in 7-1-4111, if a subdivision is proposed within 3 miles of its limits;

(ii) a second-class municipality or a town, as described in 7-1-4111, if a subdivision is proposed within 1 mile of its limits.

(4) For the purposes of this section, "aggrieved" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

Respectfully,

Roxanna Brush, President
Miles City Planning Board

**City Council Staff Report SPR-2015-01 Site Plan Review
Mid-Rivers Telephone Cooperative, Inc. Operations Center
Meeting Date: March 24, 2015**

I. REVIEW PROCEDURE

This proposal requires Site Plan Review by the Miles City Planning Board and City Council under Section 24-96 of the Code of Ordinances (Ordinance No. 1258). The complete application was received on January 28, 2015 and was determined complete for review on February 2, 2015. The Planning Board held a public hearing on March 17, 2015 at 6:00 P.M. in the City Hall Conference Room. The Planning Board's recommendation for conditional approval has been forwarded to the City Council. City Council is scheduled to review the application on March 24, 2015. The 60 day review period expires on April 3, 2015.

Note: In the staff report presented to the planning board, condition #5 required storm water drainage plans to be approved by the Montana Department of Environmental Quality (DEQ). After learning that DEQ does not have review authority in this case, condition #5 was amended to require that the applicant's storm water drainage plans undergo local sanitation review rather than DEQ review. This modification is shown in underline – ~~striketrough~~ format.

II. GENERAL INFORMATION

A. Project Applicant

Applicant: Stevenson Design, Inc.
909 Main Street
Miles City, MT 59301

Owner: Mid-Rivers Telephone Cooperative, Inc.
1101 Main Street PO Box 398
Miles City, MT 59301

B. Project Description

The applicant and owner propose to construct a new operations center building for Mid-Rivers Telephone Cooperative, Inc. on land currently used as a grazing pasture. The proposed building would measure 208 feet by 70 feet, equating to 14,560 square feet. On the site plan the applicant has also noted two areas of potential future expansion to the proposed building – to the west a 100 foot by 70 foot expansion and to the east a 25 foot by 70 foot expansion.

C. Legal Description of Subject Property

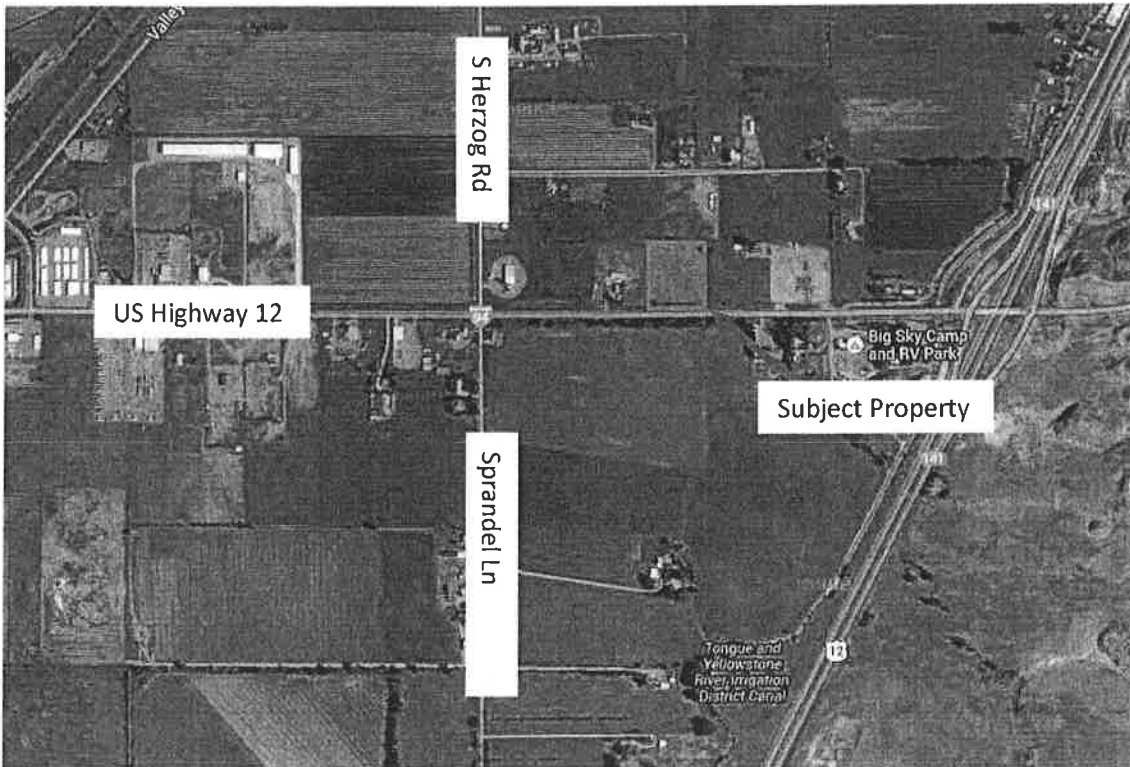
M&B Tract of Certificate 13641 located in the SE ¼ SW ¼ of Section 24, Township 8 North, Range 47 East, P.M.M., Custer County, Montana.

D. Location

The project site is located along the north side of US Highway 12, approximately 0.2 miles east of the intersection with Herzog Road. To the west and east of the property are two residential lots both with single family homes and both over four acres in size. To the north of the property are two lots – one vacant and one with several outbuildings. To the south of the property is US Highway 12, with agriculture uses south of US Highway 12. Please see Figure 1.

**City Council Staff Report SPR-2015-01 Site Plan Review
Mid-Rivers Telephone Cooperative, Inc. Operations Center
Meeting Date: March 24, 2015**

Figure 1: Location of the subject property



E. Land Use & Zoning

Existing Land Use: The property is currently used as a grazing pasture.

Proposed Land Use: Mid-Rivers Telephone Cooperative, Inc. Operations Center.

Existing Zoning: Heavy Commercial (HC).

Proposed Zoning: No change from HC.

F. Surrounding Land Use & Zoning

General Description: The property is surrounded by HC to the west, General Commercial (GC) to the east and south, and industrial to the north.

III. COMMENTS RECEIVED

Public Comment: Notice of the Planning Board's public hearing was satisfied according to Subsection 24-96(f)(6) of the city codes. The Planning Board heard the following comments at the public hearing.

- Aaron Arthur – representing Mid-Rivers Communications, spoke to expected traffic generation to and from the facility as well as the potential for future building expansion

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Mid-Rivers Telephone Cooperative, Inc. Operations Center
Meeting Date: March 24, 2015**

should there be a need sometime in the future. Mr. Arthur also satisfactorily answered questions about storm water runoff and protection of the irrigation line on the south side of the property.

Agency/Other Comments: As solicited by Land Solutions, contract planner for Miles City, comment has been received by the following agencies and interested parties:

- Miles City Sanitarian
- Miles City Public Works
- Miles City Public Utilities
- Montana Department of Transportation
- Custer County Planner
- Custer County Sheriff
- Custer County Water Sewer District
- Custer County Conservation District

The comments received will be discussed further in applicable sections of this report and are attached.

IV. SUBMITTAL REQUIREMENTS

The applicant is required to submit all of the materials listed in Subsection 24-96(e)(1) through (6). If it becomes apparent during review that a reasonable decision cannot be reached based on the existing submittal, the review period timeline will be suspended until the required information is submitted. If the required information is not submitted within 60 days, the application will be deemed expired.

***Finding # 1:** The applicant has submitted all of the required materials listed in 24-96(e)(1) through (6).*

EVALUATION CRITERIA PER SECTION 24-96

According to Subsection 24-96(g)(1), reviewers shall consider the applicant's plans to ensure safety of circulation patterns, emergency access/fire prevention measures, traffic impacts to the surrounding road network, adequate storm drainage, provisions for water, sewer, and other utilities, the city's historic preservation policies, and adequate parking. Plans shall also be reviewed to ensure they comply with other standards in the zoning regulations such as setbacks, height restrictions, signage, and design requirements.

All evaluation criteria are listed below. Following each criterion is a draft finding by the administrator in *italics* evaluating how the plans relate to the criterion:

1.1 Safety of circulation patterns

***Finding #2:** The applicant has proposed relocating an existing approach from US Highway 12, located on the southeastern portion of the property, to middle of the property. An approach permit dated January 14, 2015 has been issued by the Montana Department of Transportation. The permit is for a paved 40 foot wide approach with 25 foot flare outs where the approach meets US Highway 12. The existing approach will be removed and graded.*

Internal driving surfaces will be gravel and serve eight garage doors and 21 parking spaces, one of which will be for disabled parking. Given the layout of the building, the proposed access, and parking and driving areas, the site plan provides safe on-site traffic circulation with conditions that require parking in compliance with the zoning code and fire department

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approval of the access and circulation plans.

1.2 Emergency access/fire prevention measures

Finding #3: *Emergency access to the site and buildings will be readily available through the approach off of US Highway 12 and with ample driving and turnaround space on-site. Currently there is not a fire hydrant located on the site and the applicant does not have plans for a fire hydrant until City water is brought to the site. Custer County Rural Fire Chief Bud Peterson was contacted to review the site plan, however, no comments have been received. Any fire department requirements, such as need for fire hydrants, access improvements, sprinkler systems, and other requirements will be sufficiently addressed with a condition requiring fire department approval prior to occupancy.*

1.3 Traffic impacts to the surrounding road network

Finding #4:

US Highway 12 is two-lane roadway serving this and other properties with no major deficiencies. On the approach permit issued from MDT it is stated that there will be approximately 50 trips per day to and from the site. Given the capacity of US Highway 12 and the small number of trips per day to and from the site, the surrounding road network will not be significantly impacted by the proposed Mid-Rivers Operations Center.

1.4 Adequate storm drainage

Finding #5: *Storm water runoff will increase at the site due to construction of the new building. The site plan notes that all surface water on the property will drain to a detention pond located in the northwest corner of the property sized at 3,383 cubic feet to accommodate a 2-year, 24 hour storm event.*

The site plan indicates that the finished structure and approach will be less than one acre. However, in regard to the total amount of area disturbed, the site plan does not appear to take into account grading on the site. In the event construction activities disturb an area equal to or greater than one acre, a Storm Water Pollution Prevention Plan Permit from Montana DEQ will need to be obtained prior to start of site improvements and construction.

Land Solutions has obtained comments from Mike Rinaldi, Miles City Sanitarian. Mr. Rinaldi has requested additional information regarding storm water runoff including a formal storm water site plan with calculations stamped by an engineer because this is a commercial project. In addition, the applicant will need to ensure that all roof runoff drains away from the structure and parking lot to avoid pooling of water around the building and in the parking area. To ensure DEQ and Miles City requirements for storm water drainage are adequately addressed by the applicant, a condition should require approval of the storm water drainage plans by the DEQ or its designee, prior to construction.

1.5 Provisions for water, sewer, and other utilities

Finding #6:

Custer County Water & Sewer District noted that "this parcel is within the service area of the CCW&SD, and the District is willing to provide service to this property provided they follow the District's rules and policies, and make appropriate arrangements and obtain necessary approvals for any needed improvements to the water and sewer systems. A

City Council Staff Report SPR-2015-01 Site Plan Review
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sewer main exists near the south boundary of this property, so connecting for sewer service should be relatively straightforward. This main has adequate capacity to service this property.

"No water main exists in this area. A (water) main is under construction to the Optiblend property and arrangements are in the works to possibly extend this main to the Cenex property, but this possible extension is not a certainty at this time. A main can be extended further to the Mid-Rivers property but that will need to be designed with the required approvals obtained. As this water main is extended further east along Highway 12, pressures will slowly reduce due to the increasing ground elevations and increasing losses in the pipeline due to the increasing length. Domestic demand should not be a problem but there will be a limit to the fire flow available at this location due to these two factors. A more detailed analysis of this matter is needed with a brief report prepared that can be reviewed and coordinated with the District. This of course depends on the fire flow needs for this building and its design, which may be able to be modified to fit within any fire flow limitations."

In addition, Miles City's public utilities director noted that for the drains in the shop area, a sand and oil separator will need to be installed for the sewer line.

For water the applicant proposes installing a well. In addition, the site plan also shows a stub out for future city water connection should a water main be extended to the site in the future.

All other utility services will require approval by the service providers.

1.6 The City's historic preservation policies

Finding #7: *The proposed structure does not impact the City's historic preservation policies. The site is not located in a designated historic district and does not have a structure that is historic (50+ years old) or eligible for listing on the National Register of Historic Places.*

1.7 Adequate parking

Finding #8: *The site plan shows 21 parking spaces, one of which will be for disabled parking. The applicant has stated that 12 full time employees will use the facility on a regular basis. As the zoning code requires one parking space per employee, the project provides more parking than required. There appears to be adequate parking proposed on-site to accommodate employees and customers.*

In addition to Subsection 24-96(g)(1), Subsection 24-96(g)(2) adds the following criteria (following each criterion is a draft finding by the administrator in *italics*): No site plan application approval shall be given unless it is determined that:

- a. The use complies with all applicable regulations in the district in which it is located.

Finding #9: *The proposal has been reviewed for compliance with the applicable regulations for the HC district, such as setbacks, height restrictions, signage, and design requirements. The use complies with all applicable regulations for this district.*

- b. The use complies with all adopted regulations and policies.

Finding #10: *There are no known conflicts with other adopted regulations and policies in the Miles City Code of Ordinances. Prior to occupancy the applicant must demonstrate compliance with Fire Codes and IBC 2012 Building Codes through the building permit process.*

- c. The use will not be detrimental to or endanger public health, safety or general welfare.

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***Finding #11:** The proposed project is located in an established commercial area. The proposal includes building a new operations center for Mid-River Communications. The proposal will have no detrimental effect on public health, safety or general welfare.*

- d. The existing and reasonably anticipated permitted uses in the area will not be substantially impaired or diminished by the establishment of the proposed use.

***Finding #12:** The proposed new operations center will not substantially impair or diminish the permitted uses in this area as the property has been zoned for heavy commercial uses.*

- e. Adequate utilities, access ways, drainage, and other necessary site improvement have been provided or will be provided prior to the use being initiated.

***Finding #13:** All utilities, access ways, drainage and other site improvements will be required prior to the use being initiated.*

- f. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on public streets.

***Finding #14:** The relocated ingress and egress point will directly access US Highway 12 a public street. The commercial use will add minimal traffic (50 trips per day) to US Highway 12, which will likely increase traffic at the intersection of US Highway 12 and Interstate-94. However, given the capacity of US Highway 12 and limited number of trips per day the proposed operations center will not substantially increase traffic congestion on public streets.*

V. RECOMMENDATION

The Planning Board recommends that the City Council adopt this staff report as findings of fact and recommends conditional approval of this project, subject to the following conditions.

VI. CONDITIONS

Prior to occupancy, the developer shall demonstrate compliance with the following conditions:

Standard Conditions:

1. All site development and use of the property shall be in accordance with the Miles City Zoning Codes, the approved application and plans, and as discussed in Staff Report SPR-2015-01. Any modifications shall require additional review by the City of Miles City.

Site-Specific Conditions:

2. The owner or authorized representative shall obtain a Building Permit prior to start of construction. A permit is required for construction, additions, alterations, repairs, relocation, demolition, change of occupancy, or electrical, gas, mechanical or plumbing system projects. Exemptions are listed in IBC 2012 Section 105.2.
3. The owner shall submit a letter of review from the State Fire Marshall indicating adequate fire protection plans have been developed and the department can adequately respond to emergencies at the facility. Any fire department requirements, such as fire hydrants, access plans/improvements, sprinkler systems, and other fire code requirements shall be approved by the fire department prior to occupancy.
4. The owner shall maintain adequate parking space for employees at a minimum of one space per employee and reasonably adequate spaces for visitor parking as required by Miles City Code of Ordinances for the Heavy Commercial (HC) District Section 24-61.

City Council Staff Report SPR-2015-01 Site Plan Review
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5. Hard copies of the storm water drainage plans shall be submitted for review to the Miles City Sanitarian. Miles City Sanitarian approval of the storm water drainage plans shall be required prior to construction.

~~5. Storm water drainage plans shall approved by Montana DEQ or its designee. Approval of the storm water drainage plans shall be required prior to construction.~~

6. In the event, construction activity disturbs an area equal to or greater than one acre, a Stormwater Pollution Prevention Plan Permit from Montana DEQ will need to be obtained prior to start of site improvements and construction. Prior to construction, the applicant will need to document the entire area of disturbance, not just the finished construction area.

7. Sand and oil separators will need to be installed on drains in the shop area.

8. The water, sewer and other utilities connections shall be approved by the applicable service providers prior to construction.

9. The owner or authorized representative must follow the conditions laid out in the approach permit issued by MDT.



Montana Department of Transportation

Glendive District Office
503 N River Avenue
P.O. Box 890
Glendive MT 59330-0890

Michael J. Tooley, Director
Steve Bullock, Governor

January 14, 2015

Mid-Rivers Communication
Attn: Aaron Arthur
904 C Avenue
Circle, MT 59215

Subject: Approach Permit
P - 2 / US Hwy 12
Stations: 60+02 LT
Mile Posts: 5.83

Aaron,

Mid-Rivers Communications request to relocate and change the use of an existing approach is approved. A signed copy of the Driveway Approach Application and Permit is enclosed for your files. Please note the terms and conditions on page two of the forms before beginning the work, especially item 7) PROTECTION OF TRAFFIC, and 16) OTHER CONDITIONS AND/OR REMARKS.

This permit does not allow taking material from the highway right of way to construct or alter an approach. Any such additional action needs to be coordinated with Tom Roberts, Miles City Maintenance Chief at 233-3622.

The permit is valid for six months from the date of issue and all work should be completed within that time. Please inform this office when the approach is completed so that we can inspect the approach. If you have any questions please call me at 345-8215, or e-mail kbithell@mt.gov.

Respectfully

Keith Bithell, E.I.T.
District Traffic Engineer

copies: Bill Ellis -- Custer County Planner
Tom Roberts -- Maintenance Chief: Miles City
District Traffic file

**Mid-Rivers Communication – US Hwy 12 – Miles City
Approach Additional Conditions**

- The approach must be paved, at a minimum, to the MDT Right-of-way.
- The applicant is solely responsible for any environmental impacts incurred as a result of this project and is solely responsible for obtaining any necessary environmental permits, notifications, and/or any other necessary environmental clearances.
- If any streams, canals, or wetlands will be impacted as a result of this project, the appropriate water quality permits should be obtained from state, federal, tribal, and/or local agencies.
- The applicant will ensure that if any deviation(s) from the MDT-approved plans is determined necessary at the time of construction due to unforeseen obstacles, the deviation(s) must be approved by MDT in writing before installation is begun.
- The permit, along with all conditions and restrictions for this approach, will be transferred to any subsequent parties owning the property. It is the sole responsibility of the permit holder to notify MDT of any ownership or operating changes.
- The applicant must obtain approvals from downstream landowners if their proposed actions impact downstream properties (easements, etc.) and provide documentation of appropriate coordination with affected landowners.
- Any damage done to MDT facilities or adjacent landowners as a result of the applicants design or construction is the sole responsibility of the applicant and the MDT will not be liable for damages. The applicant will be responsible for the development and implementation of adequate remedial measures.



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State of Montana Montana Department of Transportation Driveway Approach Application and Permit

2701 Prospect Avenue
PO Box 201001
Helena, MT 59620-1001
Phone: (406) 444-7237
Fax: (406) 444-0807
TTY: (406) 444-7696
www.mdt.mt.gov

To be filled in by Department of Transportation Personnel Print Form

F.A. Route No: P-2 / US Hwy 12	Milepost: 5.83	Project: F 86(15)	Approach Station: 60+02 LT
--	--------------------------	-----------------------------	--------------------------------------

District: Glendive	County: Custer	Maint Section No: 4301
------------------------------	--------------------------	----------------------------------

Drainage as determined by Department of Transportation

Type: Size: Length:

Sight Distance (feet): Right: Left:

Aaron Arthur
Approach Recommended by District Traffic
Engineer or Traffic & Safety Bureau

11/14/15
Date

SHANE MINTZ
BY: Sharon M. Lusk DPE
Approach Application Approved by
District Administrator or Designee

1-15-15
Date

Access Control: Yes No

If Access Control is Yes:
Approach Recommended by Access Manager, R/W Bureau

Date

APPLICANT (PROPERTY OWNER)

Name Mid-Rivers Communication	Phone\Fax Number 406-485-3301
---	---

Address 904 C Avenue	City Circle	State MT	Zip Code 59215	E-mail aaron.arthur@midrivers.com
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herein termed the applicant, requests permission to construct approach(es) described and shown on attached site plan or plan and profile and hereby made a part of this application

Use of Property or Facility:

An environmental checklist must be filled out, signed and attached in order for this application to be considered complete.
http://www.mdt.mt.gov/other/environmental/external/forms/MOT-ENV-006-ENVIRONMENTAL_CHECKLIST.PDF

Location			
City or Town: (If rural, direction & approx. distance from nearest city or town)	1 Mile east of Miles City on US Hwy 12		
Street Name, if any:			
Roadway or Highway			
Surfacing	Asphalt	Width	24'
Approach			
Estimated number of trips per day:	50 TPD	Side of Roadway	N
Width:	40'	Flare:	25'
Other Comments			
Any future expansion or change of use will require a new / updated approach permit to be issued.			



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State of Montana Montana Department of Transportation Driveway Approach Application and Permit

2701 Prospect Avenue
PO Box 201001
Helena, MT 59620-1001
Phone: (406) 444-7237
Fax (406) 444-0807
TTY: (406) 444-7696
www.mdt.mt.gov

(INSTRUCTIONS CONCERNING USE OF THIS FORM)

Applicant will complete and deliver this form in duplicate to the District Administrator serving the area in which the Approach Permit is requested.

The District Administrator, in conjunction with the District Traffic Engineer, is delegated authority to approve curb cuts, public and private approaches serving businesses, residences and agricultural uses in rural or urban areas without further consultation if the traffic conditions are not congested. In congested areas, usually urban situations, the District Administrator and District Traffic Engineer can request the Traffic and Safety Engineer in Helena for additional technical assistance. If this is necessary, the approach should be scaled onto existing plan and profile sheets showing the highway right-of-way and sent to Helena.

- APPROACH PERMIT -

Subject to the following terms and conditions, the permit applied for upon the reverse side hereof, is hereby granted:

- 1) **TERM.** This permit shall be in full force and effect from the date hereof until revoked as herein provided.
- 2) **REVOCATION.** This permit may be revoked by State upon giving thirty (30) days notice to Permittee by ordinary mail, directed to the address shown in the application hereto attached, but the State reserves the right to revoke this permit without giving said notice in the event Permittee breaks any of the conditions or terms set forth herein.
- 3) **COMMENCEMENT OF WORK.** No work shall be commenced until Permittee notifies the Department of Transportation when work is proposed to commence.
- 4) **CHANGES IN HIGHWAY.** If the State changes the highway, or there are other changes to adjoining streets, alleys, etc., which necessitate alterations in structures or installations installed under this permit, Permittee shall make the necessary alterations at Permittee's sole expense or in accordance with a separate agreement.
- 5) **STATE SAVED HARMLESS FROM CLAIMS.** In accepting this permit the Permittee, its/his successors or assigns, agree to protect the State and save it harmless from all claims, actions or damage of every kind and description which may accrue to, or be suffered by, any person or persons, corporations or property by reason of the performance of any such work, character of materials used, or manner of installations, maintenance and operation, or by the improper occupancy of said highway right of way, and in case any suit or action is brought against the State and arising out of, or by reason of, any of the above causes, the Permittee, its/his successors or assigns, will upon notice to it/him of the commencement of such action, defend the same at its/his sole cost and expense and satisfy any judgment which may be rendered against the State in any such suit or action.
- 6) **PROTECTION OF TRAFFIC.** Submit a traffic control plan for review and approval prior to any work being performed in MDT Right-of-Way. Traffic control must meet current MUTCD and MDT standards and guidance. The approval shall in no way operate to relieve or discharge the Permittee from any of the obligations assumed by acceptance of this permit, and especially those set forth under Section 6 thereof.
- 7) **HIGHWAY DRAINAGE.** If the work done under this permit interferes in any way with the drainage of the State Highway affected, Permittee shall, at its/his own expense, make such provisions as the State may direct to take care of said drainage.
- 8) **RUBBISH AND DEBRIS.** Permittee is responsible for debris that is carried onto the roadway by this construction with sweeping and cleaning done daily at permittee's expense. Upon completion of work contemplated under this permit, all rubbish and debris shall be immediately removed and the roadway and the roadside left in a neat and presentable condition satisfactory to the State.
- 9) **WORK TO BE SUPERVISED BY STATE.** All work contemplated under this permit shall be done under the supervision of and to the satisfaction of the authorized representative of the State, and the State hereby reserves the right to order the change of location or removal of any structure or installation authorized by this permit at any time, said changes or removal to be made at the sole expense of the permittee.
- 10) **STATE'S RIGHT NOT TO BE INTERFERED WITH.** All such changes, reconstructing or relocation shall be done by Permittee, in such a manner as will cause the least interference with any of the State's work, and the State shall in no way be liable for any damage to the Permittee by reason of any such work by the State, its agents, contractors or representatives, or by the exercise of any rights by the State upon the highways by the installations or structures placed under this permit.
- 11) **REMOVAL OF INSTALLATIONS OR STRUCTURES.** Unless waived by the State, upon termination of this permit, the Permittee shall remove the installations or structures contemplated by this permit and restore the premises to the condition existing at the time of entering upon the same under this permit, reasonable and ordinary wear and tear and damage by the elements, or by circumstances over which the Permittee has no control, excepted.
- 12) **MAINTENANCE AT EXPENSE OF PERMITTEE.** Permittee shall maintain, at its/his sole expense the installations and structures for which this permit is granted, in a condition satisfactory to the State.
- 13) **STATE NOT LIABLE FOR DAMAGE TO INSTALLATIONS.** In accepting this permit the Permittee agrees that any damage or injury done to said installations or structures by a contractor working for the State, or by any State employee engaged in construction, alteration, repair, maintenance or improvement of the State Highway, shall be at the sole expense of the Permittee.
- 14) **STATE TO BE REIMBURSED FOR REPAIRING ROADWAY.** Upon being billed therefor Permittee agrees to promptly reimburse State for any expense incurred in repairing surface or roadway due to settlement at installation, or for any other damage to roadway as a result of the work performed under this permit.
- 15) **OTHER CONDITIONS AND/OR REMARKS.**
 - a. All approach side slopes will preferably be constructed on 10 to 1 slope but not less than 6 to 1 slope, unless otherwise approved.
 - b. No private signs or devices etc., will be constructed or installed within the highway right-of-way limits.
 - c. This permit is valid only if approach construction is completed within specified months from date of issue. _____ Months
 - d. Prior to Starting work, for construction inspection and approval of completed approach contact _____
 - e. See attached addendum

Dated at: 12/8/14

Agreement Date

The undersigned, the "Permittee" mentioned in the foregoing instrument hereby accepts this permit together with all of the terms and conditions set forth therein

Adam Roth
Plant Manager
Signed by Permittee

To be filled in by Department of Transportation Personnel

<input type="text"/>	<input type="text"/>
Completed Approach Inspection By:	Date
<input type="text"/>	
Title:	



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Montana Department of Transportation Environmental Checklist

2701 Prospect Avenue
PO Box 201001
Helena, MT 59620-1031
Phone: (406) 444-7237
Fax: (406) 444-0807
TTY: (406) 444-7696
www.mdt.mt.gov

Control Number/ UPN	Project Identification Number	Name/ Location Description	Route/Corridor	Federal Funds Involved?
				No

(+For MDT Use Only+)

Date	Choose type of Environmental Checklist:
Dec 5, 2014	Approach Permit

Location		
Highway or Route:	Milepost(s):	
12		
Physical Address:	City:	
N/A	Miles City	
Legal Description:	County:	
C.O.S. # 13641	Custer	
Township:	Range:	Section(s):
8 North	47 East	24

Applicant Information:			
Name:	Title		
Aaron Arthur	Plant Manager		
Company/Utility:			
Mid-Rivers Communications			
Mailing Address:	Phone:		
904 C Avenue	406-934-7425		
City:	State:	Zip:	Business Phone:
Circle	MT	59215	406-485-3301

MDT Environmental Checklist Help Guide

(Click button or go to www.mdt.mt.gov/other/environmental/external/forms/ENVIRONMENTAL-CHECKLIST-HELPSHEET.PDF)

Impact Questions

Actions that qualify for Categorical Exclusion under MEPA and/or NEPA (See ARM 18.2.261 and 23 CFR 771.117)
(See ARM 18.2.261 and 23 CFR 771.117)

Comment, Explanation, and/or
Information Source (Attach supporting
information, as necessary.)

- Will the proposed action impact any known historical or archaeological site(s)? Yes No
- Will the proposed action impact any publicly owned parkland(s), recreation area(s), wildlife or waterfowl refuge(s)? Yes No
- Will the proposed action impact prime farmlands? (If yes, attach a completed Farmland Conversion Impact Rating Ad-1006.) Yes No
- Will the proposed action have an impact on the human environment that may result from relocations of persons or businesses, changes in traffic patterns, changes in grade, or other types of changes? Yes No
 - Has the proposed action received any preliminary or final approval from the local land use authority? Yes No
- For the proposed action, is there documented controversy on environmental grounds? (For example, has the applicant received a letter of petition from an environmental organization?) Yes No
- Will the proposed action require work in, across or adjacent to a listed or proposed Wild or Scenic River? Yes No
- Will the proposed action require work in a Class I Air Shed or nonattainment area? Yes No
- Will the proposed action impact air quality or increase noise, even temporarily? Yes No
- Is the proposed project a MS4 Area? (Billings, Bozeman, Butte, Helena, Great Falls, Kalispell, and Missoula) Yes No
 - Will the proposed action have potential to affect water quality, wetlands, streams or other water bodies? If YES, an environment-related permit or authorization may be required. Yes No
- Are solid or hazardous wastes or petroleum products likely to be encountered? (For example, project occurs in or adjacent to Superfund sites, known spill areas, understorage tanks, or abandoned mines.) Yes No
- Are there any listed or candidate threatened or endangered species, or critical habitat in the vicinity of the proposed action? Yes No
 - Will the proposed action adversely affect listed or candidate threatened or endangered species, or adversely modify critical habitat? Yes No
- Will the proposed action require an environmental-related permit or authorization? If the answer is "yes," please list the specific permits or authorizations. Yes No
- Is the proposed action on or within approximately 1 mile of an Indian Reservation? Yes No
 - If "Yes", will a Tribal Water Permit be required? Yes No N/A
- Will the proposed action result in increased traffic volumes, increased wait or delays on state highways or have adverse impacts on other forms of transportation (rail, transit or air movements)? Yes No
- Is the proposed action part of a project that may require other governmental permits, licenses or easements? If "Yes", describe the full extent of the project and any other permits, licenses or easements that may be necessary for the applicant to acquire. Yes No



MDT-ENV-005 11/13

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Montana Department of Transportation Environmental Checklist

2701 Prospect Avenue
PO Box 201001
Helena, MT 59620-1001
Phone: (406) 444-7237
Fax: (406) 444-0807
TTY: (406) 444-7696
www.mdt.mt.gov

- 16 Attach a brief description of the work to be performed, including any subsurface work. Description Attached
- 17 Attach representative photos of the site(s) where the proposed action would be implemented. Photos are to include any structures, streams, irrigation canals, and/or potential wetlands in the project area. Photos Attached
- 18 Attach map(s) showing the location(s) of the proposed action(s); Section, Township, Range; highway or route number and approximate route post(s). Maps Attached

Checklist preparer:	Title:	Signature	Date
DOWL HKM- Quinn Wright, PLS	Professional Land Surveyor	<i>Quinn Wright</i>	12/814

Reviewed for completeness by:

<i>Michelle A. Mitchell</i>	<i>MTE</i>	<i>1/14/15</i>
MDT District Representative	Title	Date

Checklist Approved by:

Environmental Services Bureau (When any of the items 1 through 15 are checked "Yes")	Title	Date
Transportation Planning (When any of the items 14 or 15 are checked "Yes")	Title	Date

Checklist Conditions and Required Approvals

- A. The applicant is not authorized to proceed with the proposed work until the checklist has been reviewed and approved, as necessary, and any requested conditions of approval have been incorporated.
- B. Complete the checklist items 1 through 15, indicating "Yes" or "No" for each item. Include comments, explanations, information sources, and a description of the magnitude/importance of potential impacts in the right hand column. Attach additional and supporting information as needed. Ensure that information required for items 16, 17, and 18, is attached. The checklist preparer, by signing, certifies the accuracy of the information provided.
- C. If "Yes" is indicated on any of the items, the Applicant must explain the impacts as applicable. Appropriate mitigation measures that will be taken to avoid, minimize, and/or mitigate adverse impacts must also be described. **Any proposed mitigation measures will become a condition of approval.** Use attachments if necessary. If the applicant checks "No" and the District concludes there may in fact be potential impacts, the Environmental Checklist must be forwarded to Environmental Services Bureau for review and approval.
- D. If "Yes" is indicated in item 11 a. (threatened or endangered species), the Applicant should provide information naming the particular species and the expected location, distribution and habitat use in the proposed action area, i.e. within the immediate area of the proposed action; or, in the general area on occasion (seasonally passes through) but does not nest, den or occupy the area for more than a few days.
- E. If the applicant checks "Yes" for any item, the approach permit, occupancy agreement or permit, along with the checklist and supporting information, including the Applicant's mitigation proposal, documentation, evaluation and/or permits must be submitted to MDT Environmental Services Bureau. Electronic format is preferred.
- F. When the applicant checks "Yes" to any item, the Applicant cannot be authorized to proceed with the proposed work until the MDT Environmental Services Bureau and/or Transportation Planning, as appropriate, reviews the information and signs the checklist.
- G. Applicant must obtain all necessary permits or authorizations from other entities with jurisdiction prior to beginning the proposed action or activity. The Applicant is solely responsible for any environmental impacts incurred as a result of the project; obtaining any necessary environmental permits, notifications, and/or clearances, and ensuring compliance with environmental laws and regulations.

Required Stormwater Detention Volume

Mid-Rivers Site

Relative Imperviousness Factors:	Range of Runoff Coefficients	Runoff Coefficient Used
Paved Areas/Structures	= (0.80-0.90)	0.90
Graveled Areas	= (0.35-0.80)	0.80
Unimproved Rangeland	= (0.15-0.40)	0.30
Landscaped (lawn, shrubs, trees)	= (0.10-0.30)	0.10

2-Year, 24-Hour Storm Event:	Intensity (I)	1.41 in/hr
	Time (T)	3600 sec/hr

Proposed Site Layout

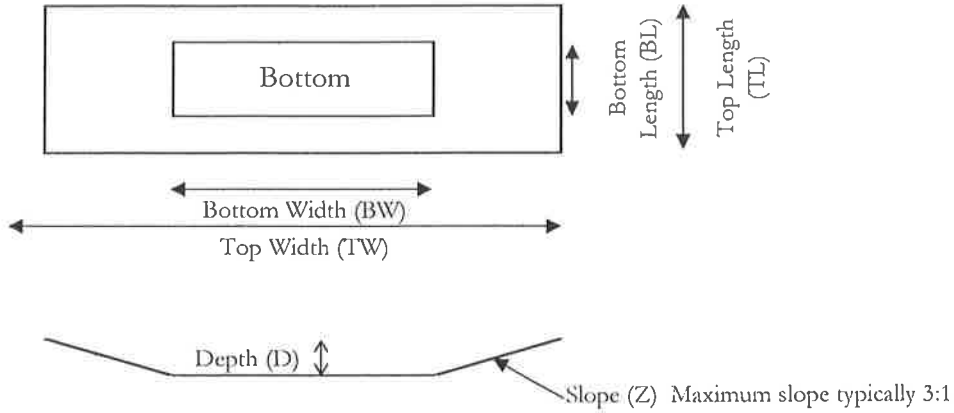
Existing Site Layout

Areas:	Area (ft ²)	Area (Acres)	Area (ft ²)	Area (Acres)
Total Area of Watershed	= 217800	5.00	217800	5.00
Paved Areas/Structures	= 22651	0.52	0	0.00
Graveled Areas	= 150282	3.45	0	0.00
Unimproved Areas	= 44867	1.03	217800	5.00
Landscaped Areas	= 0	0.00	0	0.00
Total Area	= 217800	5.00	217800	5.00

Volumes Required: Volume of Runoff = (C*I*A)*T
 Total Volume Difference = Proposed - Existing

	Volume (ft ³)	Volume (yd ³)	Volume (ft ³)	Volume (yd ³)
Paved Areas/Structures	= 2375.57	87.98	0.00	0.00
Graveled Areas	= 14009.76	518.88	0.00	0.00
Unimproved Areas	= 1568.48	58.09	7614.00	282.00
Landscaped Areas	= 0.00	0.00	0.00	0.00
Total Volume	= 17953.81	664.96	7614.00	282.00
Flow (ft ³ /s)	= 4.99		2.12	
Total Volume Difference	= 10339.8	382.96		
Total Flow (ft³/s)	= 2.87			

Volume Calculation For a Square or Rectangular Flat Bottom and Top pit



VOLUME CALCULATION FORMULA

$$V = \frac{4 \times Z^2 \times D^3}{3} + [Z \times BL \times D^2] + [Z \times BW \times D^2] + [BW \times BL \times D]$$

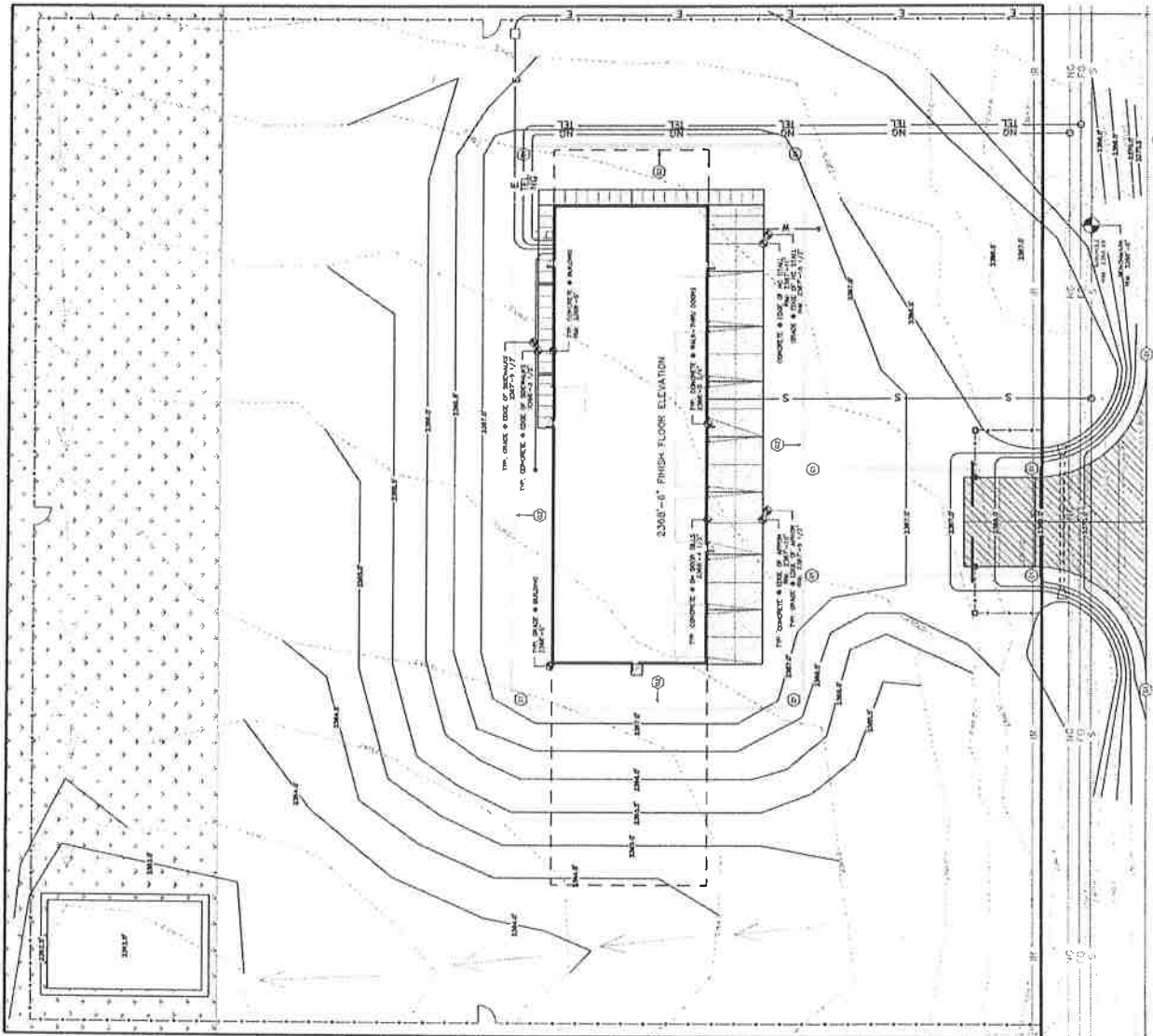
	1	2	3	4	5	6	7	8
Dimension Option	BW	BL	D	Z	TW	TL	Volume (ft3)	Volume (gallons)
5 ac tract	40	70	2.5	5	65	95	10,958	81,968
	0	0	0	0	0	0	-	-

Columns 1 through 4 are Variables

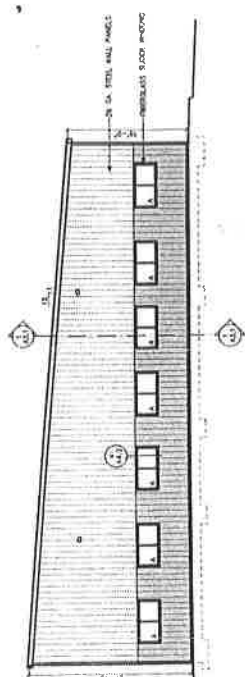
Columns 5 through 8 are Formulas DO NOT CHANGE

GRADING PLAN NOTES

- 1) Limit of construction shall be 1' away
- 2) Lines on to existing grade for foundation in cases
- 3) Where existing structures are used to water control for design



DATE: 10/10/08
 DRAWN BY: [Name]
 CHECKED BY: [Name]

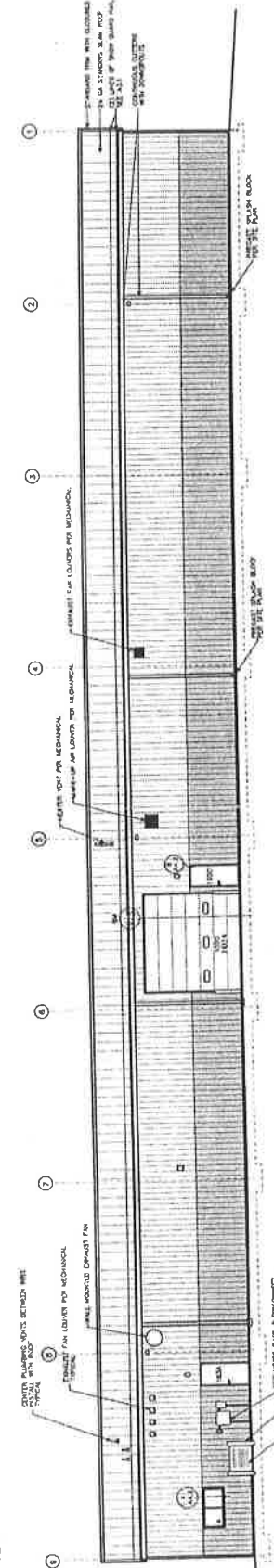


1-West Elevation

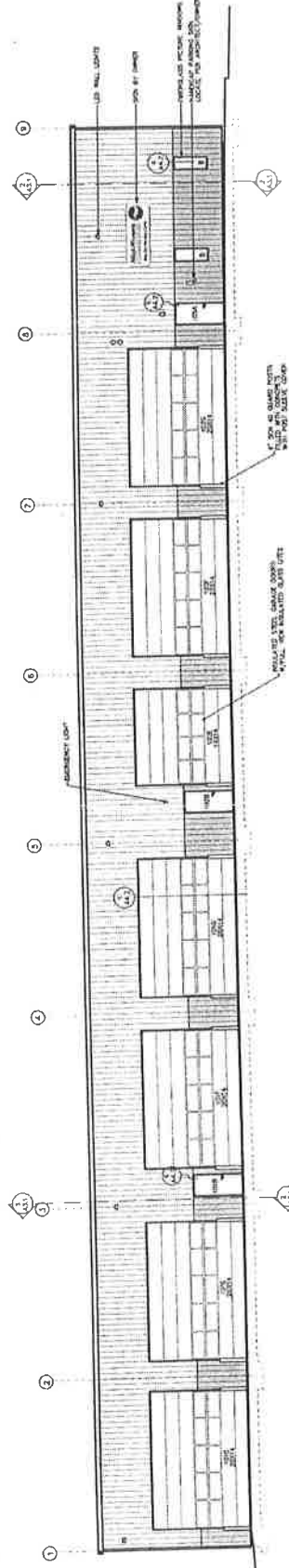
WINDOW SCHEDULE

NO.	TYPE	FINISH	GLASS	OPERATION
1	1/2" x 4' x 6'	ALUMINUM	1/2" CLEAR	FIXED
2	1/2" x 4' x 6'	ALUMINUM	1/2" CLEAR	SLIDING
3	1/2" x 4' x 6'	ALUMINUM	1/2" CLEAR	SLIDING
4	1/2" x 4' x 6'	ALUMINUM	1/2" CLEAR	SLIDING
5	1/2" x 4' x 6'	ALUMINUM	1/2" CLEAR	SLIDING
6	1/2" x 4' x 6'	ALUMINUM	1/2" CLEAR	SLIDING
7	1/2" x 4' x 6'	ALUMINUM	1/2" CLEAR	SLIDING
8	1/2" x 4' x 6'	ALUMINUM	1/2" CLEAR	SLIDING
9	1/2" x 4' x 6'	ALUMINUM	1/2" CLEAR	SLIDING
10	1/2" x 4' x 6'	ALUMINUM	1/2" CLEAR	SLIDING

2-East Elevation



3-North Elevation



4-South Elevation



SITE PLAN REVIEW

FOR:

INGRAHAM AND SONS

808 N. MONTANA

Application

RECEIVED JAN 22 2019

SITE PLAN REVIEW APPLICATION - MILES CITY

The following development proposals in the following zones are subject to site plan review:

4-plex and greater	Residential Zones A, B
4 to 8 units	Residential Zones B, C
8 or greater units	Residential Zones C
Parks, playgrounds, parking and open space and Accessory uses	Residential Zone C
All listed uses	General Commercial (GC), Local Commercial (LC)
All listed uses	Industrial (I), Medical Campus (MC)
All listed uses (new construction only)	Historic Mixed Use (HMU)
Keeping of chickens	All Zones
Animal Rescue or Animal Foster Care	Residential Zones A, B, MH-A; Commercial Zones GC, LC, HC; Open Space (OS); Semi-Rural (SR); Agricultural (AG).

Application Date: 1/19/19 Fee: 9110

Name of Project: Township # 206, Twp

Location of Project/Legal Description: TRACT 206 # 10162

Contacts

Business Owner Name: Township # 206
Please print

Contact Name: MARC TINGRAHAM
Please print

Address: 602 0th
MILES CITY MT

Phone: _____ Cell Phone: 406-951-6272 Email: MARCTINGRAM.COM

Applicant Name: _____ Circle One Architect/Builder/Engineer/Other
(if different from owner)

Address: _____

Phone: _____ Cell Phone: _____ Email: _____

Descriptive Data

Total area in acres: 1.087 Existing Zoning: TABULOUS

Existing and Proposed Use:

EXISTING USE IS STORAGE AND VEHICLE REPAIRS. PROPOSED USE IS THE SAME WITH ADDITION OF A CURB TO PROVIDE HEATED STORAGE AND REPAIR SPACE

If Residential Number of Units and type of Proposed Units: _____

If Commercial/Industrial Number of Buildings together with Square Footage and Stories/Height of each:

ONE BUILDING 40,100 WITH 10' HIGH

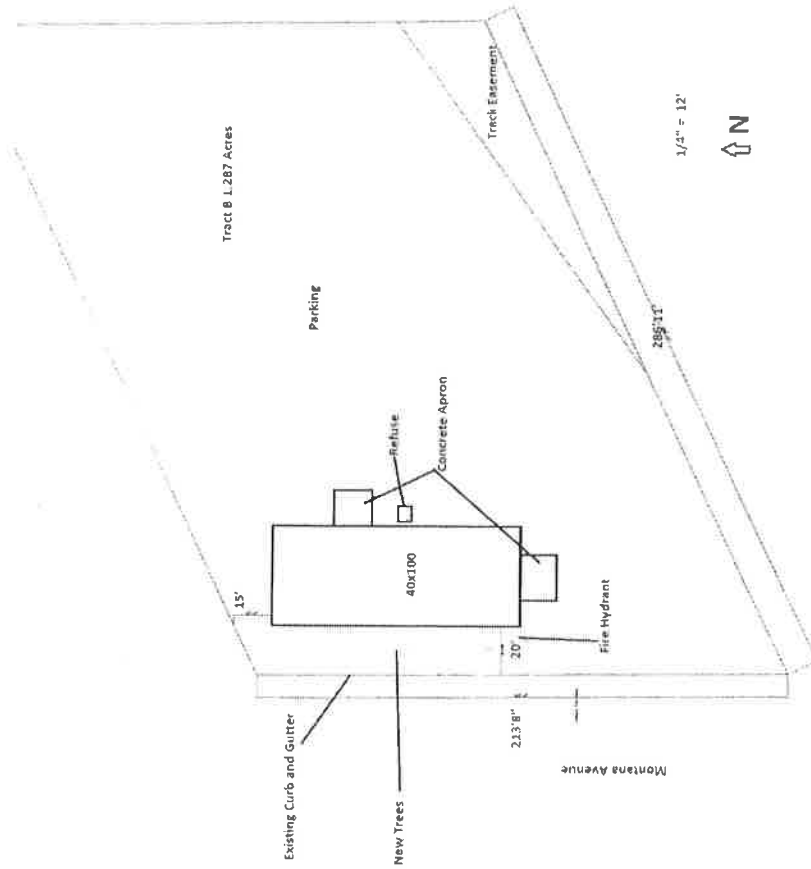
Materials/Information to be submitted with this application (minimum requirements)

*10 Copies of the following:

1. Application form and site plan review fee
2. Vicinity Map showing location of proposed project (8 1/2 x 11)
3. (8 1/2 x 11) copy of the Site Plan at a suitable scale (example: 1 inch = 10 feet) with the following information:
 - a. Boundary line of property with dimensions and a north arrow indicator
 - b. Topography contours at a minimum interval of 2 feet or as determined by the planning department
 - c. Water bodies, floodplain, and wetlands
 - d. Adjacent streets and street rights-of-ways to a distance of 150 feet from the subject property, including existing and proposed improvements such as curb, gutter, sidewalks, and bike paths
 - e. Parking facilities, including bicycle racks, landscaping, drainage, lighting, handicap-accessible parking, typical dimensions (including labeling angles for angled parking), traffic flow on-site, ingress and egress points, driveways, and paving details
 - f. All existing and proposed structures, including exterior dimensions and setback distances to the wall line of all structures
 - g. Grading and storm drainage plans and calculations, including any proposed retention walls
 - h. Utilities and utility easements, existing and proposed
 - i. Location of fire hydrants, fire lanes and turnarounds
 - j. Exterior refuse collection areas
 - k. Signage plans (if any)
 - l. Elevation plans or side profiles for structures with dimensions for building heights, including dimension from the top of the roof peak to the average grade at the front of the building.
 - m. An analysis of traffic generation, trip distribution and the impacts of the proposed land use on the transportation facilities serving the area if the proposed land use is estimated to generate 400 or more average daily vehicle trips (ADT), or if requested by the administrator.
4. (8 1/2 x 11) copy of the Landscaping Plan

Vicinity Maps

Site Plan



Wetlands

Wetlands

In response to wetlands, water bodies, and flood plains the property has no wetlands or bodies of water. It is however located in the flood fringe. The attached map shows the location, which will indicate that part of the lot is in the flood fringe and part is out. We have applied for a LOMAF and are waiting for the completed paper work.

**FIRM MAP
&
LOMA**

The Flood Insurance Study report for this jurisdiction, if available in this community, contact your insurance agent for more information. For more information on the National Flood Insurance Program call 1-800-638-6629.



0 100 200 300 400 500 METERS

PANEL 0662D

FIRM
FLOOD INSURANCE RATE MAP
CUSTER COUNTY,
MONTANA
AND INCORPORATED AREAS

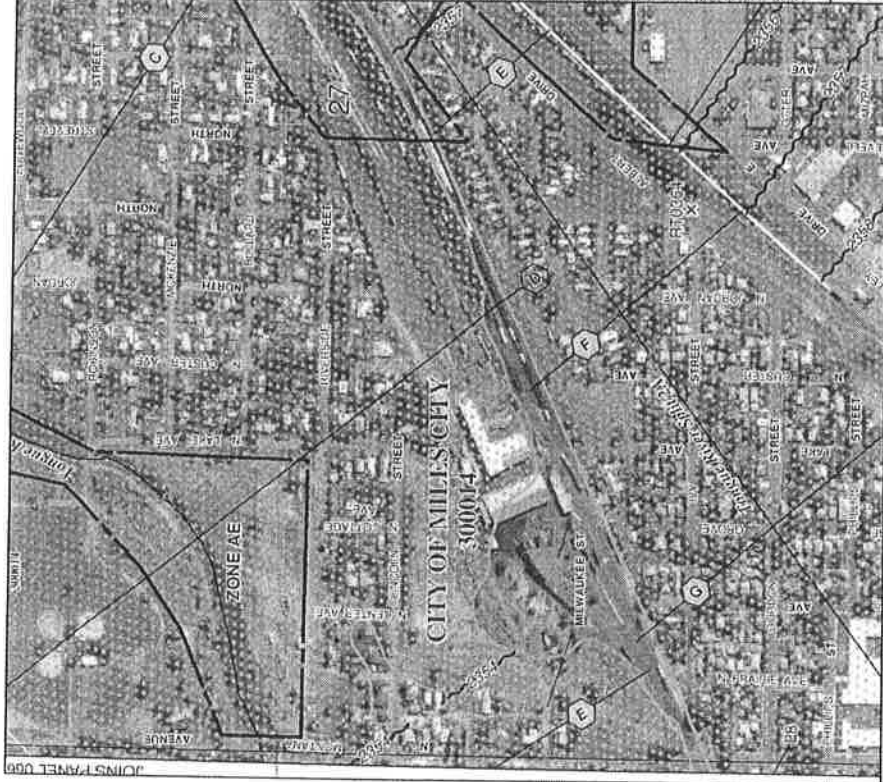
PANEL 682 OF 2275
 USE MAP BODY FOR FIRM PANEL 670521;
 CONSULT: NUMBER PANEL SUPER;
 DATE: 10/11/06; DATE: 10/11/06;
 SUBJECT: 27146

Map is User. The Map Number and/or other data; the
 information shown on this map is not intended to be
 used as a basis for any other action or decision.
 The user assumes all liability for any use of this map.



Federal Emergency Management Agency

This is an actual copy of a portion of the entire insurance rate map. It is not intended to be used as a basis for any other action or decision. The user assumes all liability for any use of this map. For more information on the National Flood Insurance Program call 1-800-638-6629.



JOINS PANEL 066

COPY



CITY OF MILES CITY

APPLICATION WORKSHEET FOR VARIANCES TO THE FLOODPLAIN HAZARD MANAGEMENT REGULATIONS

PLEASE NOTE: Your statements and supporting data and information, including a completed Montana joint application or floodplain permit application, will be used to evaluate your variance request. If these questions are not answered, the variance may be denied due to insufficient information to support it. The following will be used as a guide to evaluate your petition. Additional information may be requested.

The City of Miles City's Floodplain Hazard Management Regulations provides the criteria that must be considered and met before a variance may be granted. The Board of Appeals must consider the following items when determining a variance request. State in detail the manner in which you believe each of these standards are met in this case:

1. Will the structure or proposed activity/use reside on 0.5 acre or less? YES NO
If NO, what is the size of the lot or parcel? _____

(If the new construction or substantial improvements on a lot of one-half acres or less is contiguous to and surrounded by lots of existing structures constructed below the base flood level, a variance may be approved. However, as lot sizes increase beyond one-half acre, additional technical justification may be required.)

2. Are the surrounding properties pre-FIRM (built before 1983)? YES NO

3. Are the lowest floor of the pre-FIRM structures on the adjoining and contiguous lots below the base flood elevation? YES NO

4. Is the proposed work on a recognized historic structure? YES NO

If yes, will the improvements maintain the historic integrity of the structure and not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

5. Is the proposed work the minimum necessary, considering the flood hazard, to afford relief?
WE BELIEVE THE PROPOSED WORK WILL PROVIDE RELIEF CONSIDERING THE FLOOD HAZARD.

6. Does the project show good and sufficient cause for the variance? Financial hardship is not a good and sufficient cause. Describe the exceptional hardship. THERE IS INSUFFICIENT SPACE TO ADDON FOR A DUNE SANDWICH DEPARTMENT TO ADAPT BUILDINGS SAFELY AS AT ALL VAX SOME EQUIPMENT

7. Are basements and/or the lowest floor elevation of a residential structure below the Base Flood Elevation? NO

8. If crawlspaces or enclosures are proposed, they must meet the requirements of Article 10 of the Floodplain Hazard Management Ordinance. Explain why the minimum building standard cannot be met.

THE MINIMUM CAN BE MET BUT IT WILL BE OVER A STEEP SLOPE

AND A FOUNDATION THAT IS 2' OF WATER LEVEL

9. Describe your analysis or supporting information that the granting of this variance does not result in increased flood height to the existing insurable building, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances.

NO ADDITIONAL HEIGHT. THE VISUAL IMPACT IS

10. Describe how the structure is/ or will be adequately flood proofed.

THE STRUCTURE WILL BE BUILT ABOVE THE FLOOD PLANE

11. Describe why reasonable alternative locations outside the Floodplain are not available or possible.

THE BEST AVAILABLE LOCATION IS NOT AVAILABLE FOR THIS PROJECT

FOR THIS PROJECT

12. Describe the data or information that there is no danger to life and property by erosion damage or water that may be backed up or diverted by the obstruction or use.

WATER WILL BE ABLE TO FLOW AROUND OBSTRUCTION AND AS SUCH WILL NOT CAUSE DAMAGE TO LIFE OR PROPERTY

13. Describe your supporting information that there will not be a danger of materials being swept onto other lands or the injury of others.

PROJECT WILL BE BUILT ABOVE FEE AND TO FEDERAL STANDARDS

14. Describe how the construction or alteration of the obstruction or use in such a manner is designed as to lessen the danger.

THE CONSTRUCTION IS DESIGNED TO CONFORM WITH SURROUNDING STRUCTURES

15. Describe the permanence of the obstruction or use.

THE OBSTRUCTION WILL BE A PERMANENT OBSTRUCTION

16. Describe the impacts of the obstruction or use affect the anticipated development in the foreseeable future of the surrounding area.

THE DEVELOPMENT WILL ALLOW DEVELOPMENT AND USE OF VACANT LANDS AND DRIVE LANE AND TRAIL BASE

17. Describe if the failure to comply with the Floodplain regulations results in an exceptional hardship to the applicant. COMPLIANCE WILL CAUSE STEEP GRADES WHICH COULD BE UNSAFE OR

PREVENTABLE TO REPAIR DAMAGE TO IT WILL ALSO BE STRUCTURE DAMAGE WHICH

HIGHER THAN EXISTING STRUCTURES

18. Describe how the granting of a variance does not adversely affect existing properties or structures.

I DO NOT SEE ANY ADVERSE EFFECTS DEVELOPMENT WOULD CAUSE

VACANT LAND COULD BE USED

19. Describe the estimated cost and damage of the proposed facility and its contents to flood damage and the effect of such damage on the owner. NO ESTIMATION COST HAS BEEN LOOKED

NO ESTIMATION TOTAL DAMAGE OR ANY MORE

20. Describe the importance of the services to be provided by the facility to the community. THE

SECURITY FOR THE AREA AND THE BASE AREA WITH ABILITY FOR

ITS TO PROVIDE ENVIRONMENTAL ISSUES IN THE AREA COVERED

21. Describe the public services, including fire and rescue that may or may not be provided during various flood events. EMERGENCY SERVICES AS STAFFING ARE MADE TO PROMINENTLY

THE FIRE HYDRANT HIGH GRADES, AND

22. If this facility is located on the waterfront, describe the necessity for that location. THE PROPERTY

IS NOT ON THE WATERFRONT

23. Describe the safety and access of emergency vehicles to the property during times of various flood events. STRUCTURE WOULD BE LOCATED ON MAIN ARTERY TO THE SIDE

AND ACCESS TO THE MAIN STREETS WOULD BE AVAILABLE

I hereby certify that the facts, statements, and information presented within this application form are true and correct to the best of my knowledge and belief. I hereby understand and certify that any misrepresentation or omissions of any information required in this application form may result in my application being delayed or not approved by the City of Miles City.

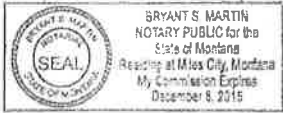
Marcus A. Jackson
Signature of Applicant

10/13/14
Date

M.A. Jackson
Signature(s) of Owner(s)
(Must be notarized)

Signature(s) of Owner(s)
(Must be notarized)

*Agent must provide documentation that they are legally representing the property owner.

Bryant S. Martin - Notary


**MINUTES OF THE
BOARD OF APPEALS MEETING**

DATE OF MEETING: October 30, 2014

TIME: 5:00 p.m.

PLACE: City Hall Conference Room

MEMBERS PRESENT: Rock Wankel - Chairman
Muriel Rost, David Larsen, Dustin Sloan & Cameron Duffin

OTHERS PRESENT: See sign in sheet and Building Inspector Hirsch

Chairman Wankel opened the meeting, noting a quorum was present.

TO CONSIDER: Owner: Ingraham & Sons
Address: 1102 N. Montana Avenue
Job Site Address: 808 N. Montana Avenue
Legal Desc: Tract B
Request: Variance from the floodplain ordinance. Property owner is requesting to construct a commercial building at BFE+6" without flood proofing.

DISCUSSION: Hirsch noted the property was posted and received no protests or concerns. He reported the slope on the fill meets the standard requirements.

Bruce Ingraham-owner, stated he had nothing else to add. The owner is noted that the fill is at BFE +6" and has been certified by HKM Engineering.

BM Rost inquired about the appearance of the building. Owners indicated it would have metal siding and would look similar to the Bobcat building.

Chair Wankel inquired about BFE +2' and the slope height. Hirsch noted this would jeopardized the 5% slope and out of building specifications. Which would cause other areas to flood. BM Duffin inquired about flood proofing. The owner stated flood

proofing increases the height of the building and slope of the driveway. They want the building to conform with the neighborhood and not cause additional flooding problems. It was noted that two sides of the lot is out of the flood plain. CM Larsen inquired on the size of the building. Ingraham reported the building would be constructed on a slab with 16' side walls. Additional concerns were traffic, grade of the driveway and relocating the placement of the building.

ACTION: Sloan moved to approve the request, as presented, second by Duffin.

VOTE: Request approved 5 - 0.

BOARD DISCUSSION: BM Duffin reported if he receives the promotion to Fire Chief, he will need to resign from the board. His replacement would be Justin Russell - Deputy Fire Inspector, pending approval by the State and City Council.

Dennis Hirsch
Building Inspector

DH/dll



Federal Emergency Management Agency

Washington, D.C. 20472

January 27, 2015

THE HONORABLE CHRIS GRENZ
MAYOR, CITY OF MILES CITY
P.O. BOX 910
MILES CITY, MT 59301

CASE NO.: 15-08-0291A
COMMUNITY: CITY OF MILES CITY, CUSTER
COUNTY, MONTANA
COMMUNITY NO.: 300014

DEAR MR. GRENZ:

This is in reference to a request that the Federal Emergency Management Agency (FEMA) determine if the property described in the enclosed document is located within an identified Special Flood Hazard Area, the area that would be inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood), on the effective National Flood Insurance Program (NFIP) map. Using the information submitted and the effective NFIP map, our determination is shown on the attached Letter of Map Revision based on Fill (LOMR-F) Determination Document. This determination document provides additional information regarding the effective NFIP map, the legal description of the property and our determination.

Additional documents are enclosed which provide information regarding the subject property and LOMR-Fs. Please see the List of Enclosures below to determine which documents are enclosed. Other attachments specific to this request may be included as referenced in the Determination/Comment document. If you have any questions about this letter or any of the enclosures, please contact the FEMA Map Assistance Center toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, LOMC Clearinghouse, 847 South Pickett Street, Alexandria, VA 22304-4605.

Sincerely,

Luis Rodriguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration

LIST OF ENCLOSURES:

LOMR-F DETERMINATION DOCUMENT (REMOVAL)

cc: State/Commonwealth NFIP Coordinator
Community Map Repository
Region
Mr. Quinn Wright



Federal Emergency Management Agency

Washington, D.C. 20472

LETTER OF MAP REVISION BASED ON FILL DETERMINATION DOCUMENT (REMOVAL)

COMMUNITY AND MAP PANEL INFORMATION		LEGAL PROPERTY DESCRIPTION
COMMUNITY	CITY OF MILES CITY, CUSTER COUNTY, MONTANA	A portion of Tract B, being a portion of Section 27, Township 8 North, Range 47 East M.P.M., as described in the Quitclaim Deed recorded as Document No. 144955, in the Office of the Clerk and Recorder, Custer County, Montana The portion of property is more particularly described by the following metes and bounds:
	COMMUNITY NO.: 300014	
AFFECTED MAP PANEL	NUMBER: 30017C0662D DATE: 7/22/2010	

FLOODING SOURCE: TONGUE RIVER SPLIT 1	APPROXIMATE LATITUDE & LONGITUDE OF PROPERTY: 46.410, -105.843 SOURCE OF LAT & LONG: GOOGLE EARTH PRO DATUM: NAD 83
---------------------------------------	--

DETERMINATION

LOT	BLOCK/SECTION	SUBDIVISION	STREET	OUTCOME WHAT IS REMOVED FROM THE SFHA	FLOOD ZONE	1% ANNUAL CHANCE FLOOD ELEVATION (NAVD 88)	LOWEST ADJACENT GRADE ELEVATION (NAVD 88)	LOWEST LOT ELEVATION (NAVD 88)
B	--	--	808 North Montana Avenue	Portion of Property	X (unshaded)	2354.4 feet	--	2354.6 feet

Special Flood Hazard Area (SFHA) - The SFHA is an area that would be inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood).

ADDITIONAL CONSIDERATIONS (Please refer to the appropriate section on Attachment 1 for the additional considerations listed below.)

LEGAL PROPERTY DESCRIPTION
FILL RECOMMENDATION
PORTIONS REMAIN IN THE SFHA

This document provides the Federal Emergency Management Agency's determination regarding a request for a Letter of Map Revision based on Fill for the property described above. Using the information submitted and the effective National Flood Insurance Program (NFIP) map, we have determined that the described portion(s) of the property(ies) were not located in the SFHA or area inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood). This document revises the effective NFIP map to remove the subject property from the SFHA located on the effective NFIP map; therefore, the Federal mandatory flood insurance requirement does not apply. However, the lender has the option to continue the flood insurance requirement to protect its financial risk on the loan. A Preferred Risk Policy (PRP) is available for buildings located outside the SFHA. Information about the PRP and how one can apply is enclosed.

This determination is based on the flood data presently available. The enclosed documents provide additional information regarding the determination. If you have any questions about this document, please contact the FEMA Map Assistance Center toll free at (877) 336-2627 (877 FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, LOMR Clearinghouse, 847 South Pickett Street, Alexandria, VA 22304-4805.

Luís Rodríguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration



Federal Emergency Management Agency

Washington, D.C. 20472

**LETTER OF MAP REVISION BASED ON FILL
DETERMINATION DOCUMENT (REMOVAL)**

ATTACHMENT 1 (ADDITIONAL CONSIDERATIONS)

LEGAL PROPERTY DESCRIPTION (CONTINUED)

BEGINNING at the Southwest corner of Tract B; thence N00°21'04"W, 200.00 feet; thence N65°05'39"E, 70.00 feet; thence S65°45'55"E, 192.44 feet; thence S65°04'48"W, 90.00 feet to the POINT OF BEGINNING.

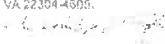
FILL RECOMMENDATION (This Additional Consideration applies to the preceding 1 Property.)

The minimum NFIP criteria for removal of the subject area based on fill have been met for this request and the community in which the property is located has certified that the area and any subsequent structure(s) built on the filled area are reasonably safe from flooding. FEMA's Technical Bulletin 10-01 provides guidance for the construction of buildings on land elevated above the base flood elevation through the placement of fill. A copy of Technical Bulletin 10-01 can be obtained by calling the FEMA Map Assistance Center toll free at (877) 336-2627 (877-FEMA MAP) or from our web site at <http://www.fema.gov/mitb1001.pdf>. Although the minimum NFIP standards no longer apply to this area, some communities may have floodplain management regulations that are more restrictive and may continue to enforce some or all of their requirements in areas outside the Special Flood Hazard Area.

PORTIONS OF THE PROPERTY REMAIN IN THE SFHA (This Additional Consideration applies to the preceding 1 Property.)

Portions of this property, but not the subject of the Determination/Comment document, may remain in the Special Flood Hazard Area. Therefore, any future construction or substantial improvement on the property remains subject to Federal, State/Commonwealth, and local regulations for floodplain management.

This attachment provides additional information regarding this request. If you have any questions about this attachment, please contact the FEMA Map Assistance Center toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, I/OMC Clearinghouse, 847 South Pickett Street, Alexandria VA 22304-6505.


Luis Rodriguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration



Federal Emergency Management Agency

Washington, D.C. 20472

ADDITIONAL INFORMATION REGARDING LETTERS OF MAP REVISION BASED ON FILL

When making determinations on requests for Letters of Map Revision based on the placement of fill (LOMR-Fs), the Department of Homeland Security's Federal Emergency Management Agency (FEMA) bases its determination on the flood hazard information available at the time of the determination. Requesters should be aware that flood conditions may change or new information may be generated that would supersede FEMA's determination. In such cases, the community will be informed by letter.

Requesters also should be aware that removal of a property (parcel of land or structure) from the Special Flood Hazard Area (SFHA) means FEMA has determined the property is not subject to inundation by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood). This does not mean the property is not subject to other flood hazards. The property could be inundated by a flood with a magnitude greater than the base flood or by localized flooding not shown on the effective National Flood Insurance Program (NFIP) map.

The effect of a LOMR-F is it removes the Federal requirement for the lender to require flood insurance coverage for the property described. The LOMR-F is not a waiver of the condition that the property owner maintain flood insurance coverage for the property. Only the lender can waive the flood insurance purchase requirement because the lender imposed the requirement. *The property owner must request and receive a written waiver from the lender before canceling the policy.* The lender may determine, on its own as a business decision, that it wishes to continue the flood insurance requirement to protect its financial risk on the loan.

The LOMR-F provides FEMA's comment on the mandatory flood insurance requirements of the NFIP as they apply to a particular property. A LOMR-F is not a building permit, nor should it be construed as such. Any development, new construction, or substantial improvement of a property impacted by a LOMR-F must comply with all applicable State and local criteria and other Federal criteria.

If a lender releases a property owner from the flood insurance requirement, and the property owner decides to cancel the policy and seek a refund, the NFIP will refund the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy during the current policy year. The property owner must provide a written waiver of the insurance requirement from the lender to the property insurance agent or company servicing his or her policy. The agent or company will then process the refund request.

Even though structures are not located in an SFHA, as mentioned above, they could be flooded by a flooding event with a greater magnitude than the base flood. In fact, more than 25 percent of all claims paid by the NFIP are for policies for structures located outside the SFHA in Zones B, C, X (shaded), or X (unshaded). More than one-fourth of all policies purchased under the NFIP protect structures located in these zones. The risk to structures located outside SFHAs is just not as great as the risk to structures located in SFHAs. Finally, approximately 90 percent of all federally declared disasters are caused by flooding, and homeowners insurance does not provide financial protection from this flooding. Therefore, FEMA encourages the widest possible coverage under the NFIP.

LOMRFENC-1 (LOMR-F Removal)

Utilities

There are currently no utility easements on the property, there is a power pole in the North West corner of the property. There is no water or sewer but it is the intention to hook into the water and sewer from Montana Ave.

Signs

There will be no free standing signs placed on the property at this time.

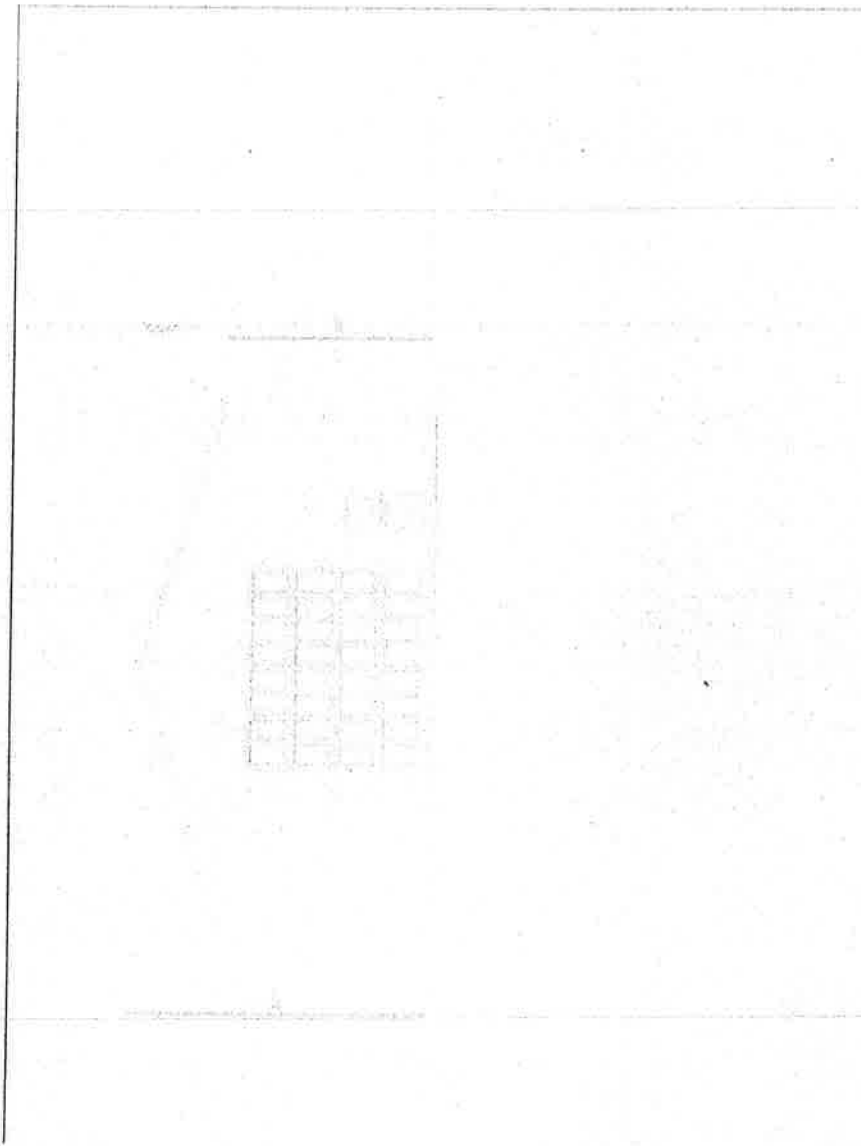
Elevations

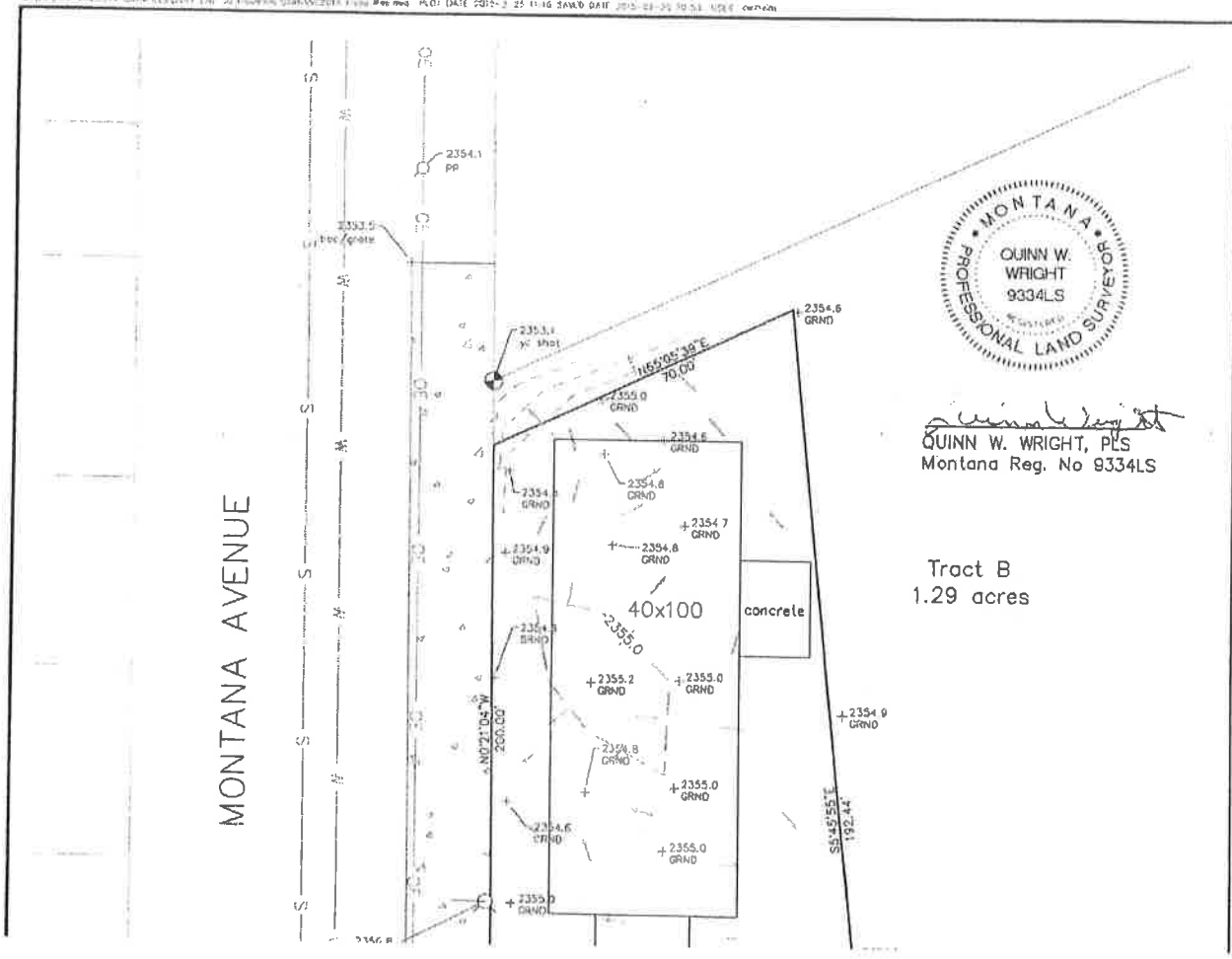
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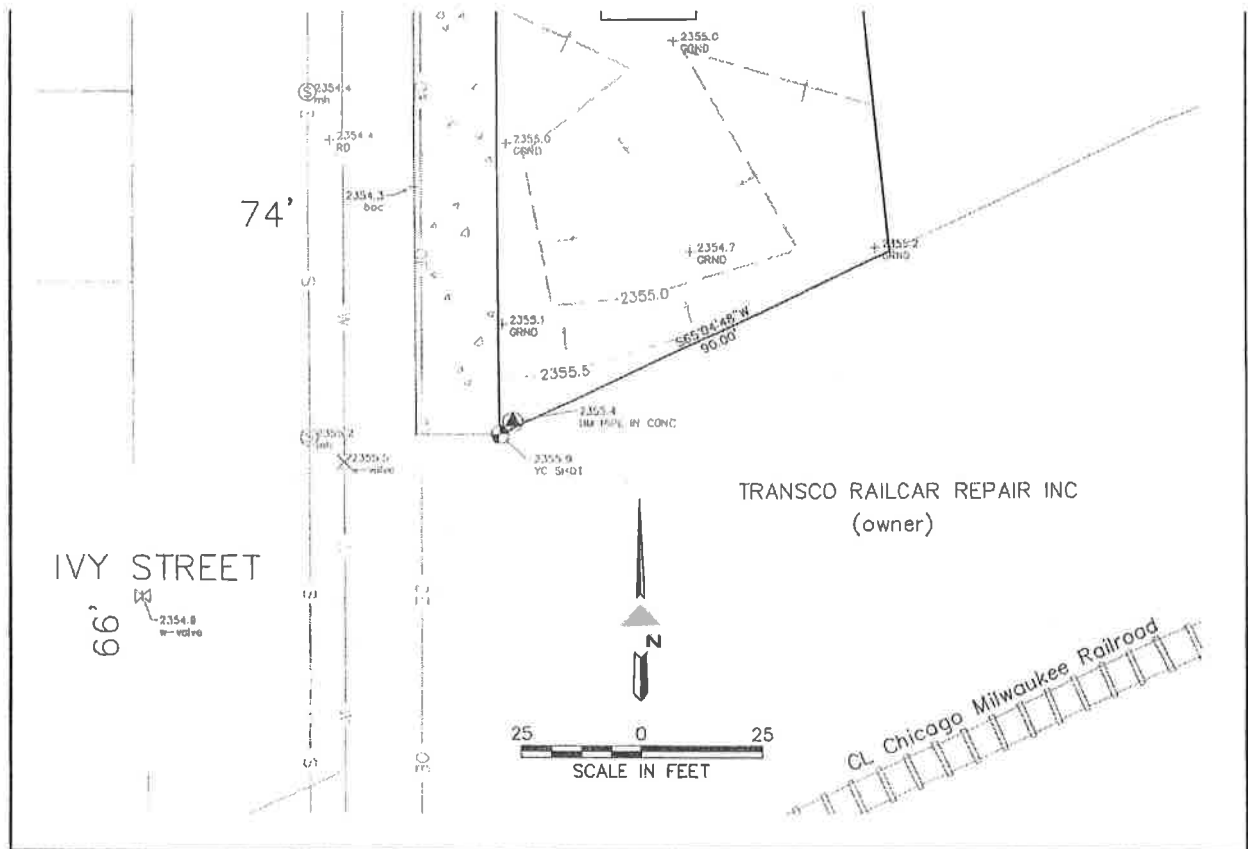
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Quinn W. Wright
QUINN W. WRIGHT, PLS
Montana Reg. No. 9334LS

Tract B
1.29 acres



Ingraham & Sons Site Plan
 Tract B, C.O.S. 144125, S.27, T.8N., R.47E., P.M.M.
 BFE=2354.4'

PROJECT	Misc. 2014
DATE	2/25/2015
FIGURE #1	

**Council Staff Report - Final
SPR-2015-02 Site Plan Review
Ingraham & Sons Shop
Meeting Date: March 24, 2015**

I. REVIEW PROCEDURE

This proposal requires Site Plan Review by the Miles City Planning Board and City Council under Section 24-96 of the Code of Ordinances (Ordinance No. 1258). The application was received on January 20, 2015. The application was deemed sufficient for review on March 2, 2015. The 60 day review period expires on May 1, 2015.

The Planning Board held a public hearing on March 17, 2015 at 6:00 PM in the City Hall Conference Room. The Planning Board did not send a recommendation for approval, conditional approval or denial to the City Council.

II. GENERAL INFORMATION

A. Project Applicant

Applicant:	Marc Ingraham Ingraham & Sons
Owner:	Marc Ingraham Ingraham & Sons 602 Orr St Miles City, MT 59301

B. Project Description

The applicant and owner propose to construct a new building on the property to serve as a maintenance shop and vehicle storage. The lot currently has no structures but is already in use as vehicle storage and staging. The proposed 40' by 100' building will be slab-on-grade construction (elevated with fill to BFE plus 6 inches).

C. Legal Description of Subject Property

Tract B is located in the SW1/4 of Section 27, Township 8 North, Range 47 East, filed as Document #144125 in Envelope 479A at the Custer County Courthouse.

D. Location

The project site is located on the east side of Montana Ave, near the intersection of Montana Ave and Ivy St, adjacent to the Transco Railcar Repair train tracks. See Figures 1 and 2.

Figure 1: Location of the subject property

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Ingraham & Sons Shop
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Figure 2: Looking northeast across the property from Montana Ave



E. Land Use & Zoning

Existing Land Use: The property is currently used for vehicle storage and staging.

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SPR-2015-02 Site Plan Review
Ingraham & Sons Shop
Meeting Date: March 24, 2015**

Proposed Land Use: Commercial shop for vehicle maintenance and storage.

Existing Zoning: General Commercial (GC).

Proposed Zoning: No change from GC.

F. Surrounding Land Use & Zoning

General Description: The property is surrounded by the GC District to the north, east, and south. A Residential A (RA) zone lies across Montana Ave to the west and across the railroad tracks to the south.

III. COMMENTS RECIEVED

Public Comment: Notice of the Planning Board's public hearing was satisfied according to Subsection 24-96(f)(6) of the city codes. The following comment was heard at the public hearing before the City Planning Board:

- David Bourn spoke in favor of the proposed project.

IV. SUBMITTAL REQUIREMENTS

The applicant is required to submit all of the materials listed in Subsection 24-96(e)(1) through (6). If it becomes apparent during review that a reasonable decision cannot be reached based on the existing submittal, the review period timeline will be suspended until the required information is submitted. If the required information is not submitted within 60 days, the application will be deemed expired.

***Finding # 1:** The applicant has submitted all of the required materials listed in 24-96(e)(1) through (6).*

V. EVALUATION CRITERIA PER SECTION 24-96

According to Subsection 24-96(g)(1), reviewers shall consider the applicant's plans to ensure safety of circulation patterns, emergency access/fire prevention measures, traffic impacts to the surrounding road network, adequate storm drainage, provisions for water, sewer, and other utilities, the city's historic preservation policies, and adequate parking. Plans shall also be reviewed to ensure they comply with other standards in the zoning regulations such as setbacks, height restrictions, signage, and design requirements.

All evaluation criteria are listed below. Following each criterion is a draft finding by the administrator in *italics* evaluating how the plans relate to the criterion:

1.1 Safety of circulation patterns

***Finding #2:** There is an existing driveway just north of the Transco tracks on Montana Ave serving as access the project site. Construction of the proposed building will improve the access and will have no impact on circulation patterns.*

1.2 Emergency access/fire prevention measures

***Finding #3:** Emergency access to the site and buildings will be the existing curb cut on Montana Ave. The site is of sufficient size to provide for easy access for emergency and fire equipment. A fire hydrant is currently located within 20 feet of the proposed building. Any fire department requirements, such as additional fire hydrants, access improvements, sprinkler systems, and other fire code requirements will be sufficiently addressed with a condition requiring fire department approval prior to occupancy.*

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1.3 Traffic impacts to the surrounding road network

***Finding #4:** The proposed building will not impact the surrounding road network as this business has been operating from the site for approximately seven years.*

1.4 Adequate storm drainage

***Finding #5:** French drains will detain storm water runoff from the west side of the building. Downspouts on the east side of the building will be directed to the easternmost portion of the property that has historically retained storm water without overflow onto neighboring properties. The applicant has submitted engineered, stamped drainage plans for the site.*

1.5 Provisions for water, sewer and utilities

***Finding #6:** The site has water and sewer available from Montana Ave. A power pole is located in the northwest corner of the property.*

1.6 The City's historic preservation policies

***Finding #7:** The proposed structure does not impact the City's historic preservation policies. The site is not located in a designated historic district and does not have a structure that is historic (50+ years old) or eligible for listing on the National Register of Historic Places.*

1.7 Adequate parking

***Finding #8:** The site is large enough (1.3 acres) to accommodate the parking requirements for the existing use. (Equipment parking and occasional visitors)*

In addition to Subsection 24-96(g)(1), Subsection 24-96(g)(2) adds the following criteria (following each criterion is a draft finding by the administrator in *italics*): No site plan application approval shall be given unless it is determined that:

- a. The use complies with all applicable regulations in the district in which it is located.

***Finding #9:** The proposal has been reviewed for compliance with the applicable regulations for the GC district, such as setbacks, height restrictions, signage, and design requirements. The use complies with all applicable regulations for this district. On October 30, 2014, the owner received a variance from the floodplain ordinance to construct the building at BFE +6 inches without floodproofing.*

- b. The use complies with all adopted regulations and policies.

***Finding #10:** There are no known conflicts with other adopted regulations and policies in the Miles City Code of Ordinances. Prior to occupancy the applicant must demonstrate compliance with Fire Codes and IBC 2012 Building Codes through the building permit process.*

- c. The use will not be detrimental to or endanger public health, safety or general welfare.

***Finding #11:** The proposed project is located in an established commercial area. If the previously discussed safety concerns of Miles City Fire Department and the local building inspector are adequately addressed, the proposal will have no detrimental effect on public health, safety or general welfare.*

- d. The existing and reasonably anticipated permitted uses in the area will not be substantially impaired or diminished by the establishment of the proposed use.

***Finding #12:** The proposed new business operation will not substantially impair or*

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SPR-2015-02 Site Plan Review
Ingraham & Sons Shop
Meeting Date: March 24, 2015**

diminish the permitted uses in this area as the property has been zoned for general commercial uses.

- e. Adequate utilities, access ways, drainage, and other necessary site improvement have been provided or ~~will be provided~~ prior to the use being initiated.

Finding #13: *All utilities, access ways, drainage and other site improvements will be required prior to the use being initiated. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on public streets.*

VI. RECOMMENDATION

Per Zoning Code 24-96(f)(8), the Planning Board "shall recommend approval, conditional approval or denial to the City Council...". However, the Planning Board voted (6-1) to send this application to Council without a recommendation or adopting the findings of fact.

Per Zoning Code 24-96(f)(10), "The City Council shall review the application and approve, approve with conditions, or deny the site plan application. The decision shall be based on the evaluation criteria in subsection (g) of the Ordinance. The City Council shall adopt finding of fact in support of its decision. The City Council may require conditions of approval designed to limit impacts to neighboring land uses and public facilities."

VII. CONDITIONS

Prior to occupancy, the developer shall demonstrate compliance with the following conditions:

Standard Conditions:

1. All site development and use of the property shall be in accordance with the Miles City Zoning Codes, the approved application and plans, and as discussed in Staff Report SPR 2015-02. Any modifications shall require additional review by the City of Miles City.

Site-Specific Conditions:

2. The owner or authorized representative shall obtain a Building Permit prior to start of construction. A permit is required for construction, additions, alterations, repairs, relocation, demolition, change of occupancy, or electrical, gas, mechanical or plumbing system projects. Exemptions are listed in IBC 2012 Section 105.2.
3. The owner shall submit a letter of review from the Miles City Fire Department indicating adequate fire protection plans have been developed and the department can adequately respond to emergencies at the facility. Any fire department requirements, such as fire hydrants, access plans/improvements, sprinkler systems, and other fire code requirements shall be approved by the fire department prior to occupancy.
4. The owner shall maintain adequate parking space for employees at a minimum of one space per employee and reasonably adequate spaces for visitor parking as required by Miles City Code of Ordinances for the General Commercial (GC) District Section 24-59(c)(6).
5. The water, sewer and other utilities connections shall be approved by the applicable service providers prior to construction.
6. Approved plans for adequate storm water drainage and a copy of a Municipal Facilities Exemption (MFE) from DEQ review shall be obtained prior to occupancy of the building.

Tract B, Ingraham & Sons New Shop
Custer County, MT

REQUIRED STORMWATER DETENTION VOLUME:

RELATIVE IMPERVIOUSNESS FACTORS:	(C Range)	(C Used)	
PAVED AREAS/STRUCTURES	(0.3-0.9)		0.9
GRAVELED AREAS	(0.15-0.8)		0.8
UNIMPROVED RANGELAND	(0.15-0.4)		0.3
LANDSCAPED (lawn, shrubs, trees)	(0.1-0.3)		0.1

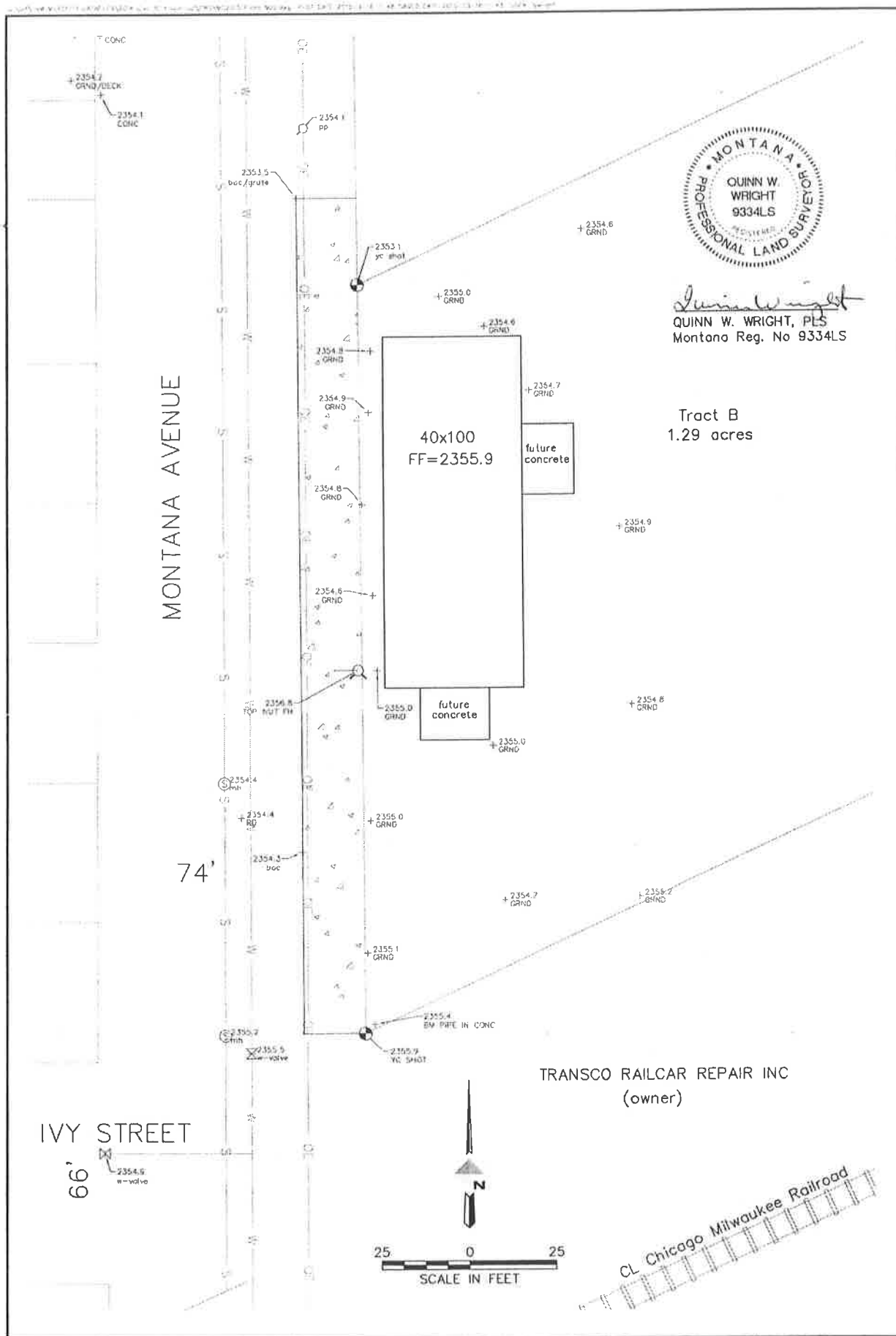
2 YEAR - 24 HOUR EVENT:	i	1.41 in/hr	Miles City
	T	3600 sec/yr	

NEW SITE LAYOUT		EXISTING SITE LAYOUT	
AREAS:	AREA (F12)	AREA (F12)	
TOTAL AREA OF WATERSHED	56192 sq. ft.		1.29 acres
PAVED AREAS/STRUCTURES	4600.00 sq. ft.	0.00 sq. ft.	0.00 acres
GRAVELED AREAS	10450.00 sq. ft.	14450.00 sq. ft.	0.33 acres
UNIMPROVED	41142.40 sq. ft.	41742.00 sq. ft.	0.96 acres
LANDSCAPED	0.00 sq. ft.	0.00 sq. ft.	0.00 acres
TOTAL	56192.40 sq. ft.	56192.00 sq. ft.	1.29 acres

VOLUMES REQUIRED:	Volume of runoff = (C*I*A)*T	Total Volume Difference = New Volume - Existing Volume
PAVED AREAS/STRUCTURES	482.43 C.F.	17.87 C.Y.
GRAVELED AREAS	974.18 C.F.	36.08 C.Y.
UNIMPROVED	1438.28 C.F.	53.27 C.Y.
LANDSCAPED	0.00 C.F.	0.00 C.Y.
TOTAL VOLUME	2894.88 C.F.	107.22 C.Y.
FLOW IN C.F.S.	0.80 C.F.S.	0.78 C.F.S.
TOTAL VOLUME DIFFERENCE	69 C.F.	3.28 C.Y.
TOTAL FLOW IN C.F.S.	0.0248 C.F.S.	

Assumptions	
Paved Area/Structure	4000 sq. ft./home
Landscaping	0 sq. ft./home
Graveled Areas	10450 sq. ft./home
Number of Homes in Zone	





Quinn W. Wright
 QUINN W. WRIGHT, PLS
 Montana Reg. No. 9334LS

Tract B
 1.29 acres

40x100
 FF=2355.9

future concrete

future concrete

TRANSCO RAILCAR REPAIR INC
 (owner)

IVY STREET

66'

MONTANA AVENUE

74'

25 0 25
 SCALE IN FEET

CL Chicago Milwaukee Railroad



Ingraham & Sons Site Plan
 Tract B, C.O.S. 144125, S.27, T.8N., R.47E., P.M.M.
 BFE=2354.4'

PROJECT Misc. 2014
 DATE 3/16/2015

FIGURE #1

ORDINANCE NO. 1287

AN ORDINANCE REVISING SECTION 24-6 THROUGH 24-10 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY, MONTANA, WITH RESPECT TO AMENDMENT OF ZONING CHAPTER OR DISTRICT MAP

WHEREAS, The City Council of the City of Miles City has determined that it is in the best interest of the City to revise the policy and procedure for amendment to the zoning chapter or zoning map. Therefore,

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

Section 1. Sections 24-6 through 24-10 shall be amended to read as follows:

“Sec. 24-6. – Amendments to chapter or district map. A landowner, contract purchaser or authorized agent of the owner may petition for the amendment of the zoning districts map and these regulations. The amendment procedure shall be as provided here and in 76-2-303 through 76-2-305, MCA. Amendments may also be initiated by the planning board, zoning commission, administrator, or city council, in which cases steps 1.a. and 1.b., below, will not be required.

1. Amendment Process

- a. The petitioner shall submit to the administrator a properly completed application form along with the required supporting materials, including a narrative evaluating the amendment request under the review criteria (see 2 below), the required application fee and a statement of interest. The statement of interest must include the applicant’s role in the project and the purpose of the request.
- b. The administrator or designee shall determine whether the application is complete and sufficient. When an application is determined incomplete or insufficient, the administrator shall provide written notice to the petitioner indicating what information must be submitted for the review to proceed.
- c. When the application is determined to be complete and sufficient, the administrator or designee shall place a hearing for the zoning amendment application on the agenda of the next regular zoning commission meeting for which the notice requirements can be met, and at which time allows for its proper consideration.
- d. The administrator or designee shall publish notice of the hearing in the official newspaper at least 15 but not more than 30 days before the hearing and post notice of the hearing on the subject property. The administrator or designee shall also mail

notice to all owners of land within 150 feet of the subject property. All notices shall include the time, date and location of the hearing and also where information on the application may be viewed.

- e. The administrator or designee shall prepare a report that describes the proposed amendment and how it complies, or fails to comply, with the amendment criteria below. The report may include a recommendation for approval, approval with modifications or denial.
- f. The zoning commission shall conduct a hearing on the proposed amendment. At the hearing, the zoning commission shall determine whether the proposed amendment meets the amendment criteria (except for procedural or administrative amendments). The zoning commission shall review the particular facts and circumstances of the proposed amendment and develop findings and conclusions that support its recommendation that the city council approve, approve with modifications, or disapprove the application accordingly. The zoning commission shall forward its recommendation in writing, including reasons for the recommendation, to the administrator within 10 days of the hearing.
- g. The zoning commission may table action on a proposed amendment, but for no more than 35 days.
- h. The administrator or designee shall convey the zoning commission's recommendation and public comments to the city council and, unless the application is withdrawn, place a hearing on the agenda of the next regular city council meeting for which public notice requirements can be met, and at which time allows for its proper consideration.
- i. Notice of the hearing shall be published in the official newspaper at least 15 but not more than 30 days before the hearing. The notice shall include the time, date and location of the hearing and also where information on the application may be viewed. For 30 days after the publication of the notice called for in this paragraph, the city council shall accept written protests and comments. Protests and comments received prior to close of business on the business day prior to the hearing shall be considered at such hearing. Subsequent protests and comments received within the 30 day period shall be considered by the city council during subsequent hearings, if subsequent hearings are held.
- j. City council shall conduct a hearing on the proposed amendment. At the hearing, the city council shall consider the recommendation of the zoning commission, the written record and testimony received, then approve, reject, or modify the amendment requested, and approve a first reading of the amendment in the form of a city ordinance, unless the proposed amendment is rejected. Action on the proposed amendment may be tabled, but for no more than 35 days. In no case shall the city council approve an amendment for a classification other than the one advertised. If the proposed amendment is rejected, the administrator or designee shall notify the applicant of the same within 10 days, in writing.

- k. Upon passage of the first reading of an ordinance to amend the zoning map or these regulations, city council shall publish notice once per week for 2 weeks in the official newspaper.
 - l. As provided in 76-2-305(2), MCA an amendment to the zoning ordinance may not become effective except upon favorable vote of two-thirds of the present and voting members of the city council if a protest against a change is signed by the owners of 25% or more of:
 - i. The area of the lots included in the proposed change; or
 - ii. Those lots 150 feet from a lot included in a proposed change.
 - m. Within 30 days of the expiration of the protest period, the city council may adopt the amendment upon approval of the second reading of an ordinance adopting the amendment if the requirements of this section are complied with.
 - n. At the conclusion of the amendment process, the administrator or designee shall notify the petitioner and interested parties who have specifically requested such notice of the city council decision within 10 days, in writing.
2. Amendment Criteria. (These criteria do not apply to procedural or administrative changes)
- a. Zoning amendments shall be made:
 - i. In substantial conformance with the growth policy;
 - ii. To secure safety from fire and other dangers;
 - iii. To promote public health, safety, and general welfare; and
 - iv. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
 - b. In reviewing and making recommendations or decisions on zoning amendments, the administrator, board, and city council shall also consider:
 - i. The provision of adequate light and air;
 - ii. The effect on motorized and non-motorized transportation systems;
 - iii. The promotion of compatible urban growth;
 - iv. The character of the district, and its peculiar suitability for particular uses;
 - v. Conserving the value of buildings;
 - vi. Encouraging the most appropriate use of the land;

vii. Whether the proposal might be considered illegal spot zoning. Factors to be considered include whether the proposed land use is significantly different from the prevailing use in the area; whether the area of the proposed zone change is relatively small not only in terms of acreage, but from the perspective of the number of separate landowners who would benefit from the proposed change; and whether the change would amount to special legislation designed to benefit only one or a few landowners at the expense of the surrounding landowners or general public. In order for spot zoning to be considered illegal, all three of the factors must be present.

c. Other criteria include whether the amendment:

i. Corrects an inconsistency in the zoning; and

ii. Addresses changing conditions or furthers a specific public challenge such as the need for affordable housing, economic development, mixed use development or sustainable environmental features.

Sec. 24-7. – Reserved

Sec. 24-8. – Reserved

Sec. 24-9. – Reserved

Sec. 24-10. – Reserved

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

Said Ordinance read and put on its passage this _____ day of _____, 2015.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

FINALLY PASSED AND ADOPTED this _____ day of _____, 2015.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

ORD #1287

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

March 12, 2015

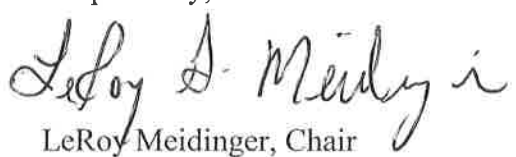
Mayor Grenz and City Council,

RE: Proposed Amendment Text to Clarify the Zoning Code Process

The Miles City Zoning Commission conducted its public hearing on March 11, 2015 to consider the attached proposed amendment to clarify the zoning code process. After reviewing comments from the public hearing, the Zoning Commission recommends approval of the amendment.

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

Respectfully,



LeRoy Meidinger, Chair
Zoning Commission

MEMORANDUM

To: Miles City Zoning Commission

From: Dave DeGrandpre, AICP

Copy: Dan Rice, Scott Gray, Dennis Hirsch, Dawn Colton and Dianna Larson

Date: January 31, 2015

Re: Proposed zoning amendment text

This memorandum is an update to the zoning amendment text memorandum dated December 16, 2014. The only substantive change is additional information on page 6 concerning how to evaluate a zoning amendment for illegal spot zoning, as requested at the January 28, 2015 Zoning Commission meeting.

Zoning maps and regulations are intended provide a consistent and legally enforceable set of approved land uses, development standards and permitting procedures throughout a community. However, over time the character of some districts evolves, the land use and development needs of a community change, and state law and court decisions periodically require zoning maps and regulations to be modified. Because of these changing circumstances, and because of the high stakes involved in land use decisions, it is important to have clear and concise rules for how amendments to zoning maps and regulations are carried out.

During the past several months a number of applicants have requested changes to the zoning designations of their properties. There has been some concern among Miles City legal and community services staff that the current, applicable sections of the Miles City Code of Ordinances lack specificity and clarity with regard to how zoning amendments are processed. In response, we have worked together to draft revised zoning amendment text for your consideration. The proposed text is a bit more detailed, includes criteria for evaluating an amendment request, and we feel it more accurately describes how the amendment process is carried out. Below are the existing applicable sections of the Miles City Code of Ordinances and proposed text for your consideration.

EXISTING AMENDMENT TEXT

Sec. 24-6. - Amendment of chapter or district map—Generally.

The city council may, from time to time, amend this chapter by supplementing, changing, modifying or repealing any of the regulations, restrictions or other provisions hereof, or the district map, or the districts on said map or the boundaries of such districts. A proposed amendment may be initiated by the city council upon its own motion or upon receipt of a request from the zoning commission or the

planning commission, or upon receipt of a petition therefor from any interested person or persons or their agents.

(Code 1981, § 11.02.140) State law reference— Alteration of zoning regulations, protests, MCA 76-2-305.

Sec. 24-7. - Same—Application.

The application shall include:

- (1) Name and address of applicant.
- (2) Date of application.
- (3) The applicant's statement of interest.
- (4) The present zoning district designation and the proposed designation.
- (5) Names and addresses of property owners who are within 150 feet, excluding the width of the streets, of the property for which the zoning district boundary change is being requested.
- (6) A fee adopted by council to cover the costs of clerical work, advertising, posting of notices, publication, and other administrative expenses, shall be deposited with the city clerk. The money collected from this source will be deposited in the general fund.

(Code 1981, § 11.02.150; Ord. No. 883, § 1, 2-24-81; Ord. No. 931, § 1, 6-12-84; Ord. No. 1092, § 1, 4-14-98; Ord. No. 1252, § 3, 6-11-13)

Sec. 24-8. - Same—Hearing; recommendation to council.

- (a) The applicant shall file the application with the planning department.
- (b) The planning department shall present the application to the city zoning commission.
- (c) The city zoning commission shall hold a public hearing and set a time, place and date for such public hearing.
 - (1) The planning department shall notify the applicant of the hearing.
 - (2) Notice of the hearing shall be published at least 15 days prior to said hearing in the official newspaper of the city.
 - (3) Notice of the hearing shall be sent to the adjacent property owners and may be posted on the affected site.
- (d) Following the public hearing, the zoning commission shall submit its recommendations concerning the proposed amendment to the city council.
- (e) Upon receipt of the zoning commission's recommendations, the city council shall set a hearing date for the proposed amendment.
 - (1) The city clerk shall notify the applicant of the hearing.
 - (2) Notice of the hearing shall be published at least 15 days prior to said hearing in the official newspaper of the city.
 - (3) Notice of the hearing shall be sent to the adjacent property owners and may be posted on the affected site.

(Code 1981, § 11.02.160; Ord. No. 883, § 1, 2-24-81; Ord. No. 924, §§ 1, 2, 11-8-83; Ord. No. 1219, § 52, 4-26-11; Ord. No. 1252, § 4, 6-11-13)

Sec. 24-9. - Same—Protests.

- (a) If a protest against an amendment is signed by the owners of 20 percent or more either:
 - (1) Of the area of the lots included in such proposed change;

- (2) Of those immediately adjacent in the rear thereof extending 150 feet therefrom;
 - (3) Of those adjacent on either side thereof within the same block; or
 - (4) Of those directly opposite thereof extending 150 feet from the street frontage of such opposite lots; then such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the city council.
- (b) A public hearing shall be held on all protests to amendments, as per state law.
 - (c) At least ten days' notice of the time and place of the hearing shall be published in the official newspaper of the city.
 - (d) All protests to amendments shall be filed in writing with the city clerk prior to the time set for the hearing.

(Code 1981, § 11.02.170; Ord. No. 883, § 1, 2-24-81; Ord. No. 924, § 3, 11-8-83; Ord. No. 1219, § 53, 4-26-11)

Sec. 24-10. - Same—Final action by council.

Final action shall be taken by the city council, which shall approve, conditionally approve or disapprove the action. The initiating petitioner shall be advised of the decision in writing within 15 days following the decision.

Sec. 24-87. - Duties of zoning commission.

The duties of the zoning commission are as follows:

- (1) Recommend the zoning affairs of the city.
- (2) Make a preliminary report to the city council on zoning recommendations.
- (3) Conduct hearings on zoning amendments.
- (4) Submit a final report to the city council on zoning recommendations.
- (5) Establish procedures necessary for the submission of applications, notice of zoning hearings and setting and accounting for fees.
- (6) Issue certificates of zoning compliance upon request.
- (7) Issue certificates of zoning noncompliance upon a zoning change.

(Code 1981, § 11.06.020)

PROPOSED AMENDMENT TEXT

Amendments. A landowner, contract purchaser or authorized agent of the owner may petition for the amendment of the zoning districts map and these regulations. The amendment procedure shall be as provided here and in 76-2-303 through 76-2-305, MCA. Amendments may also be initiated by the planning board, zoning commission, administrator, or city council, in which cases steps 1.a. and 1.b., below, will not be required.

1. Amendment Process

- a. The petitioner shall submit to the administrator a properly completed application form along with the required supporting materials, including a narrative evaluating the amendment request under the review criteria (see 2 below), the required application fee and a statement of interest. The statement of interest must include the applicant's role in the project and the purpose of the request.

- b. The administrator or designee shall determine whether the application is complete and sufficient. When an application is determined incomplete or insufficient, the administrator shall provide written notice to the petitioner indicating what information must be submitted for the review to proceed.
- c. When the application is determined to be complete and sufficient, the administrator or designee shall place a ~~hearing for~~ the zoning amendment application on the agenda of the next regular zoning commission meeting for which the notice requirements ~~can~~ be met, and at which time allows for its proper consideration.
- d. The administrator or designee shall publish notice of the hearing ~~in~~ the official newspaper at least 15 but not more than 30 days before the hearing and ~~post~~ notice of the hearing on the subject property. The administrator or designee shall also mail ~~notice~~ to all owners of land within 150 feet of the subject property. All notices shall include ~~the time, date and location of the hearing and also where information on the application may be viewed.~~
- e. The administrator or designee shall prepare a report that ~~describes~~ the proposed amendment and how it complies, or fails to comply, with the amendment ~~criteria~~ below. The report may include a recommendation for approval, approval with ~~modifications~~ or denial.
- f. The zoning commission shall conduct a hearing on the ~~proposed~~ amendment. At the hearing, the zoning commission shall determine whether the ~~proposed~~ amendment meets the amendment criteria (except for procedural or ~~administrative~~ amendments). The zoning commission shall review the particular facts and circumstances ~~of the~~ proposed amendment and develop findings and conclusions that support its recommendation ~~that the city council approve, approve with modifications, or disapprove the application accordingly.~~ The zoning commission shall forward its recommendation in writing, including reasons for the recommendation, to the administrator within 10 days of the hearing.
- g. The zoning commission may table action on a proposed amendment, but for no more than 35 days.
- h. The administrator or designee shall convey the zoning commission's recommendation and public comments to the city council and, unless the application is ~~withdrawn~~, place a hearing on the agenda of the next regular city council meeting for which ~~public notice requirements can be met,~~ and at which time allows for its proper consideration.
- i. Notice of the hearing shall be published in the official newspaper at least 15 but not more than 30 days before the hearing. The notice shall include the time, date and location of the hearing and also where information on the application may be viewed. For 30 days after the publication of the notice called for in this paragraph, the city council shall accept written protests and comments. Protests and comments received prior to close of business on the business day prior to the hearing shall be considered at such hearing. Subsequent protests and comments received within the 30 day period shall be considered by the city council during subsequent hearings, if subsequent hearings are held.
- j. City council shall conduct a hearing on the proposed amendment. At the hearing, the city council shall consider the recommendation of the zoning commission, the written record and testimony

received, then approve, reject, or modify the amendment requested, and approve a first reading of the amendment in the form of a city ordinance, unless the proposed amendment is rejected. Action on the proposed amendment may be tabled, but for no more than 35 days. In no case shall the city council approve an amendment for a classification other than the one advertised. If the proposed amendment is rejected, the administrator or designee shall notify the applicant of the same within 10 days, in writing.

- k. Upon passage of the first reading of an ordinance to amend the zoning map or these regulations, city council shall publish notice once per week for 2 weeks in the official newspaper.
 - l. As provided in 76-2-305(2), MCA an amendment to the zoning ordinance may not become effective except upon favorable vote of two-thirds of the present and voting members of the city council if a protest against a change is signed by the owners of 25% or more of:
 - i. The area of the lots included in the proposed change; or
 - ii. Those lots 150 feet from a lot included in a proposed change.
 - m. Within 30 days of the expiration of the protest period, the city council may adopt the amendment upon approval of the second reading of an ordinance adopting the amendment if the requirements of this section are complied with.
 - n. At the conclusion of the amendment process, the administrator or designee shall notify the petitioner and interested parties who have specifically requested such notice of the city council decision within 10 days, in writing.
2. Amendment Criteria. (These criteria do not apply to procedural or administrative changes)
- a. Zoning amendments shall be made:
 - i. In substantial conformance with the growth policy;
 - ii. To secure safety from fire and other dangers;
 - iii. To promote public health, safety, and general welfare; and
 - iv. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
 - b. In reviewing and making recommendations or decisions on zoning amendments, the administrator, board, and city council shall also consider:
 - i. The provision of adequate light and air;
 - ii. The effect on motorized and non-motorized transportation systems;
 - iii. The promotion of compatible urban growth;

- iv. The character of the district, and its peculiar suitability for particular uses;
 - v. Conserving the value of buildings;
 - vi. Encouraging the most appropriate use of the land;
 - vii. Whether the proposal might be considered illegal spot zoning. Factors to be considered include whether the proposed land use is significantly different from the prevailing use in the area; whether the area of the proposed zone change is relatively small not only in terms of acreage, but from the perspective of the number of separate landowners who would benefit from the proposed change; and whether the change would amount to special legislation designed to benefit only one or a few landowners at the expense of the surrounding landowners or general public. In order for spot zoning to be considered illegal, all three of the factors must be present.
- c. Other criteria include whether the amendment:
- i. Corrects an inconsistency in the zoning; and
 - ii. Addresses changing conditions or furthers a specific public challenge such as the need for affordable housing, economic development, mixed use development or sustainable environmental features.

ORDINANCE NO. 1288

AN ORDINANCE REVISING SECTION 24-164 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY, MONTANA, WITH RESPECT TO COMPENSATION OF MEMBERS OF THE BOARD OF ADJUSTMENT

The City Council of the City of Miles City has determined that the members of the board of adjustment shall be entitled to receive compensation for serving on such board, as authorized by Section B101.2.7 of the 2012 International Building Code. Therefore:

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

Section 1. Section 24-164 shall be amended to include the following additional provision:

“Sec. 24-164. – Board of adjustment.

...

(f) Each member of the board of appeals shall be paid \$25.00 per day for each day of a meeting of the board of appeals that such member attends in an official capacity.

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

Said Ordinance read and put on its passage this 24th day of March, 2015.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

FINALLY PASSED AND ADOPTED this ____ day of _____, 2015.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

Intro for
Ord 1288

APPENDIX B
BOARD OF APPEALS

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

**SECTION B101
GENERAL**

B101.1 Application. The application for appeal shall be filed on a form obtained from the *building official* within 20 days after the notice was served.

B101.2 Membership of board. The board of appeals shall consist of persons appointed by the chief appointing authority as follows:

1. One for five years; one for four years; one for three years; one for two years; and one for one year.
2. Thereafter, each new member shall serve for five years or until a successor has been appointed.

The *building official* shall be an ex officio member of said board but shall have no vote on any matter before the board.

B101.2.1 Alternate members. The chief appointing authority shall appoint two alternate members who shall be called by the board chairperson to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership and shall be appointed for five years, or until a successor has been appointed.

B101.2.2 Qualifications. The board of appeals shall consist of five individuals, one from each of the following professions or disciplines:

1. Registered design professional with architectural experience or a builder or superintendent of building construction with at least ten years' experience, five of which shall have been in responsible charge of work.
2. Registered design professional with structural engineering experience.
3. Registered design professional with mechanical and plumbing engineering experience or a mechanical contractor with at least ten years' experience, five of which shall have been in responsible charge of work.
4. Registered design professional with electrical engineering experience or an electrical contractor with at least ten years' experience, five of which shall have been in responsible charge of work.
5. Registered design professional with fire protection engineering experience or a fire protection contractor with at least ten years' experience, five of which shall have been in responsible charge of work.

B101.2.3 Rules and procedures. The board is authorized to establish policies and procedures necessary to carry out its duties.

B101.2.4 Chairperson. The board shall annually select one of its members to serve as chairperson.

B101.2.5 Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

B101.2.6 Secretary. The chief administrative officer shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

*** B101.2.7 Compensation of members.** Compensation of members shall be determined by law.

B101.3 Notice of meeting. The board shall meet upon notice from the chairperson, within 10 days of the filing of an appeal or at stated periodic meetings.

B101.3.1 Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the building official and any person whose interests are affected shall be given an opportunity to be heard.

B101.3.2 Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

B101.3.3 Postponed hearing. When five members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

B101.4 Board decision. The board shall modify or reverse the decision of the *building official* by a concurring vote of two-thirds of its members.

B101.4.1 Resolution. The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the *building official*.

B101.4.2 Administration. The *building official* shall take immediate action in accordance with the decision of the board.

*Into
for Ord
1288*

24.301.203 FUNDING OF CODE ENFORCEMENT PROGRAM (1) The establishment of permit fees shall be left to the city, county, or town. A list of current permit fees must be submitted to the department when the fees are first established or subsequently amended.

(2) Permit fees must only be used for those costs related to building code enforcement activities, except for the building codes education fund as provided in 50-60-116, MCA, with building codes being only those codes adopted by the department in subchapters 1, 3, 4 and 15 of ARM Title 24, chapter 301. It is not intended that permit fees be used to support fire departments, planning, zoning or other activities, except to the extent that employees in those programs provide direct plan review, inspection or other building code enforcement services for the city, county, or town's building code enforcement programs.

(3) Costs related to building code enforcement activities include:

(a) those necessary and reasonable costs directly related and specifically identifiable to the enforcement of codes adopted by the city, county, or town as provided by 50-60-302, MCA; and

(b) a proportionate share of the city, county, or town's indirect costs, which are those costs incurred for common or joint purposes that benefit more than one program or activity. Indirect costs shall be treated as provided by 50-60-106(2)(g)(i), MCA.

(4) The cities, counties, and towns must maintain a system and adequate records to:

(a) document that permit fees are only used for those costs related to building code enforcement activities, as defined in (2) and (3) above;

(b) document the amount by which revenues from permit fees differs from the costs related to building code enforcement activities each year;

(c) document the amount maintained as a reserve and the percentage of the costs of building code enforcement activities that the reserve represents;

(d) document that any reserve is utilized only for the cost of building code enforcement activities; and

(e) document that permit fees were reduced as required in (5) in the event the reserve exceeds the maximum reserve allowed in (5).

RESOLUTION NO. 3788

A RESOLUTION CREATING A LEAVE ADMINISTRATION POLICY WITHIN THE CITY OF MILES CITY PERSONNEL POLICIES

WHEREAS, the City of Miles City has established certain personnel policies for officers and employees of the City of Miles City, which are set forth in the City of Miles City Personnel Manual;

AND WHEREAS, the City wishes to adopt a new policy regarding the administration of employee leave;

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

1. That the policy titled "Leave Administration" attached hereto as Exhibit "A" and made a part hereof, is hereby adopted by the Council, and shall be placed in the City of Miles City Personnel Policy Manual.
2. The foregoing policy shall become effective immediately upon the passage of this resolution.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 24th DAY OF MARCH, 2015.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk


EXHIBIT "A"

SECTION 5

Leave Administration



City of Miles City

 <p style="text-align: center;">CITY OF MILES CITY PERSONNEL POLICY</p>	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Vacation Leave		
Resolution #		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

PURPOSE

The City of Miles City believes that vacation time is earned based upon years of service and is an important benefit to City employees.

POLICY

It is the policy of the City of Miles City to administer and grant annual vacation leave in accordance with Title 2, Chapter 18, Part 6 of the Montana Code Annotated.

- A. Eligible Employees:** Employees who have by statute met the six (6) month qualifying period and are considered:
 1. Regular Full-Time Employees;
 2. Regular Part-Time Employees (hours earned pro-rated);
 3. Temporary Full-Time Employees;
 4. Temporary Part-Time Employees (hours earned pro-rated);
 5. Seasonal Employees (hours earned pro-rated).
 - Short term employees do not earn leave or time toward the rate earned.

Employees must be employed with the City of Miles City for six (6) consecutive or qualifying months before the employee can use earned vacation. Part-time employees are entitled to pro-rated vacation benefits if they have regularly scheduled work assignments and have worked six (6) consecutive months.

- B. Vacation Leave Credits:** The earned number of vacation hours an employee is eligible to use upon completion of the qualifying period.

PROCEDURE

A. Calculation of Vacation Leave Credits:

Vacation leave credits shall be earned at a yearly rate calculated in accordance with the following schedule, in which one (1) year equals 2,080 hours of work:

VACATION RATE EARNED SCHEDULE		
YEARS OF SERVICE	VACATION HOURS PER YEAR	WORKING DAYS CREDIT PER YEAR
1 day up to 10 years	120 hours	15
10 years up to 15 years	144 hours	18
15 years up to 20 years	168 hours	21
20 years or more	192 hours	24

*Overtime hours are not counted in the calculation of vacation credits earned.

B. Rules Applied to Vacation Leave:

- Employees begin earning leave credits the first day of employment.
- Vacation leave credits earned are credited at the end of each pay period.
- No vacation time leave with pay shall be granted in advance of credits earned.
- An employee may not accrue vacation leave credits while in a leave-without pay status.
- An employee must continuously be employed for the qualifying period of six (6) months to be eligible to take or receive cash compensation for vacation leave upon termination.
- An employee is only required to serve the qualifying period once.
 - However, in the event of a break in service, an employee must again complete the qualifying period to be eligible to use vacation leave.
- Seasonal employment: accrued vacation leave credits may be carried over to the next season. If annual vacation leave credits are carried over, employment in two (2) or more seasons is continuous employment and can be counted toward the six (6) month qualifying period.
- Vacation leave taken over a holiday may not be charged to an employee's vacation leave for that day.

C. Vacation Leave Requests:

Prior to the date of requested leave, employees will submit all vacation leave requests on a "Leave Time Authorization" form to their Department Director for approval.

The dates when employee's vacation leave shall be granted shall be determined by agreement between each employee and his or her Department Director, with regard to the best interest of the City, as well as the best interests of each employee. Where the interest of the City requires the employee's attendance, the City's best interest overrides the employee's interest.

D. Transferred Employees:

If an employee is transferred between departments, the employee will not be entitled to a lump sum pay for accrued vacation leave credits. The department receiving the transferred employee shall assume the liability for the accrued vacation credits earned.

E. Prior Service with another Montana Agency:

To be eligible to ~~claim prior employment~~ employment hours from another Montana Agency (meaning any legally-constituted department, board or commission of State, County, or City Government or any political subdivision thereof), towards an employee’s vacation accrual rate, an employee must fill out a “Certification of Prior Employment Hours for Annual Vacation Leave Rate Earned” form and submit it to the Human Resources/Payroll Office.

F. Leave of Absence:

If an employee who has not worked the qualifying period required for use of annual vacation leave takes an approved continuous leave of absence without pay exceeding fifteen (15) working days, the amount of time on leave of absence will not count toward completion of the qualifying period.

A leave of absence exceeding fifteen (15) days is not a break in service and the employee will not lose any accrued annual leave credits or lose credit for time earned toward the qualifying period.

An approved continuous leave of absence without pay of fifteen working days or less will be counted as time earned toward the 6 (six) month qualifying period.

CLOSING

A. “Use it or Lose it”:

The maximum accumulation of vacation leave allowed is twice the number of days the employee earns annually as of the end of the first pay period of the next calendar year. Excess vacation time is not forfeited if taken within ninety (90) days from the last day of the calendar year in which the excess was accrued. (March 31st)

Max Vacation Hours prior to “Use it or Lose it”		
YEARS OF SERVICE	VACATION HOURS PER YEAR	MAX ACCUMLATION OF VACATION HOURS
1 day up to 10 years	120 hours	240 hours
10 years up to 15 years	144 hours	288 hours
15 years up to 20 years	168 hours	336 hours
20 years or more	192 hours	384 hours


Department Directors are responsible for actively managing vacation leave for department employees by providing reasonable opportunity for an employee to use, rather than forfeit, accumulated vacation leave. Directors are encouraged to work with an employee who has an excess vacation leave balance as early as possible in the ninety (90) day window (or at any time

the employee's leave balance exceeds two (2) times the annual vacation accrual rate) in order to allow the employee to avoid forfeiture of excess leave.

- ✓ Department Directors will receive "Vacation Accrual" reports every payroll cycle.
- ✓ The Human Resources/Payroll Office will send out "Use it or Lose It" notices to all employees with excess vacation time, with a copy to and their Directors, on or before December 1st.

B. Lump Sum Payment Upon Separation:

Upon separation from the City, an employee who has worked the qualifying period, will receive a lump sum payment of the pay attributed to unused vacation leave. The payment will be computed at the employee's rate of compensation at the time of termination.

 <p style="text-align: center;">CITY OF MILES CITY PERSONNEL POLICY</p>	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Sick Leave		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

PURPOSE

The City of Miles City believes that sick leave is earned based upon months of service, and is an important benefit to City employees.

POLICY

It is the policy of the City of Miles City to administer and grant sick leave in accordance with Title 2, Chapter 18, Part 618 of the Montana Code Annotated.

A. Eligible Employees: Employees who have by statute met the ninety (90) day qualifying period and are considered:

1. Regular Full-Time Employees;
2. Regular Part-Time Employees (hours earned pro-rata);
3. Temporary Full-Time Employees;
4. Temporary Part-Time Employees (hours earned pro-rata);
5. Seasonal Employees (hours earned pro-rata).

- Short term employees do not earn leave or time toward the rate earned.

C. Sick Leave Credits: The earned number of sick leave hours an employee is eligible to use upon completion of the qualifying period.

PROCEDURE

A. Conditions of Use of Sick Leave:

- Illness;
- Injury;
- Medical disability;
- Maternity-related disability: including prenatal care, birth, miscarriage or other medical care for either employee, child or spouse;
- Parental Leave;
- Quarantine resulting from exposure to contagious disease;
- Medical, dental or eye examination or treatment;
- Necessary care or attendance to an immediate family member (or, at the Department Director's discretion, another relative) for the above reasons until other attendance can reasonably be obtained; and
- Death or funeral attendance for an immediate family member or, at the Department Director's discretion, another person.

B. Calculation of Sick Leave Credits:

Sick leave credits shall be earned at a yearly rate calculated in accordance with the following schedule, in which one (1) year equals 2,080 hours of work.

C. Rules Applied to Sick Leave:

- Employees begin earning leave credits the first day of employment.
- Full-time employees earn sick leave at a rate of eight (8) hours per month.
- Part time employees earn sick leave on a pro-rated basis, depending on how many hours are worked.
- Sick leave credits earned are credited at the end of each pay period.
- No sick time leave with pay shall be granted in advance of credits earned.
- An employee may not accrue sick leave credits while in a leave-without-pay status.
- An employee must continuously be employed for the qualifying period of three (3) months to be eligible to take or receive cash compensation for sick leave upon termination.
 - Cash compensation pay-out for unused sick leave is equal to one-fourth the accumulated sick leave credits.
- An employee is only required to serve the qualifying period once.
 - However, in the event of a break in service, an employee must again complete the qualifying period to be eligible to use sick leave.
- Seasonal employment: accrued sick leave credits may be carried over to the next season, or paid out as a lump-sum when the season is over, provided the employee has served the qualifying time.
- There is no restriction as to the number of hours of sick leave credits that may be accumulated, nor to the number of accrued sick leave credits that may be used for a bona fide employee illness or disability.
- Sick leave taken over a holiday may not be charged to an employee's sick leave for that day.

D. Sick Leave Requests:

An employee shall notify his or her Supervisor and/or Department Director of the need to use sick leave as soon as possible prior to the commencement of his or her shift, or as soon as possible thereafter in the case of an emergency.

Employees will submit all sick leave requests on a "Leave Time Authorization" form to their Department Directors as soon as they return.

E. Sick Leave in Excess of Three (3) Continuous Working Days:

- A diagnosis of sickness from a qualified doctor may be requested by the employee's Department Director for any sick leave in excess of three (3) continuous working days.
→ Sick leave records will be forwarded to the Human Resource/Payroll Office to be filed in the employee's confidential medical file.
- At the City of Miles City request and expense, an employee may be subject to an examination by a physician following a sick leave or other absence occasioned by illness or injury to ensure that the employee can complete the necessary functions of the position.

F. Transferred Employees:

If an employee is transferred between departments, the employee will not be entitled to a lump sum payout for accrued sick leave credits. The department receiving the transferred employee shall assume the liability for the accrued sick credits earned.

G. Sick Leave Substituted for Annual Leave:

At the Department Director's discretion, an employee who experiences an appropriate use of sick leave as defined in the policy while taking approved vacation leave may be allowed to substitute accrued sick leave credits for vacation leave credits.

G. Leave of Absence:

If an employee who has not worked the required qualifying period for use of sick leave and takes an approved continuous leave of absence without pay exceeding fifteen (15) working days, the amount of time for the leave of absence will not count toward completion of the qualifying period.

A leave of absence exceeding fifteen (15) days is not a break in service and the employee will not lose any accrued sick leave credits or lose credit for time earned toward the qualifying period.

An approved continuous leave of absence without pay of fifteen working days or less will be counted as time earned toward the 3 (three) month qualifying period.

H. Abuse of Sick Leave:


The Department Director has the responsibility to monitor the use of sick leave in his or her department.

- Misrepresentation of the actual reason for charging an absence to sick leave, or chronic, persistent or patterned use of sick leave, constitutes abuse of the sick leave benefit. Abuse is subject to progressive discipline, up to termination and forfeiture of the lump sum payment.
- Absences improperly charged to sick leave may, at the City's discretion, be charged to available compensatory time or leave without pay. Annual leave may be used at the mutual agreement of the employee and the City.

CLOSING

A. Lump Sum Payment Upon Separation:

Upon separation from the City, an employee who has worked the qualifying period will receive a lump sum payment equal to one-fourth of the pay attributed to unused sick leave. The payment will be computed at the employee's rate of compensation at the time of termination.

 <p style="text-align: center;">CITY OF MILES CITY PERSONNEL POLICY</p>	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Holiday Leave		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

PURPOSE

The City of Miles City believes that Legal State holidays are an important benefit to City employees.

POLICY

It is the policy of the City of Miles City to observe the following Legal State holidays:

Legal State Holiday	Date
New Year’s Day	January 1 st
Martin Luther King Day	Third Monday in January
President’s Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 th
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veteran’s Day	November 11 th
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25 th
Every day in which a General Election is held throughout the State of Montana	

If any of the above holidays fall on a Sunday, the following Monday is a holiday. If the holiday falls on a Saturday, the preceding Friday is a holiday.


PROCEDURE

A. Holiday Benefits and Eligibility Requirements:

1. An employee shall receive holiday benefits and pay for work performed on the day the holiday is observed, unless the employee is scheduled or required to work on the actual holiday. If the employee is scheduled or required to work on the actual holiday, the actual holiday shall be considered as the holiday for purposes of calculating holiday benefits and pay for work performed on a holiday. The employee will receive either holiday benefits for working on the day the holiday is observed or for working on the actual holiday, but not both.
2. All full-time regular or seasonal status employees shall receive regular scheduled work hours off with pay for days observed as legal holidays or authorized proclaimed workdays off, provided they are in an active pay status on either the last regularly scheduled working day prior to the holiday or the first regularly scheduled working day after the holiday. Employees whose first day of work is the day after a holiday are not eligible for holiday pay. If an employee's last day of work is the day before a holiday he or she will not receive holiday pay.
3. All part-time regular or seasonal status employees shall receive holiday pay on the following prorated basis:
 - Average less than 20 hours per week in previous pay period = 2 hours
 - Average 20-24 hours per week in previous pay period = 4 hours
 - Average 25-29 hours per week in previous pay period = 5 hours
 - Average 30-34 hours per week in previous pay period = 6 hours
 - Average 35-39 hours per week in previous pay period = 7 hours
4. A short-term worker is not eligible to receive holiday benefits.
5. Non-Exempt employees who are called to work or required to work by their Directors on a legal holiday for which they would regularly be scheduled a day off with pay, shall be eligible to receive payment at a rate of one and one half times their normal pay rate for the hours worked.
6. Exempt employees who are required to work on a legal holiday, for which they are entitled to a day off with pay, shall be eligible to receive compensatory time at a rate of one hour earned for one hour worked.

CLOSING

The Mayor or Department Directors reserve the right to require an employee to work on the day a holiday is observed.

 <p style="text-align: center;">CITY OF MILES CITY PERSONNEL POLICY</p>	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Jury Duty and Witness Leave		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

PURPOSE

The City of Miles City believes that it is the civic duty of each City employee to serve on a jury or testify in a Court proceeding if the employee is properly summoned or subpoenaed.

POLICY

It is the policy of the City of Miles City that a City employee shall be eligible to serve as a witness in court, judicial proceeding, administrative proceeding, or serve jury duty when properly subpoenaed or summoned.

PROCEDURE

A. Notification:

1. An employee shall complete an employee leave request form and inform his or her Department Director of the date and anticipated length of absence as soon as possible after being summoned or subpoenaed.
2. An employee will be required to furnish a copy of the summons or subpoena with the leave request form.

B. Rate of Compensation:


1. Employees may take leave with pay (without use of vacation or compensatory credits) and forward any payment received from the court to the Human Resources/Payroll office within three (3) working days of receiving said payment.

- Expenses such as reimbursement for parking, mileage and meals are excluded.
2. Employees may keep all costs associated with court proceedings, but must take vacation leave credits or compensatory credits during their absence from the City.

CLOSING

An employee who is properly serving as a witness in court, judicial proceeding, administrative proceeding, or serving jury duty will continue to earn and accrue all benefits that the employee would normally earn.

The Mayor or Department Directors reserve the right to request the court to excuse their employees from jury duty if they are needed for the proper operation of a department.

 <p style="text-align: center;">CITY OF MILES CITY PERSONNEL POLICY</p>	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Military Leave		

➤ **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

PURPOSE

To establish procedures for requesting and accounting for a leave of absence by employees of the City of Miles City for participation in obligations with the United States Armed Forces.

POLICY

It is the policy of the City of Miles City to provide fifteen (15) working days paid leave in a calendar year for an employee to attend annual training camp or other similar training of the organized militia of the State or the military forces of the United States or to attend regularly scheduled training, such as drills.

Unpaid Extended Military Leave

After exhausting the fifteen (15) working days of paid annual military leave, eligible employees are entitled to unpaid extended military leave under the following conditions:

- As members of the United States Armed Forces reserve components called to active duty during a national emergency or
- As members of the state military forces, the United States Armed Forces reserve components, or the United States Armed Forces leaving a City position to enter active military service

PROCEDURE

- A. The City of Miles City shall comply with all provisions outlined in the Uniformed Services Employment and Reemployment Rights Act, (USERRA, 38 USC Sec. 2021, [4321] et seq.) as well as all relevant state laws to include Montana Military Service Employment Acts, 10-1-1001, MCA - 10-1-1027, MCA as well as all relevant State laws covering members of the

Montana Army and Air National Guard.

- B.** An employee who is a member of the Montana National Guard or any United States military force or Reserve Corps and who has been an employee for a period of six (6) months shall be given leave of absence with pay for a period of time not to exceed fifteen (15) working days in a calendar year. It can be for attending regular encampments, training cruises and similar training programs of the military forces of the United States.
- An employee on military leave receives his or her regular gross salary and benefits.
 - This leave will not be charged against the employee's annual vacation time.
 - Unused military leave must be carried over to the next calendar year, if applicable, but may not exceed a total of 240 hours in any calendar year.
 - The City is not required to allow an employee to make up any regular or overtime hours missed as a result of attending training such as drills.
- C.** An employee who is a member of the Montana National Guard or any United States military force or Reserve Corps and who has been an employee for less than six (6) months is entitled to unpaid leave for the purposes listed in (B).
- D.** Notification or Request for Military Leave: The employee must notify the Director of the call to military service as soon as the information is known. Service members must provide advance written or verbal notice to their employers for all military duty unless giving notice is impossible, unreasonable, or precluded by military necessity. A copy of the orders is required by City policy, and may be provided at the end of such leave should circumstances prevent the employee from providing it in advance.


CLOSING

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services and applicants to the uniformed services.

The City of Miles City may not deny an employee:

- Initial employment;
- Reemployment;
- Retention in employment;
- Promotion; or
- Any benefit of employment.

Any questions concerning employees' rights should be directed to the Human Resources/ Payroll Office.

 <p style="text-align: center;">CITY OF MILES CITY PERSONNEL POLICY</p>	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Disaster and Emergency Leave		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

PURPOSE

To establish uniform procedures for managing leave during a disaster or emergency for employees of the City of Miles City.

POLICY

It is the policy of the City of Miles City to grant leave in the event of a disaster or emergency in compliance with this policy and with policies or laws relating to military leave, annual vacation leave, sick leave, leave of absence without pay and compensatory time.

PROCEDURE

A. Declared Disaster or Emergency:

The Governor, through executive order, may authorize temporary paid time off to employees when a worksite is closed because of a local disaster or emergency as provided in Title 10, Chapter 3, Parts 1 -4, MCA. Additionally, agencies may authorize, with approval by the governor, paid time off to employees when faced with a temporary localized worksite closure due to a situation not rising to the level of a disaster or emergency declared by the Governor. Finally, agencies are authorized to grant employees up to 15 (fifteen) days per calendar year of paid leave to participate in specialized disaster relief services for the American Red Cross (2-18-627, MCA).

Employees will receive approved paid time off only for regularly scheduled hours.

B. Affected Employees and Paid Time Off:

When the Governor declares a disaster or emergency pursuant to 10-3-302 & 303, MCA, and authorized temporary paid time off to employees, those affected shall receive paid time off. The

time off shall not be deducted from employees' accrued leave time or compensatory time.

Typically, employees are affected by a disaster or emergency when their lives and the lives of immediate household members, or their personal property, is endangered during a declared disaster or emergency. A City employee who is a member of the Montana National Guard and who is ordered to active Federal or State service by competent authority is not an affected employee under ~~this policy~~.

Following a declaration of a disaster or emergency by the Governor, each Department Director shall decide on a case-by-case basis whether employees are affected and the period of time for which employees should receive paid time off, consistent with the terms of the executive order. Employees requesting emergency leave under this policy must state the reasons why they are "affected by" the emergency.

Employees who are not affected and report for work and perform regular duties and responsibilities during a declared disaster or emergency will be paid their normal salary.

C. Worksite Closure and Paid Time Off:

- 1. Closure of City-Controlled Facilities:** A Department Director may declare an affected worksite closed when the site is under his or her authority and with the approval of the Mayor or his or her designee.
- 2. Close of Non-City-Controlled Facilities:** In some cases, employees may be temporarily or permanently assigned to a worksite that is not a City-Controlled Facility. These facilities may be ordered closed by the appropriate authorities without seeking the Mayors approval.

E. Paid Time Off:

When facilities are ordered closed by those with the authority to do so, and under circumstances similar to those described in this policy, affected employees may receive paid disaster and emergency leave with the approval of the Mayor or his or her designee.

In the event of an approved worksite closure, Department Directors may choose to temporarily reassign employees to alternate worksites or approve paid disaster and emergency leave. The Department Director or Mayor shall determine which employees are affected by the worksite closure and which will be reassigned to alternate worksites.

Employees will receive paid time off only for regularly scheduled work hours occurring during a worksite closure.

Employees who voluntarily report for work and perform their regular duties during the closure of an affected worksite will be paid their normal salaries.

Employees will earn compensatory time in addition to their normal salary if management requires they remain at work or requires they report to work to perform essential services during the

closure of an affected worksite. This provision applies to exempt and non-exempt positions. All overtime provisions also apply.

F. Personal Disaster or Emergency:

Situations may occur when employees are affected by a personal disaster or emergency that does not rise to the level of a declaration by the Governor. In these cases, employees may take approved annual leave, compensatory time or a leave of absence without pay. Employees may only use sick leave for reasons qualifying under the Sick Leave Policy.

G. Volunteer Services:

- **Certified American Red Cross Disaster Volunteer:** A member of the Red Cross Disaster Services Human Resources System (DSHRS) who has completed the American Red Cross specialized training program for disaster volunteers and is certified by the American Red Cross as a disaster service technician, specialist, coordinator, or officer.

During a disaster or emergency, employees may wish to volunteer their time towards the recovery effort. Employees must receive Department Director approval prior to taking disaster and emergency leave for volunteer purposes.

Employees who wish to provide volunteer service during a disaster or emergency and who are not certified American Red Cross disaster volunteers may request to take annual vacation leave, accrued compensatory time, or leave of absence without pay. Employees may only use sick leave for reasons qualifying under the Sick Leave Policy. If requested by agency management, an employee must provide written verification of participation in the emergency recovery.


Under the provisions of 2-18-627, MCA, full time employees who are certified American Red Cross Disaster Volunteers may request up to 15 (fifteen) days (or a total of 120 hours) paid time off annually. The paid time off shall not be deducted from the employees' accrued leave if they are called upon by the American Red Cross to provide specialized disaster relief services. This leave may not be "saved" or carried over from year to year.

Employees must include verification of the request for services from the American Red Cross when requesting leave.

Employees on approved leave as certified American Red Cross Disaster Volunteers shall be paid their regular rate for regularly scheduled hours without loss of longevity, pay, accrued leave or compensatory time. Employees on approved leave are not eligible for overtime, regardless of the number of hours volunteered. The City of Miles City is not liable for employee expenses associated with the volunteer effort.

CLOSING

Any questions concerning employees' rights should be directed to the Human Resources/Payroll Office.

 <p style="text-align: center;">CITY OF MILES CITY PERSONNEL POLICY</p>	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Maternity and Parental Leave		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

PURPOSE

The City of Miles City believes that maternity and parental leave is an important benefit to City employees.

POLICY

It is the policy of the City of Miles City to grant unpaid leave of absence for maternity and parental leave:

- Maternity leave is an unpaid leave of absence available to female employees for temporary disability because of pregnancy and delivery.
- Parental leave is an unpaid leave of absence not to exceed fifteen (15) working days available to birth fathers or permanent employees who are adopting a child.

Eligible employees taking maternity or parental leave concurrently with Family and Medical Leave Act (FMLA) leave must follow the FMLA Leave Policy (*Family and Medical Leave Policy*) requirements. The FMLA Leave Policy takes precedence over this policy.

PROCEDURE

A. Requesting Leave:

1. Employees requesting maternity or parental leave should give at least give a 30-day advance oral or written notice of the need to take leave, or as soon as practical when advance notice is not possible.
 - The leave request should include the anticipated length of absence and the employee’s intended use of accrued paid leave while on maternity or parental leave.

B. Maternity Leave Use:

1. Montana law requires female employees receive a reasonable leave of absence for maternity leave (49-2-310, MCA). “Reasonable” is determined case-by-case and is based up on the employee’s ability to perform her job. In the case of normal pregnancy and delivery, Department Directors must grant a minimum of six (6) calendar weeks after the birth of a child as a reasonable period for recovery.
2. Leave may be longer if the employee is unable to perform her job prior to delivery or if there are complications like illness or surgical delivery. If the Department Director and the employee cannot agree on a reasonable period for maternity leave, the Mayor, in consultation with the HR/Payroll Officer, should rely on the judgment of the employee’s medical provider.
3. An employee shall not be required to obtain medical certification of a temporary disability for the initial six (6) calendar weeks of leave following the birth of a child. However, the Mayor, in consultation of the HR/Payroll Officer, may require the employee to provide medical certification to extend the maternity leave beyond the minimum six (6) calendar week period. The certification should state that the employee is unable to perform her employment duties and give the estimated duration of the extended leave.
4. The employee is responsible for providing timely, complete, and sufficient medical certification. The employee must provide the certification within fifteen (15) calendar days after the Department Director’s request, unless it is not practicable to do so despite an employee’s diligent, good-faith effort.
5. Department Directors should not ask employees probing questions regarding their medical conditions that may elicit genetic information about an employee or an employee’s family members.

C. Parental Leave Use:

1. Parental leave is available to birth fathers, and non-birthing mothers who are in the same sex marriage, immediately following a child’s birth, or to permanent employees who are adopting a child (2-18-606, MCA).
2. The employee’s Department Director must approve a reasonable leave of absence, not to exceed fifteen (15) working days, for parental leave immediately following the birth of a child or placement of a child with the employee for adoption.
3. The employee’s Department Director, in consultation with the HR/Payroll Officer, may approve less than fifteen (15) working days, if he or she determines the length of leave requested is unreasonable. The Department Director, in consultation with the HR/Payroll Officer, must provide the employee with a written response explaining why the request is unreasonable. The written notice must also include the length of leave considered reasonable and approved.

D. Accrued Paid Leave Use:

1. Both maternity and parental leaves are unpaid. However, employees may use accrued paid leave concurrently with maternity or parental leave. Employees must request the use of additional leave consistent with City policy applicable to the type of leave requested.
2. State law limits the use of sick leave to fifteen (15) days for birth fathers and adoptive parents (2-18-606, MCA,) unless the absence qualifies for the use of sick leave for another reason and the City has ~~chosen~~ to treat non-birthing mothers in a same sex marriage the same as birth fathers for purposes of this policy.

E. Concurrent FMLA Leave:

1. Eligible employees may take up to twelve (12) weeks of FMLA leave for the birth or adoption of a child. Maternity and parental leave run concurrently with FMLA leave. Maternity and parental leave should count towards an eligible employee's FMLA leave entitlement. Employees may not use maternity or parental leave to extend the length of FMLA-leave entitlements.
2. When eligible employees take maternity or parental leave concurrently with FMLA leave, the FMLA policy requirements take precedence over this policy. Department Directors and the employee must follow all medical certification procedures and timelines required by the FMLA Leave Policy and Federal regulations.

F. Reinstatement:


1. Employees returning to work at the end of a reasonable leave of absence for a maternity or parental leave must be reinstated to their original job or to an equivalent position with equivalent pay and accumulated longevity, retirement, and leave benefits.

CLOSING

Prohibited Acts:

1. As provided in 49-2-310, MCA, it is unlawful to:
 - a. Terminate employment because of pregnancy;
 - b. Refuse to grant the employee a reasonable leave of absence for the pregnancy;
 - c. Deny the employee who is disabled as result of pregnancy any compensation to which the employee is entitled as a result of the accumulation of disability or leave benefits accrued, provided that the employer requires the disability to be verified by medical certification indicating the employee is not able to perform employment duties; or
 - d. Require an employee to take a mandatory maternity leave for an unreasonable length of time.

Nothing in this policy prohibits an employee from voluntarily returning to work sooner than six (6) calendar weeks after the birth of child.

 <p style="text-align: center;">CITY OF MILES CITY PERSONNEL POLICY</p>	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Family Medical Leave (FMLA)		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

PURPOSE

The City of Miles City believes that Family Medical Leave is an important benefit to City employees. This policy provides the framework under which the Family and Medical Leave Act (FMLA) will be administered by the City of Miles City. This policy also provides employees information about FMLA entitlements and outlines any obligations employers and employees may have during such leaves.

POLICY

It is the policy of the City of Miles City to implement the Federal Family and Medical Leave Act (FMLA) using the City of Miles City-Family Medical Leave forms.

PROCEDURE

Department Directors, in consultation with the HR/Payroll Officer will follow all of the required steps in the Family Medical Leave forms:

1. FMLA Decision Tree: Step by Step guide to determine if FMLA applies to the employee.
2. FMLA Checklist: Step by step guide for departments and Human Resources to follow for FMLA.
3. FMLA Notice to Employee: Human Resources uses this document to give the employee notice of his or her rights under the FMLA and covers several areas of topics related to FMLA.
4. FMLA Leave Request: A combined form for the employee to request leave and the Director and Human Resources Officer to acknowledge the request. Includes instructions for filling out the form.

5. FMLA Medical Certification: A health care provider can use this form to document the need for leave.
6. Return to Work Certification: A health care provider can use this form to document that the employee is able to return to work. Human Resources will issue this form to the employee along with the approval or denial letter of the FMLA.

CLOSING

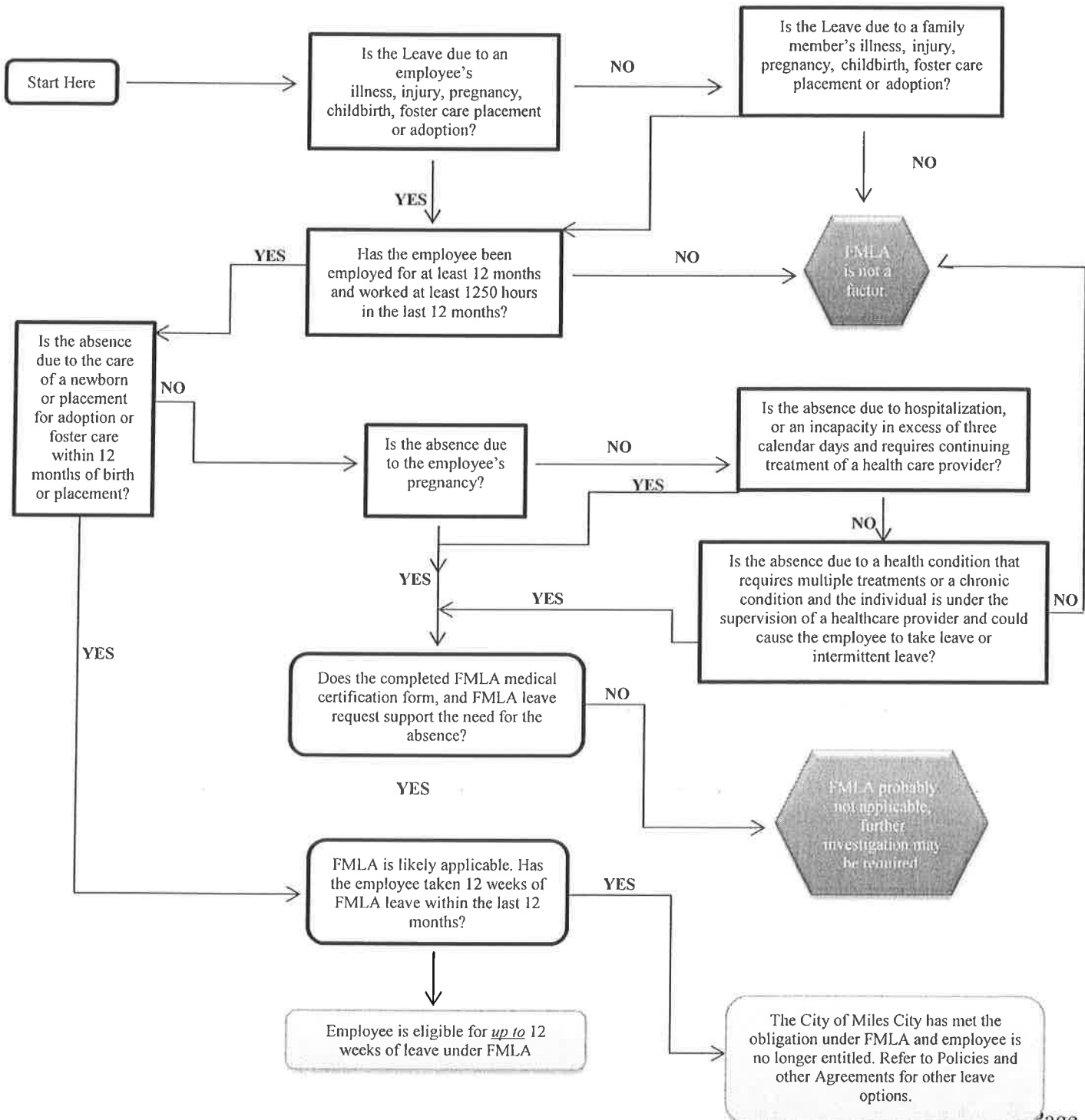
1. An employee who determines that the City of Miles City has violated the FMLA may either;
 - a. file a grievance;
 - b. file a complaint with the U.S. Secretary of Labor, or
 - c. file a lawsuit
2. A grievance may be filled using the City of Miles City Grievance Policy.
3. Complaints should be filed within a reasonable time and may not be filed more than two (2) years after the last action the employee contends was in violation of the FMLA, or more than three (3) years if the violation was willful.
4. A complaint to the Secretary of Labor may be made in person, by telephone, or by mail with the Wage and Hour Division, Employment Standards Administration, or the U.S. Department of Labor. No particular format is required. The complaint must be in writing and include a full statement of acts and omissions which are believed to constitute a violation. The complaint must include all pertinent dates.



CITY OF MILES CITY

DIRECTOR – Understanding FMLA

FMLA Decision Tree





CITY OF MILES CITY FMLA LEAVE CHECKLIST

Human Resources/Director

The employee requests leave:

- ✓ *Thirty (30) days' notice is required when the need for leave is foreseeable*
- ✓ *When advance notice is not possible, the employee must provide notice as soon as practical, typically within 2 business days.*

The employee has called in sick 3+ days and/or requires time off work due to serious health condition for self or immediate family member.

- ✓ *Being out sick 3+ days does not mean FMLA is automatically approved...this is just a trigger for Directors that this may be a serious health condition that would qualify under FMLA.*

The Director will request Human Resources to issue to the employee the **FMLA Notice to Employees**, **FMLA Request**, and **FMLA Medical Certification** forms.

1. The employee fills out Section I of the **FMLA Request** form and then presents it to their Director. The Director, Human Resource Officer and the employee should discuss at that time the use of their accruals and timekeeping. FMLA-Sick is to be used first, prior to FMLA-Vacation, provided that the leave is for the employee's own serious health condition or to take care of a family member with a serious health condition.
2. The Human Resource Officer fills out Section II of the **FMLA Request** form
3. The employee fills out Section I of the **FMLA Medical Certification** form. The employee then has his or her treating physician complete the **FMLA Medical Certification** form and submit it to HR within 15 days

Once Human Resources receives the completed **FMLA Request** and **FMLA Medical Certification** forms, the employee and Director will be notified if the request is approved, provisionally approved, or denied in writing, the employee's letter will be sent to their home address. Human Resources will also forward the employee the **Return to Work Certificate** and Job Description if they are on approved leave for their own serious health condition.

- In Workers Compensation situations (which run concurrently with FMLA), timekeeping coding will be different. Please contact HR/Payroll with questions.
- Conversion to Leave without Pay: If the employee exhausts his or her paid leave, the department will need to code the timecard as FMLA – Leave without pay
- The HR department will send a per pay period billing statement to the employee's home for their charges on insurance premiums & some elected voluntary benefits if they are in an unpaid FMLA status.
- Depending on the length of FMLA Leave, periodic recertification may be required by the employee. Use the FMLA Medical Certification form for all recertification.
- The employee returns to work. **Return to Work Certification** reflecting fitness for duty will be *required* when an employee returns to work from FMLA used to treat the employee's own serious health condition. The employee must present the **Return to Work Certification**, *immediately* upon his or her return to work.
- If the employee is *Certified* to Return to Work with Limited or Light Duty accommodations, please contact your Director and HR to confirm if this is available prior to the employee's return.
- ❖ **FLMA Requests, FMLA Medical Certifications, Return to Work Certifications** and other FMLA supporting documentation will be maintained as confidential medical records in a file separate from the employee's personnel file. HR will maintain FMLA Records for three years.



CITY OF MILES CITY

FMLA Notice to Employee

Family & Medical Leave: Your Rights and Obligations

The *City of Miles City* provides family and medical leave (FMLA) to eligible employees in accordance with the federal Family Medical Leave Act. This notice summarizes your rights and obligations under this law.

The Family and Medical Leave Act (FMLA) provides certain employees with up to 12 workweeks of unpaid job protection leave in a specified 12-month period, and requires group health insurance benefits to be maintained during the leave as if employees continued to work instead of taking leave.

Employees taking FMLA leave for their own serious health condition, or leave to care for a family member with a serious health condition, will be *required* to use their accrued, paid sick leave prior to being granted FMLA leave without pay. If the leave is for a reason that qualifies as FMLA leave and the employee's sick accruals are exhausted the employee is *not required* to use his or her accrued, paid vacation, subject to MCA 2-18-615. The total of the paid and unpaid FMLA leave will count against the 12-workweek FMLA leave entitlement.

- A. Purpose:** FMLA allows employees to balance their work and family life by taking leave for certain family and medical reasons. The FMLA seeks to accomplish this purpose in a manner that accommodates the legitimate interests of employers, and minimizes the potential for employment discrimination on the basis of gender, while promoting equal employment opportunity for men and women.
- B. Eligibility:** In order to be eligible for FMLA an employee must have been employed by the City of Miles City a cumulative total of at least 12 months prior to leave *and* have worked 1,250 hours (exclusive of vacation, sick leave, holidays) in the 12 months preceding leave time. The 12 months of employment need not be consecutive months. The 1,250 hours include only those hours actually worked. Paid leave and unpaid leave, including FMLA leave, are not included.

C. Entitlements:

→ Leave of up to a total of 12 workweeks in a 12-month period for one or more of the following reasons:

- For the birth of a son or daughter, and to care for the newborn;
- For the placement with the employee of a child for adoption or foster care, and to care for the newly placed child;
- To care for an immediate family member (spouse, child, or parent – but not a parent “in-law” with a serious health condition; and
- When the employee cannot perform the essential functions of his or her job because of a serious health condition.
- *Spouses employed by the same employer* are limited to a combined total of 12 workweeks of family leave for the following reasons:
 1. Birth and care of a newborn child;
 2. For the placement of a child for adoption or foster care, and to care for the newly placed child; and
 3. To care for an employee's parent who has a serious health condition

*Active Military duty for an employee with a spouse, son, daughter or parent who:

1. Is on active duty in the Armed Forces in support of a contingency operation
2. Has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation
 - A “Contingency Operation” is an action or operation against an opposing military forces

→ Leave of up to a total of 26 workweeks in a 12-month period for the following reason:

1. For a caregiver (which is defined as a spouse, son, daughter, parent or nearest blood relative) of a recovering service member, to care for the individual. The recovering service member must be a member of the Armed Forces (including the National Guard and Reserves) who is undergoing medical treatment, recuperation or therapy, is in an outpatient status, or is on the temporary disability retired list, for a serious injury or illness. A serious injury or illness is one incurred while in active duty that may render the person unable to perform the duties of the member's office, grade, rank or rating. Employees are entitled to only one 26-week leave period to care for a wounded service member during the employee's employment.

D. Advance Notice: Thirty (30) days advance notice is required if your need for leave is foreseeable. When leave is not foreseeable notice "as soon as practicable" needs to be provided. "As soon as practicable" generally means verbal notice to the City typically within two (2) business days of learning of the need to take FMLA leave.

Employees are required to give sufficient information to their Director so that the Director understands that the employee needs leave for an FMLA-qualifying reason (the employee need not mention FMLA when requesting leave to meet this requirement, but must explain why the leave is needed).

If employees do not make their Directors aware that they were absent for FMLA reasons and the employee wants the leave counted as FMLA leave, he or she must provide timely notice, generally within two (2) business days of returning to work, that leave was taken for an FMLA-qualifying reason.

E. Calculation of FMLA by the City of Miles City: FMLA leave is calculated on a "Rolling" 12-month period beginning with the FMLA leave request date. At the time, an employee requests FMLA leave, records for the previous twelve months will be reviewed to determine if FMLA leave has previously been used and the amount of leave an employee is eligible to receive forward.

F. Serious health condition: "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

1. Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or
2. A period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider;

or

3. Any period of incapacity due to pregnancy, or for prenatal care; or
4. Any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.);

or

5. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or
6. Leave for multiple treatments by a health care provider for a condition that likely would result in an incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

G. Immediate family members: An employee's spouse, children (son or daughter), and parents are immediate family members for purposes of FMLA. The term "parent" does not include a parent "in-law". The terms son or daughter do not include individuals age 18 or over unless they are "incapable of self-care" because of mental or physical disability that substantially limits one or more of the "major life activities" as those terms are defined in regulations issued by the Equal Employment Opportunity Commission (EEOC) under the Americans With Disabilities Act (ADA). The only exception to the above definition of immediate family member is for Military Personnel regarding Active Duty and Caregiver leave however with one additional member of the nearest blood relative.

H. Intermittent Leave: FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances.

- Intermittent/reduced schedule leave may be taken when medically necessary to care for a serious ill family member, or because of the employee's own serious health condition
- Intermittent/reduced schedule leave may be taken to care for a newborn or newly placed adopted or foster care child only with the City's approval.

Only the amount of leave actually taken while on intermittent/reduced schedule leave may be charged as FMLA leave. Employees may not be required to take more FMLA leave than necessary to address the circumstances that cause the need for leave. However, due to the intermittent schedule, the 12-week entitlement will be calculated using 480 hours for full-time employees who work forty hours a week. The amount of FMLA leave for part-time employees will be pro-rated.

Employees needing intermittent/reduced schedule leave for foreseeable medical treatment must work with the City to schedule the leave so as not to unduly disrupt the City's operation, subject to the approval of the employee's health care provider. In such cases, the City may transfer the employee temporarily to an alternative job with equivalent pay and benefits that better accommodates recurring periods of leave better than the employee's regular job (if available).

- I. **FMLA Approval:** Once Human Resources receives the completed FMLA forms, the employee and Director (who signed the FMLA Request form) will be notified, in writing, if the request is approved, provisionally approved, or denied. The letter will be mailed to the employee's home address.

The final decision on the amount of approved leave time will be based on the medical certification stating the time needed.

- J. **Medical Certification:** The City requires that the need for leave for a serious health condition of the employee or the employee's immediate family member be supported by a medical certification issued by a health care provider.

Exceptions to this are:

- Request for Military Active Duty:
 - You will need to provide a copy of the individual's military orders as proof of certification.
- Requests for adoption:
 - You will need to provide a copy of the adoption paperwork as proof of certification.
- Request for birth:
 - No medical certification is required in the event of birth.

The employee has 15 calendar days to obtain the required certification and return it to the Human Resources office.

The City may require the employee to obtain a second or third opinion if it doubts the validity of the medical certification. The City also may require recertification once every 30 days, at the employee's expense, during the FMLA leave. However, there are some exceptions to this time frame that would allow recertification prior to the end of this 30 day period. Examples of this would be:

- the employee requests an extension of the leave
- the City doubts the validity of the certification
- the original certification has changed
- the employee is unable to return from leave

A "health care provider" is defined as: a doctor of medicine or osteopathy, podiatrist, dentist, chiropractor, clinical psychologist, optometrist, nurse practitioner, or nurse-midwife who is authorized to practice by the State and performing within the scope of their practice as defined by State law.

- K. **Timekeeping while on leave:** It is the responsibility of the employee to make arrangements with their Director. The employee's accruals need to be utilized in the following order and coded appropriately on their timecard:

1. FMLA –Sick

2. FMLA –Vacation
3. Compensatory Time (if applicable)
4. FMLA –w/out pay

According to 29 C.F.R. Section 825.207 (i), Compensatory time cannot be charged against the employees FMLA leave entitlement.

- L. Pay:** Prior to being granted FMLA leave without pay, an employee must exhaust all sick accruals. The total of the paid and unpaid FMLA leave will count against the 12-workweek FMLA leave entitlement.
- M. Holiday Pay:** Yes, the holiday hours will count towards the FMLA entitlement, however in order to be paid; the employee has to be in a paid status either the day before or the day after the holiday. (MCA 2-18-603). If the employee is on an unpaid FMLA leave, they may not be eligible for the holiday pay.
- N. While on Leave:** The City may not restrict your activities. However, we do have an Outside Employment Policy that has to be adhered to – refer to Personnel Policy manual. The protections of FMLA will not, however, cover situations where the reason for leave no longer exists, where the employee has not provided required notices or certifications, or where the employee has misrepresented the reason for leave.
- O. Health Benefits:** The City is required to maintain group health insurance coverage for an employee on FMLA leave on the same terms as if the employee continued to work. However, during an unpaid FMLA leave or after the first 24 hours if you are on Workers Compensation (which runs concurrently with FMLA), the employee is responsible to pay their insurance premiums (health, dental, flex) and the City will continue paying the City’s portion. Additional voluntary deductions, such as Additional Life Insurance, Long Term Disability & Prepaid Legal, also must be paid by the employee during any such unpaid leave in order to continue coverage. If the employee fails to make a required payment, benefits may be discontinued. If the employee fails to return to work after taking FMLA leave, the employee may be liable for repayment of health insurance premiums paid by the City during FMLA leave.
- P. Workers’ Compensation & FMLA:** FMLA and Workers Compensation leave run concurrently, provided the reason for the absence qualifies as a serious health condition under the FMLA.
- Q. Communication while on FMLA:** Your department Director and/or Human Resources can and may check in with periodically thorough out your FMLA leave to ask you questions to confirm whether the leave need or being taken qualifies for FMLA purposes, and may require periodic reports on your status and intent to return to work.
- R. Returning to Work Certification:** Under the law, you must be reinstated to the same position you had prior to taking the leave, or to an equivalent position if you return to work immediately after FMLA.
- Return to Work Certification* reflecting, light/limited duty accommodations, will be required when an employee returns to work from FMLA used to treat the employee’s own serious health condition. The employee must present the *Return to work Certification* immediately upon his/her return to work.
- S. Current Position:** Employees who are unable to return to work and have exhausted their 12-weeks of FMLA leave in the designated “12 month period” no longer have FMLA protections of leave or job restoration.
- T. City of Miles City- FMLA Coordinator contact numbers”**
- Phone number: 406-874-8601
 - Fax Number: 406-234-2903

FAMILY AND MEDICAL LEAVE (FMLA) – REQUEST FORM

Eligible employees are entitled under the Family & Medical Act (FMLA) up to 12 weeks of unpaid, job protection leave for certain family & medical reasons. **Submit this request form to Director.** Thirty (30) days’ notice is required when the need for leave is foreseeable. When advance notice is not possible, the employee must provide notice as soon as practical, typically within 2 business days. Requesting FMLA leave or being out sick 3+ days does not mean FMLA is automatically approved

SECTION I: TO BE COMPLETED BY THE EMPLOYEE

Employee Name: _____ Department: _____

Job Title: _____ Date of Hire: _____

TYPE OF LEAVE: Continuous Workers Comp Intermittent (comment below on proposed schedule):

REASON FOR LEAVE – Mark all that apply:

- Birth of a child and to care for the newborn child
- Placement of a child with an employee for adoption or foster care
- Care of child with a serious health condition
- Care of a parent with a serious health condition
- Care of a spouse with a serious health condition
- Serious health condition that makes employee unable to work
- In patient hospitalization
- Active Duty/Caregiver Military Leave
- Continuous treatment by a health care provider

EXPLANATION of LEAVE:

Estimated LEAVE BEGIN DATE: _____ **Estimated RETURN DATE:** _____

ACKNOWLEDGEMENT by Employee:

-FMLA Medical Certification from a health care provider is *required within 15 days* to support all requests for FMLA leave due to the employee’s own serious health condition or that of a family member.

Exceptions: Military Active Duty leave requires a copy of the “military orders”. Adoption leave requires a copy of the adoption paperwork. Birth does not require medical certification.

-FMLA Return to Work Certification will be *required* when an employee returns to work from FMLA leave for the employee’s own serious health condition.

-An Employee on approved FMLA leave must use FMLA-Sick until exhausted, then may use: FMLA-Vacation and/or Compensatory Time and/or FMLA w/out pay

I acknowledge the above FMLA request; FMLA paperwork and authorizing paid sick leave, instead of unpaid leave. I also acknowledge that the FMLA request is not valid until it has been certified and approved by Human Resources. Finally, I acknowledge, I will communicate on an ongoing basis with my Director and HR on any changes in my FMLA leave (if approved) and return date.

Employee’s Signature

Date of request

Please return completed form to Human Resources. HR will respond to the request and notify the employee if any additional documentation and/or requirements. Please call #874-8601 if you have any questions.

SECTION II: TO BE COMPLETED BY EMPLOYEE’S DIRECTOR

I acknowledge, pending medical certification (if required), the above employee’s FMLA request:

Director’s Printed Name

Director’s Signature

Date

FMLA MEDICAL CERTIFICATION

SECTION I: EMPLOYEE: PLEASE FILL OUT THIS SECTION, AND TAKE THIS FORM TO YOUR HEALTH CARE PROVIDER.

Printed Employee Name: _____

Reason for leave: _____

Patient Name (if other than employee): _____ | Relation to employee: _____

**If request is for someone other than the employee, all shaded sections are required on the certification.*

Treating Physicians Name: _____

SECTION II: HEALTH CARE PROVIDER: PLEASE FILL OUT THIS SECTION AND RETURN AS STATED BELOW

Does the patient have a "serious health condition" Yes No (see definitions on pg. 3 of Medical Certification)

If yes, please check reason:

- 1. Hospital Stay
- 2. Incapacity plus Treatment – condition that causes more than three (3) days of incapacity and
 - two or more treatments by a health care provider; or
 - one treatment plus a continuing regimen under supervision of a health care provider

Please request employee's job description if needed to determine "incapacity."
- 3. Pregnancy – any period of incapacity due to pregnancy or prenatal care.
- 4. Chronic Serious Health Condition
- 5. Permanent or Long-Term Conditions – requiring medical supervision
- 6. Multiple Treatments for Non-Chronic Condition

A. If the leave is to care for an *immediate family member*, is the employee's presence necessary And/or beneficial to the patient's care? Yes No

B. How long will the employee's presence be necessary to assist the family member? Please be specific on timeframe:

1. Describe the medical facts that support your certification for which the patient is being treated:

2. State the approximate date the condition commenced & the probable duration of the condition:

3. Prescribed treatment (i.e., number of visits, nature & duration of treatment, etc.):

4. If any of these treatments will be provided by another provider of health services, please state the nature of the treatments:

5. Is intermittent leave or a reduced work schedule medically necessary? Yes No

If yes, describe:

FMLA MEDICAL CERTIFICATION → CONTINUED

SECTION II Continued:

6. Is the employee able to perform the essential functions of their position, at this time? Yes No
(We may provide and request your review of the employee's job description. Otherwise such information may be obtained from discussion with the employee)

7. Will the employee's work activities need to be modified upon return to work? Yes No

If so, tentative date employee may return to modified work?

Recommended modifications and duration?

8. Will any activities be limited permanently? Yes No

9. When is the anticipated return to work date with No limitations?

Comments:

Physician's Signature:

Contact person:

Health Care Provider's Address:

Phone #:

Date:

Fax #:

PLEASE RETURN THIS FORM TO CITY OF MILES CITY – HUMAN RESOURCES/PAYROLL OFFICE

FAX (preferred): 406-234-2903

Address: P.O. Box 910, ATTN: Human Resources/Payroll Office Miles City, Mt 59301

FMLA MEDICAL CERTIFICATION → CONTINUED

A "SERIOUS HEALTH CONDITION" MEANS AND ILLNESS, INJURY IMPAIRMENT, OR PHYSICAL OR MENTAL CONDITION THAT INVOLVES ONE OF THE FOLLOWING:

1. **Hospital Care: Inpatient care** (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.
2. **Absence Plus Treatment:** A period of incapacity of **more than three consecutive calendar days** (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:
 - (1) **Treatment two or more times** by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
 - (2) **Treatment** by a health care provider on **at least one occasion** which results in a **regimen of continuing treatment** under the supervision of the health care provider.
3. **Pregnancy** - Any period of incapacity due to **pregnancy**, or for prenatal care.
4. **Chronic Conditions Requiring:** A **chronic condition** which:
 - (1) Requires **periodic visits** for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
 - (2) Continues over an **extended period of time** (including recurring episodes of a single underlying condition); and
 - (3) May cause **episodic** rather than a continuing period of incapacity e.g.; asthma, diabetes, epilepsy; etc.).
5. **Permanent/Long-term Conditions Requiring Supervision** : A period of **Incapacity** which is **permanent or long-term** due to a condition for which treatment may not be effective. The employee or family member must be **under the continuing supervision of, but need not be receiving active treatment by, a health care provider**. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
6. **Multiple Treatments (Non-Chronic Conditions):** Any period of absence to receive **multiple treatments** (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for **restorative surgery** after an accident or other injury, or for a condition that **would likely result in a prior of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment**, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).

Definitions:

"Incapacity;" for purposes of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery there from.

Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

FMLA – RETURN TO WORK CERTIFICATION

SECTION I: EMPLOYEE: PLEASE FILL OUT THE TOP PORTION, AND TAKE THIS FORM TO YOUR HEALTH CARE PROVIDER

THIS CERTIFICATION MUST BE PROVIDED TO YOUR DIRECTOR PRIOR TO YOUR RETURN TO WORK.

Employee :

Employee's Department:

Employee's Job Title:

Department Supervisor:

Department FAX number:

SECTION II: HEALTH CARE PROVIDER: PLEASE COMPLETE THE FOLLOWING AND RETURN DIRECTLY TO THE DEPARTMENT LISTED ABOVE PRIOR TO THE RETURN TO WORK DATE.

Please review the attached job description: Is the employee able to perform all the functions of his or her job?

Yes No Yes, with restrictions.

Please list any restrictions or functional limitations which the department should consider:

Are the restrictions: Permanent Temporary, until (date):

Comments:

Employee is released to return to work effective (date):

Printed Name of Health Care Provider & Physician:

Specialty:

Address of Health Care Provider:

Signature of Health Care Provider: _____ | Date: _____

Attn: Directors: PLEASE SEND COMPLETED FORM TO HR FOR employees FMLA File



CITY OF MILES CITY PERSONNEL POLICY

Section 5:

Leave
Administration

Effective:

Last Revised:

Leave Without Pay

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

PURPOSE

The City of Miles City believes that having a policy that establishes uniform procedures for managing employee leaves of absence with pay provides important information for all City employees.

POLICY

It is the policy of the City of Miles City to establish procedures by which an employee may request a voluntary leave of absence from employment with the City. As well as establish conditions under which approved requests for voluntary leaves of absence are administered.

PROCEDURE

Voluntary Leaves without Pay- Employee:

- Request for a voluntary leave of absence without pay shall be in writing and shall state specifically the reasons for the request, the date desired to begin the leave, and the date of return. The request shall normally be submitted by the employee to the affected Department Director. The Department Director shall recommend to the Mayor whether the request should be granted, modified, or denied. The Mayor shall then make a decision based upon the best interest of the City, giving due consideration to the reasons given by the employee, and the requirements of any applicable State and Federal laws.
- The Mayor may grant a full-time regular employee a leave of absence without pay not to exceed ninety (90) days for non-medical purposes. Non-medical leave is unpaid leave time for career advancement, personal or family situations. Such leaves may be granted after vacation accrual has been exhausted. Sick leave accruals may not be used for non-medical leaves of absence without pay.
- No sick leave, holiday, vacation benefits or any other fringe benefits shall accrue while the employee is on leave of absence without pay.

- d. All time in leave of absence without pay is credited toward an employee's service time for the purpose of determining their earning rates. Service to the City is not interrupted by authorized leave of absence without pay.
- e. Time on leave of absence without pay is not allowed in computing service time for retirement purposes under Public Employees' Retirement System.
- f. Any employee on an approved leave of absence without pay may continue his or her medical, dental and optional insurance coverage by paying the full cost to the City in advance for each month or portion thereof for which he or she is absent, subject to limitations set by the insurance carrier.
- g. Upon expiration of the leave of absence, without pay, the employee shall be reinstated in the position held at the time the leave was granted or another equivalent position.
- h. Upon extenuating circumstances, the Mayor may grant an extension of a leave without pay period upon written request by the employee. Such extension may not exceed three (3) months and will be based on departmental as well as employee considerations.
- i. Employees who fail to return to work on the date specified in the leave without pay request, without receiving an extension in advance, is subject to disciplinary action up to and including termination.

CLOSING

"Absence without leave" is defined as any period of time away from an employee's job which is not approved by the employee's Department Director or Mayor.

Employees are required to notify their Directors or other appropriate Department Authority of the reason for absences as soon as possible. Failure to follow this policy is grounds for disciplinary action.

Extended absence without leave is considered to be abandonment of position, and an employee will be terminated. "Extended Absence" shall be defined as four (4) consecutive working days for purposes of this policy.

RESOLUTION NO. 3789

A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO A SUBRECIPIENT AGREEMENT FOR THE MILES CITY AREA TRANSPORTATION PLAN.

WHEREAS, the City and the Montana Department of Transportation (Department) desire to collaborate in the development of the Miles City Area Transportation Plan;

AND WHEREAS the City and Department will each have certain obligations, including financial obligations, which 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 Mayor of the City of Miles City is hereby empowered and authorized enter into the Subrecipient Agreement for the Miles City Area Transportation Plan, attached hereto as Exhibit "A," on behalf of the City of Miles City and bind the City of Miles City thereto; and
2. The Mayor of the City of Miles City is hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of said award and bind the City of Miles City thereto.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 24TH DAY OF MARCH, 2015.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

EXHIBIT "A"

February 25, 2015

SUBRECIPIENT AGREEMENT FOR THE MILES CITY AREA TRANSPORTATION PLAN

This Agreement is made and entered into by and between the City of Miles City (SUBRECIPIENT), and the Montana Department of Transportation (DEPARTMENT). Miles City DUNS is 134230325, CFDA # 20.205 Highway Planning and Construction awarded in FFY2015 (October 01, 2014 – September 30, 2015). The parties to this Agreement acknowledge the following:

1. Purpose of Agreement

This agreement documents funding responsibilities for the development of the MILES CITY Area Transportation Plan (PLAN). The scope of the transportation plan is described in Exhibit A.

2. Time of Performance

The term of this agreement will be for eighteen (18) months from the signing of this agreement unless extended by mutual agreement or terminated before that date as provided in Section 9, below.

3. Roles and Responsibilities

A. All Parties Agree That:

1. Development of the PLAN will include monthly meetings with technical advisory committee; meetings will be held in Miles City with a conference call line.
2. Development of plan will include at least two Informational Meetings for the public to attend.
3. Upon completion, plan will be adopted by SUBRECIPIENT following local planning process.
4. Consultant for this plan will have a background in Transportation Planning with experience developing Long Range Transportation Plans.

B. Subrecipient:

1. Invoices will be submitted on a monthly basis with a 20% local/80% federal cost share
2. Will ensure deliverable deadlines are met and consultant contract stays within established study schedule and scope.
3. Will allow MDT one week to review draft deliverables before distribution to technical advisory committee.

C. MDT:

1. Will provide technical assistance for modeling components and subsequent model runs as necessary.
2. Will participate in Technical Advisory Committee and attend all meetings either in person or conference call.
3. Will reimburse Subrecipient within 30 days of submitting invoice, with a 20% local/80% federal cost share.

4. Compensation

The Miles City Area Transportation Plan will be funded by the SUBRECIPIENT and DEPARTMENT as shown by the following itemized financial allocations. Montana's total federal award of SPR-PL funds were \$7,848,427. FHWA is the federal awarding agency. MDT is the pass through entity.

Transportation Plan

City Funds	(20 %)	\$ 30,000
MDT Funds	(80 %)	\$ 120,000 (including indirect cost)
Total maximum:		\$150,000

The SUBRECIPIENT will not ~~reduce~~ their share of the project cost unless there is a proportional cost reduction to the DEPARTMENT. The total payment by the DEPARTMENT to complete the plan shall not exceed the above-stated funding. Any scope revision or increase in project costs must be agreed to beforehand in writing.

Section 17-1-106 MCA requires any state agency, including MDT that receives non-general funds to identify and recover its indirect costs. These costs are in addition to direct project costs. MDT's indirect cost rate is determined annually as a percentage of the project's direct costs to cover the project's share of MDT's indirect costs as defined by 2 CFR 200.414 for State & Local Governments. MDT's current indirect cost rate is 9.13% for state fiscal year 2015 (July 1, 2014 to June 30, 2015).

For this project, MDT will include a charge for the indirect costs at the current fiscal year indirect cost rate (as noted above 9.13% thru June 30, 2015), which amount will be applied toward the DEPARTMENT share of project contribution. Note: If this project extends across more than one fiscal year, more than one annual rate will be involved, as the rates may change during the life of the project.

The SUBRECIPIENT will submit invoices for payment along with a letter approving payment and supporting documentation substantiating the amount requested to Statewide & Urban Planning Section, Transportation Planning Division, Montana Department of Transportation, 2701 Prospect Avenue, Helena, MT 59620. DEPARTMENT funds will be used to reimburse the SUBRECIPIENT for costs attributable to the transportation study. The DEPARTMENT has the authority to review and approve payment of the invoices submitted by the SUBRECIPIENT. Reimbursement will not be made for any costs not clearly and accurately supported by the SUBRECIPIENT's records and not submitted within sixty days of the date originally incurred. The DEPARTMENT shall reimburse the SUBRECIPIENT within 30-days provided all the proper documentation has been submitted.

The DEPARTMENT reserves the right to withhold 10% of its proportionate share of the total project cost until all supported claims filed with the DEPARTMENT have been settled.

5. Liaison

The liaison person for the DEPARTMENT is Carol Strizich, 2960 Prospect Ave, Helena MT. 59620. Phone (406) 444-9240, Statewide & Urban Planning Section, Transportation Planning Division. The liaison person for the SUBRECIPIENT is Dawn Colton, Miles City Community Services & Planning Department, 17S 8th Street, Miles City, MT 59301. Phone (406) 874-8613. All reports, scope revisions, partial and final payment requests, and coordination of activities will be submitted to the Transportation Planning Division for acceptance by the DEPARTMENT.

6. Ownership of Documents

All notes, calculations, computer runs, specifications, reports, special studies, and other data prepared or collected under this agreement will become the property of the SUBRECIPIENT upon completion of the study. The SUBRECIPIENT will provide a printed copy and an electronic copy of the completed study to the DEPARTMENT upon completion of the study.

7. Access to Records

It is expressly understood that the SUBRECIPIENT is required to maintain full records of its performance and further to allow access to these records by DEPARTMENT and the Montana Legislative Auditor and Legislative Fiscal Analyst when required by law. The SUBRECIPIENT agrees to create and retain records supporting this Agreement for a period of three years after the completion date of this Agreement or the conclusion of any claim, litigation or exception relating to this Agreement taken by the State of Montana or a third party.

8. Insurance

SUBRECIPIENT will require any subcontractor performing work under this agreement to provide proof of the following insurance coverage prior to the date upon which work is to begin. The proof of insurance or exemption must be valid for the entire agreement period.

- a. Comprehensive general liability insurance, including vehicle liability insurance, with limits acceptable to the SUBRECIPIENT.
- b. Workers Compensation Insurance coverage valid in the State of Montana or proof of exemption thereof.

9. Nondiscrimination

The SUBRECIPIENT will require during the performance of any work arising out of this agreement that the SUBRECIPIENT, for itself, its assignees and successors, shall comply with all nondiscrimination regulations shown in Exhibit "C".

10. Termination

This agreement may be terminated for convenience by either party by that party mailing or faxing a written notice of termination to the other's liaison person. The DEPARTMENT may also terminate this agreement for default. If termination occurs due to default, the notice shall state the manner of the default, and offer the SUBRECIPIENT an opportunity to explain the non-performance. If the DEPARTMENT finds that the SUBRECIPIENT has a reasonable excuse for non-performance, which is beyond the control of the SUBRECIPIENT, the DEPARTMENT may set up a new work schedule to allow the completion of the agreed upon work.

In any termination, the DEPARTMENT will make its contractual payments proportionate to the work performed at the time of termination and the SUBRECIPIENT shall account for any property in its possession paid for with funds received from the DEPARTMENT or supplied to it by the DEPARTMENT.

11. Liability

The Department will not be liable for any claims or suits related to the SUBRECIPIENT financial participation in the proposed plan, and the SUBRECIPIENT will hold the Department harmless and immune from any such suits, and will indemnify the Department in the event of any loss incurred as a result of such claim or lawsuit.

12. Litigation

Controversy arising from this sub-recipient agreement may result in litigation. Arbitration is not available. This sub-recipient agreement shall be governed by Montana law.

13. Venue

In the event of litigation concerning this Agreement, venue shall be in the First Judicial District of the State of Montana, Lewis and Clark County.

14. Agreement Modification

Any change in this agreement must be by written agreement of the parties.

15. Notice

All notices arising out of, or from, the provisions of this agreement shall be in writing and given to the parties at the address of the party above, either by regular mail or delivery in person.

16. Severability and Integration

If any single part, or parts, of this agreement are determined to be void, the remaining parts will remain valid and operative. This agreement, as written, expresses the total, final and only agreement of the parties relevant to its subject matter. No provision, expressed or implied, arising from any prior oral or written request, bid, inquiry, negotiation, contract, or any other form of communication shall be a provision of this agreement unless specifically provided within the written terms herein.

17. Audit Requirements

The LOCAL AUTHORITY may be subject to the audit requirements of 2 CFR 200 Subpart F if the audit threshold in 2 CFR 200.501 is met. An audit must be conducted in compliance with 2 CFR 200 Subpart F if required. The audit must be completed and the data collection form and reporting package submitted to the Federal Audit Clearinghouse within the earlier of 30 calendar days after the receipt of the auditor's report(s) or nine months after the end of the audit period. For local governments and school districts, the LOCAL AUTHORITY will provide the report to the State of Montana, Department of Administration, Local Government Services Bureau. All other subrecipients such as Tribal Communities and Non-Profit Organizations will provide the report to the State of Montana, Department of Transportation, Audit Services if audit findings are discovered.

18. Debarment and Suspension (E.O.s 12549 and 12689)

The Grantee shall obtain from its third party contractors certifications required by Department of Transportation regulations, "Government-wide Debarment and Suspension (Non-procurement)," 49 CFR Part 29, and otherwise comply with the requirements of those regulations a list of debarred entities is located at <https://www.sam.gov/portal/public/SAM/>.

19. Conflict of Interest (2 CFR 200.112)

The Subrecipient must disclose in writing any potential conflict of interest to the MDT in accordance with applicable Federal awarding agency policy.

20. Mandatory Disclosures (2 CFR 200.113)

The Subrecipient must disclose, in a timely manner, in writing to the MDT all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.338, including suspension or debarment.

21. Internal Controls (2 CFR 200.303)

The Subrecipient must establish and maintain effective internal controls that provide reasonable assurance to the MDT that the Subrecipient is in compliance with Federal statutes, regulations, and terms and conditions of the Federal award.

22. Political Activity (Hatch Act)

The Subrecipient will comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

23. Certification Regarding Federal Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements. The undersigned certifies, to the best of his or her knowledge and belief, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LJL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

24. Restriction on State Lobbying

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

WITNESS WHEREOF, the parties have caused this agreement to be executed.

City of Miles City

By: _____
Mayor
City of Miles City

Date: _____, 2015

STATE OF MONTANA - DEPARTMENT OF TRANSPORTATION

By: _____
Transportation Planning Division

Date: _____, 2015

Approved for Legal Content:

By: Carol Shell Morris
Department Legal Services

Approved for Civil Rights Content:

By: Patricia J. Cushman
Department Civil Rights

MILES CITY AREA TRANSPORTATION PLAN Agreement Exhibit A (General Scope)

The *Miles City Long Range Transportation Plan* (LRTP) will guide development of and investment in the community's transportation systems. The Plan will assess applicable background information, analyze options and alternatives while incorporating meaningful input from citizens and local officials, and provide a framework for future efforts within the context of state and federal rules, regulations, and budget allocations.

The LRTP is intended to balance safety and cost-effectiveness in a transportation system that ensures adequate mobility to all persons, accommodates planned growth, facilitates economic development, recognizes fiscal reality, and maintains an acceptable standard of safety. A consultant will be utilized to facilitate and produce the plan.

The scope of the proposed Miles City Long Range Transportation Plan will include the following:

- Coordinate transportation planning with existing and future land use and community comprehensive plans.
- Improvement of regional transportation circulation and identify primary travel demands.
- Promote a safe, reliable transportation network.
- Identify improvement priorities, strategies, and policies.
- Identify funding sources and implementation process.

Other Items to be included in the scope:

- Planning horizon is 2035 (typically 20 years).
- City and County will inventory existing plans, policies, and data that need to be considered.
- Consider existing conditions, deficiencies, and needs for all of the following modes in the plan: vehicle, pedestrian, bicycle, and transit.
- Improvement option analysis.
- Consider a chapter on access management, approach ordinance, and approach permitting.
- Identification of Stakeholders.
- Outline a public involvement plan.
- Financial analysis identifying various transportation funding sources (Federal, State, Local, and Private) and consideration for impact fees (if desired).
- Identification of capital improvements and an implementation plan.
- Potential transportation system management (TSM) improvements, such as signal synchronization, new signals, turning bays, one-way street designation, etc.
- MDT will develop a base year model and perform model runs. The consultant will review the base year model, coordinate development of the future land-use forecasts with the local government, and identify alternative model runs to be performed by MDT, and analyze and report on model results.
- Consultant will review and analyze existing data and reports and supplement as needed, identify problems, develop and analyze alternatives, implement public involvement plan, identify improvements and an implementation plan, and prepare draft and final reports.

Deliverables

- Technical Memos as appropriate
- Draft Plan Document (bound hard copies)
- Completed Plan Document (bound hard copies)
- All electronic files
- Presentation materials for Public Informational Meetings

Goals

These goals are intended to direct the overall direction of the LRTP towards the community's vision.

Goal 1: Preserve and Maintain the Existing Transportation System

The transportation system in the Miles City area is aging while available funding is insufficient for necessary maintenance activities. There is competition between funding for new projects and maintenance and operations of the existing system. The existing transportation system should be enhanced through preservation and maintenance in order to maximize efficiency and reduce the need for new infrastructure investment.

Objective 1.1: Assess condition of main thoroughfares; prioritize preservation and maintenance schedule.

Objective 1.2: Improvement of regional transportation circulation and identify primary travel demands.

Objective 1.3: Consider existing conditions, deficiencies, and needs for all of the following modes in the plan: vehicle, pedestrian, bicycle, and transit.

Objective 1.4: Identify improvement priorities, strategies and policies.

Goal 2: Mobility & Accessibility for People & Goods

The transportation system should be developed to allow mobility for all and provide appropriate access to employment, housing, services and recreation areas. An efficient transportation system allows people to move from place to place in as direct a route as possible while allowing them to reduce the amount of time spent in travel. Increased connectivity allows citizens to make route decisions and mode choices based on health, desirability, traffic and road conditions, or desired destinations.

Objective 2.1: Identify potential transportation system management (TSM) improvements, such as signal synchronization, new signals, turning bays, one-way street designation, etc.

Objective 2.2: Improve routes to current and emerging business centers, employment, housing, services and recreational areas for vehicle, pedestrian, bicycle and mobility-aided traffic. High priority areas are: Downtown, Valley Drive East, S. Haynes Ave, Hwy 59 S and Baker Hwy (US 12).

Objective 2.3: Access current truck route. Recommend improved route or truck bypass considering future traffic volume and patterns related to regional growth.

Objective 2.4: Conduct improvement option analysis.

Goal 3: Provide a Safe, Secure, and Healthy Transportation System

The transportation system should be enhanced to improve community safety, security and health by increasing efficiency and providing a system that is easily accessed by all users. Reducing crashes, improving emergency response times, and providing evacuation routes in the event of a natural disaster will assist in improving the safety and security of the transportation system. The transportation system should also serve the community's population by providing safe and secure alternatives to motorized traffic for citizens utilizing mobility aids and bike/walk paths. Educational programs that help travelers understand the particular safety concerns associated with various travel modes can also help all users travel with increased confidence and security.

Objective 3.1: Identify and recommend improvements to dangerous and/or inefficient intersections. Priorities are Horizon Parkway & Hwy 59 S (Southgate); S Haynes Ave between the intersections of Main Street and Interstate 94; all railroad at-grade crossings and railroad underpass.

Objective 3.2: Traffic patterns are changing as commerce and housing moves from the original town site to the south and east. Evaluate and identify effective evacuation and snow routes.

Objective 3.3: Identify mitigation measures to avoid train traffic blocking any/all crossings through the city that could prevent emergency services.

Objective 3.4: Identify improvement projects along State and Urban routes that may utilize the Pavement Preservation Program. This should include curb & gutter and sidewalks and may include pavement preservation or replacement.

Objective 3.5: Evaluate traffic impact of future railroad spurs, pipeline construction and oilfield service traffic

Objective 3.6: Improvement of regional transportation circulation and identify primary travel demands.

Objective 3.7: Improvement option analysis.

Goal 4: Encourage and Solicit Public Participation in Plan Development

Public involvement is an important component in a successful transportation planning process. Public outreach will educate the public on the critical elements of planning for the future of the transportation system. Public involvement will allow the public to voice their interests and concerns, participate in the planning of the community, and will also increase their investment in the transportation plan.

Objective 4.1: Utilize the City Website, social media, newspaper and public service announcements to educate residents of the planning process and the importance of participating.

Objective 4.2: Design methods to encourage participation by use of surveys, public meetings and news articles.

Objective 4.3: Estimate project costs or annual budget forecasts and identify potential funding sources.

Goal 5: Promote a Financially Sustainable Transportation System

A financially sustainable transportation plan is necessary in order to guide the transportation decision-making process in future years. This will help ensure the use of available funds to their maximum potential by implementing feasible improvement projects that have been previously identified. A sound financial base for the transportation system is provided through responsible management of public assets and resources and identification and implementation of funding strategies to ensure long-term balanced investment in the transportation system.

Objective 5.1: Build a plan that outlines maintenance schedules, replacement schedules, funding schemes that may include grants, loans, and SIDs.

Objective 5.2: Identify improvement priorities, strategies, and policies.

Objective 5.3: Identification of capital improvements and an implementation plan.

Objective 5.4: Financial analysis identifying various transportation funding sources (Federal, State, Local, and Private) and consideration for impact fees.

Goal 6: Link Transportation and Land Use

Linking transportation and land use planning is important to help ensure that the transportation system effectively and efficiently serves existing and future development within the community. This coordination helps ensure that existing and future industrial, commercial, and service centers and housing concentrations are adequately connected to the region's transportation system and appropriately located to preserve and enhance the quality of life in the community. This will allow transportation improvements to be designed in the context of existing and future land uses, taking into account the needs of all users. Policies and partnerships should be developed to protect the capacity of the transportation system and plan future improvements to strengthen the coordination between land use and transportation planning.

Objective 6.1: Assess the impact from development of natural resources (coal, oil & gas) on regional traffic counts and flows. Incorporate the results of this assessment into the comprehensive plans for Miles City and Custer County.

Objective 6.2: Recommend future routes considering that commerce and housing needs are moving to the south and east of the current city limits.

Objective 6.3: Consider access to local recreational areas, health centers, banking, government and agricultural services in a regional context.

Objective 6.4: Coordinate transportation planning with existing and future land use plans and community comprehensive plans.

MILES CITY AREA TRANSPORTATION PLAN

Agreement Exhibit C (Non-Discrimination and Disability Accommodation Notice)

Montana Department of Transportation (“MDT”) is committed to conducting all of its business in an environment free of discrimination, harassment, and retaliation. In accordance with State and Federal law MDT prohibits any and all discrimination on the grounds of race, color, national origin, sex, age, physical or mental disability, parental/marital status, pregnancy, religion/creed/culture; political belief, genetic material, veteran status, or social origin/ancestry (hereafter “protected classes”) by its employees or anyone with whom MDT chooses to do business.

For the duration of this contract/agreement, the SUBRECIPIENT agrees as follows:

- (1) **Compliance with Regulations:** The SUBRECIPIENT (hereinafter includes consultant) will comply with all Acts and Regulations of the United States and the State of Montana relative to Non-Discrimination in Federally and State-assisted programs of the U.S. Department of Transportation and the State of Montana, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- (2) **Non-discrimination:**
 - a. The SUBRECIPIENT, with regard to the work performed by it during the contract, will not discriminate, directly or indirectly, on the grounds of any of the protected classes in the selection and retention of subcontractors, including procurements of materials and leases of equipment, employment, and all other activities being performed under this contract/agreement.
 - b. SUBRECIPIENT will provide notice to its employees and the members of the public that it serves that will include the following:
 - i. Statement that SUBRECIPIENT does not discriminate on the grounds of any protected classes.
 - ii. Statement that SUBRECIPIENT will provide employees and members of the public that it serves with reasonable accommodations for any known disability, upon request, pursuant to the Americans with Disabilities Act as Amended (ADA).
 - iii. Contact information for SUBRECIPIENT’s representative tasked with handling non-discrimination complaints and providing reasonable accommodations under the ADA.
 - iv. Information on how to request information in alternative accessible formats.
- (3) In accordance with Mont. Code Ann. § 49-3-207, SUBRECIPIENT will include a provision, in all of its hiring/subcontracting notices, that all hiring/subcontracting will be on the basis of merit and qualifications and that SUBRECIPIENT does not discriminate on the grounds of any protected class.
- (4) **Participation by Disadvantaged Business Enterprises (DBEs):**
 - a. If the SUBRECIPIENT receives federal financial assistance as part of this contract/agreement, the SUBRECIPIENT will make all reasonable efforts to utilize DBE firms certified by MDT for its subcontracting services. The list of all currently certified DBE firms is located on the MDT website at mdt.mt.gov/business/contracting/civil/dbe.shtml
 - b. By signing this agreement the SUBRECIPIENT assures that:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

- c. SUBRECIPIENT must include the above assurance in each contract/agreement the SUBRECIPIENT enters.

(5) Solicitation for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation, made by the SUBRECIPIENT for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the SUBRECIPIENT of the SUBRECIPIENT's obligation under this contract/agreement and all Acts and Regulations of the United States and the State of Montana related to Non-Discrimination.

(6) Information and Reports: The SUBRECIPIENT will provide all information and reports required by the Acts, Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by MDT or relevant US DOT Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the SUBRECIPIENT will so certify to MDT or relevant US DOT Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(7) Sanctions for Noncompliance: In the event of a SUBRECIPIENT's noncompliance with the Non-discrimination provisions of this contract/agreement, MDT will impose such sanctions as it or the relevant US DOT Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the SUBRECIPIENT under the contract/agreement until the SUBRECIPIENT complies; and/or
- b. Cancelling, terminating, or suspending the contract/agreement, in whole or in part.

Pertinent Non-Discrimination Authorities:

During the performance of this contract/agreement, the SUBRECIPIENT, for itself, its assignees, and successor in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Federal

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 200d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;

- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airways Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*).

State

- Mont. Code Ann. § 49-3-205 Governmental services;
- Mont. Code Ann. § 49-3-206 Distribution of governmental funds;
- Mont. Code Ann. § 49-3-207 Nondiscrimination provision in all public contracts.

(8) Incorporation of Provisions: The SUBRECIPIENT will include the provisions of paragraph one through seven in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The SUBRECIPIENT will take action with respect to any subcontract or procurement as MDT or the relevant US DOT Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the SUBRECIPIENT becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the SUBRECIPIENT may request MDT to enter into any litigation to protect the interests of MDT. In addition, the SUBRECIPIENT may request the United States to enter into the litigation to protect the interests of the United States.

RESOLUTION NO. 3790

A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO AN AGREEMENT ENTITLED "STATE OF MONTANA AGREEMENT" WITH THE STATE OF MONTANA HISTORIC PRESERVATION OFFICE FOR PARTIAL FUNDING OF THE HISTORIC PRESERVATION OFFICER POSITION.

WHEREAS, the City of Miles City desires to enter into an agreement with the Montana State Historic Preservation Office to assist in the funding of the Miles City Historic Preservation Officer position;

AND WHEREAS the Montana State Historic Preservation Office has prepared an Agreement setting for the obligations of the City and the State, and the City of Miles City desires to enter into such Agreement;

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

1. The State of Montana 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 Agreement on behalf of the City of Miles City and bind the City of Miles City thereto; and
3. The Mayor of the City of Miles City is hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of said Agreement and bind the City of Miles City thereto.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 24TH DAY OF MARCH, 2015.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

Exhibit A

Agreement Number: MT-15- 023

STATE OF MONTANA AGREEMENT

This grant agreement (Agreement) is hereby made between the City of Miles City, 17 South Eighth Street, Miles City, MT 59301, DUNS#134230325 (the "Sub-grantee") and the Montana State Historic Preservation Office, Montana Historical Society ("MHS"), 225 North Roberts, PO Box 201202, Helena, Montana 59620-1202 (the "Grantor"). Liaison for the sub-grantee is Connie Muggli. The liaison for the grantor is Kate Hampton.

The State has been awarded \$785,524 of grant monies from the U.S. Department of the Interior, the National Park Service under the Historic Preservation Fund for the Federal fiscal year of 2015 (October 1, 2014 – September 30, 2015). The funding for this agreement is provided by this award, CFDA number 15.904, Historic Preservation Fund Grants-In-Aid. The Federal Award Identification Number assigned by the National Park Service, is to be determined.

Section 17-1-106, Montana Code Annotated, requires any state agency which receives non-general funds to identify and recover its indirect costs (IDC). MHS's indirect cost rate is determined annually and is applied as a percentage of direct costs charged to a federal award. As defined by 2 CFR Part 200 (formerly OMB Circular A-87), MHS's current IDC rate is 11.15% for fiscal year 2015 (July 1, 2014 to June 30, 2016). IDC will not be charged in relation to this agreement.

The two parties, in consideration of mutual covenants and stipulations described below, agree as follows:

SECTION I: SERVICES

The Sub-grantee shall:

1. Maintain an active Historic Preservation Commission (HPC) that will advocate for preservation, assist the HPO to accomplish preservation goals, and fill vacancies on the HPC promptly.
2. Participate in and carry out the responsibilities for Certified Local Government program status as outlined in "The Montana Certified Local Government Manual."
3. Insure historic preservation concerns are considered at all levels of local government planning and are incorporated as goals of other local, state, and federal projects.
4. Administer local preservation ordinances.
5. Have on staff a minimum half-time designated Historic Preservation Officer (HPO) who demonstrably plays an active and consistent role in the conduct of the sub-grantee's historic

preservation activities. On behalf of the Sub-grantee it is the role of HPO to conduct these activities and/or work with the HPC to:

- a. Regularly report on HPC activities at local government Commission meetings and be available for comment to these groups and other local government offices;
 - b. Monitor Preservation Covenants and Agreements and provide historic preservation information and assistance to property owners;
 - c. Provide technical assistance, direction, literature on historic preservation tax credits, National Register, Federal regulations and Secretary of Interior Standards;
 - d. Inspect and evaluate historic properties for potential and feasible reuse and rehabilitation;
 - e. Coordinate, promote and participate in events such as National Historic Preservation Month and/or other preservation related activities;
 - f. Cooperate and communicate with the Grantor and fellow HPO/HPCs in Montana and elsewhere as appropriate; and
 - g. Submit semi-annual progress reports, meeting minutes and financial reports per deadlines outlined in this agreement. In the Final Progress Report, the HPO will identify the benefits the local government has derived as a result of the employment of a HPO, the needs of the local government for future professional preservation efforts, and any additional functions of the HPO carried out which further the understanding and implementation of historic preservation values and objectives in the local government.
6. Send at least one (1) person from the Certified Local Government to a State Historic Preservation Office (SHPO) - approved training. The attendee shall attend the entire training and report back to their Preservation Commission.

All work completed under this funding agreement must meet the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation as interpreted by the Grantor. Final products or services that do not fulfill the requirements of this Agreement, and do not comply with the appropriate Secretary of the Interior's Standards, will not be reimbursed, and any advance payments made in connection with such products or services must be repaid to the Grantor.

SECTION II: EFFECTIVE DATE, DURATION, AND REMUNERATION

This Agreement shall take effect on April 1, 2015 and shall terminate on March 31, 2016 unless a new termination date is set or the agreement is terminated pursuant to SECTION IV. Total payments by the "Grantor" for all purposes under this contract shall not exceed \$5,500. In the event that the grantor does not receive full funding from the National Park Service, the total grant award may be reduced, as

outlined in the CLG Manual. Payment shall be made on a reimbursement basis by request of Sub-grantee to the grantor.

SECTION III: CONSIDERATION AND PROCESS FOR PAYMENT

In consideration of Services rendered in this Agreement, the Grantor agrees to pay the Sub-grantee as follows:

1. The Sub-grantee agrees to submit semi-annual Progress Reports, meeting minutes, and Requests for Reimbursement. Reports will be accompanied by the following documentation:
 - a. The Sub-grantee's name, address and agreement number MT-15-023;
 - b. A report discussing the work completed during the reporting period. Include meeting agendas and minutes;
 - c. An itemized listing of cash or in-kind donations that comprise the nonfederal match;
 - d. An itemized listing of project expenses that are charged to the federal grant; If indirect costs (IDC) are claimed for reimbursement (or match), the IDC rate must be in accordance with 2 CFR Part 200.414. A copy of the IDC approval letter from the Cognizant agency must be submitted to the grantor and approved prior to any reimbursement.
 - e. The net request for payment (reimbursement); and
 - f. Products produced during the reporting period.
2. All Requests for Reimbursement must be approved by the Grantor prior to payment. Payment for work completed under this Agreement may be withheld pending the delivery and acceptance of such items. All Sub-grantees must retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of 3 years or until an acceptable audit (accessible by auditors) has been performed and all claims and audit findings involving the records have been resolved. The 3-year retention period starts from the date of the submission of the final report. A final Request for Reimbursement must be submitted within thirty (30) days of the termination of this Agreement if they are to qualify for payment.
3. All Requests for Reimbursement will be reviewed for eligibility and allow-ability under Chapters 12, 13 and 14 of the National Park Service's Historic Preservation Fund Manual and the State CLG Manual. The Sub-grantor may request a copy of the CLG Manual from the grantor and the Historic Preservation Fund Manual is available for inspection at the SHPO.
4. The Sub-grantee shall, at minimum, provide documentation detailing forty percent (40%) matching non-federal funds for the overall grant award. In order to receive the full grant

award of \$5,500, the minimum dollar amount of match necessary to be provided by the Subgrantee is \$3,666.67 in matching in-kind services or cash. In the event that the grant award is reduced, the match requirement would be reduced proportionally. Requests for Reimbursement require the same 40% documentation relative to the amount requested. The accepted Grant Application, reviewed and approved by the Grantor, provides an estimation of sources and amounts of matching funds from the Sub-grantee.

5. The Grantor may retain final payment of federal grant funds until such time as the approved project work has been successfully completed and all conditions of this Agreement have been met.

SECTION IV: TERMINATION

1. The Sub-grantee understands and agrees the Grantor, as a state agency, is dependent upon federal and state appropriations for its funding and actions by Congress or the Montana Legislature may preclude funding this Agreement completely through the termination date stated in Section II. Should such a contingency occur, the parties agree the Grantor may set a new termination date or terminate the contract immediately, depending upon the funding remaining available for the Agreement, and the Sub-grantee will be compensated for services rendered and expenses incurred to 5:00 p.m. of the revised termination date.

2. In the event of termination, all property (except real estate) and finished or unfinished documents, data, studies, and reports purchased or prepared by the Sub-grantee under this Agreement shall, at the option of the Montana Historical Society (MHS), become the property of the MHS, and the Sub-grantee shall be entitled to compensation for any un-reimbursed expenses necessarily incurred in satisfactory performance of this Agreement. Notwithstanding the above, the Sub-grantee will not be relieved of liability to the Grantor for damage sustained by the Grantor by virtue of any breach of the Agreement by the Sub-grantee, and the Grantor may withhold any reimbursement to the Sub-grantee for the purpose of off-set until such time as the exact amount of damages due the Grantor from the Sub-grantee is agreed upon or otherwise determined.

3. Except for the provisions of SECTION IV, paragraph 1, and SECTION XII, either party may terminate this Agreement without cause thirty (30) days after delivery of written notice in hand to the other party.

4. The MHS may terminate this Agreement for failure of the Sub-grantee to perform any of the services, duties, or conditions in accordance with the time schedule contained in this Agreement. The Grantor will provide the Sub-grantee with written notification of the reasons for the Sub-grantee's performance failure and allow the Sub-grantee a period of not less than ten (10) days or more than thirty (30) days after receipt of said notification to rectify the identified failure to perform.

SECTION V: GENERAL AND SPECIFIC CONDITIONS

The Sub-grantee agrees to follow the General and Specific Conditions according to this Agreement and Chapter 5 of the Historic Preservation Fund Grants Manual.

SECTION VI: ASSIGNMENT AND PROCUREMENT PROCEDURES

1. The Sub-grantee agrees that the procurement of services, supplies, equipment, and construction will be obtained efficiently and economically and in compliance with the applicable federal laws, and of 2 CFR part 200.317 through 200.326, and Chapter 17 of the Historic Preservation Grants Manual.
2. The process for the selection of subcontractors to perform the services under this Agreement, regardless of whether by competitive bidding or negotiated procurement shall be conducted in a manner that provides maximum open and free competition. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to: (1) placing unreasonable requirements on firms or individuals in order for them to qualify to do business, (2) noncompetitive practices between firms, (3) organizational conflicts of interest, and (4) unnecessary experience and bonding requirements.
3. Competitive bidding or negotiated procurement is required for all survey and planning subcontracts. Proposals shall be requested from an adequate number of sources (at least two or three sources) to permit reasonable competition. The Request for Proposals shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable. The Request for Proposals shall identify the survey or planning area, population, number of properties to be inventoried, funds available and volunteer support (if applicable). The Sub-grantee shall document in writing the evaluation criteria used and the results of the technical evaluation of the proposals received, determinations of responsible offerors for the purpose of written or oral discussions, and selection for subcontract award. Subcontractors shall be selected on the basis of qualification, subject to negotiation of fair and reasonable compensation. Unsuccessful offerors shall be notified promptly. A copy of documentation of the selection process will be submitted to the Grantor prior to the initiation of the project.
4. Noncompetitive negotiation may be used with prior written approval from the Grantor when, after the solicitation in accordance with Section VI, 3 above, competition is determined inadequate.
5. The Sub-grantee will notify the grantor upon the selection of a subcontractor. Sub-grantee will verify Subcontractor is not on the debarred list. A copy of this contract will be submitted to the grantor for review and written approval prior to its execution.
6. Prior to the beginning of project work or any grant payment, the Sub-grantee must submit to the grantor the below listed items to demonstrate that the federal procurement requirements have been met in full:

- a. Copies of the letters to qualified sources and public advertisements requesting proposals and/or invitations to bid;
- b. Copy of the Sub-grantee documentation of the selection criteria and process;
- c. A copy of the successful proposal and a description of the Sub-grantee reasons for selection;
- d. Listing of the unsuccessful offerors; and
- e. Copy of the proposed contract between the Sub-grantee and the subcontractor.

Note: The grantor must review and approve all contracts between the Sub-grantee and subcontractors prior to their execution. The parties agree that there will be no assignment or transfer of this Agreement or any interest in the Agreement and that no service required under this Agreement may be performed under subcontract unless both parties agree in writing.

SECTION VII: EQUAL EMPLOYMENT ORPORTUNITY

1. Pursuant to Sections 49-2-303 and 49-3-207 of the Montana Code Annotated and the federal Civil Rights Act of 1964, (as amended) and Equal Employment Opportunity statute, in all hiring or employment made possible by or resulting from this Agreement, the Sub-grantee: 1) will not discriminate against any employee or applicant for employment because of race, color, social condition, religion, sex, age, national origin, marital status, creed, political affiliation, or physical or mental handicap; and 2) will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. This requirement applies to, but is not limited to, the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Sub-grantor will comply with all applicable statutes and Executive Orders on equal employment opportunity, including enforcement provisions, as implemented by, but not limited to, Department of the Interior policies, published in 43 CFR 17.
2. The Sub-grantee will comply with Section 504 of the Rehabilitation Act of 1973 which provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
3. The Sub-grantee will comply with The Age Discrimination Act of 1975 prohibiting discrimination on the basis of age in programs and activities receiving Federal Financial assistance.

SECTION VIII: FAIR LABOR STANDARDS

The Sub-grantee agrees to comply with all Federal and State wage and hour rules, statutes, and regulations, and warrants that all applicable Federal and State fair labor standards and provisions will be

complied with both by the Sub-grantee and any subcontractors, in the event that subcontracted services are employed to fulfill the terms and conditions of this Agreement are agreed upon by the grantor and the Sub-grantee.

SECTION IX: PROHIBITION AGAINST LOBBYING

The Sub-grantee must conform to provisions of 18 USC 1913:

"No part of the money appropriated by an enactment of Congress shall in the absence of express authorization by Congress be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or any other device intended or designed to influence in any matter a Member of Congress, to favor or oppose, by vote or otherwise, any legislation of appropriation by Congress, whether before or after introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the U.S. or its Departments or agencies from communicating to Members of Congress on the request of any Member of Congress, through the proper channels, requests for legislation or appropriation that they deem necessary for the efficient conduct of the public business." Thus, costs associated with activities to influence legislation pending before Congress, commonly referred-to as "lobbying" is unallowable under this Agreement.

SECTION X: INDEMNIFICATION

The Sub-grantee agrees that it will hold harmless and indemnify the MHS from any and all losses that may result to the Grantor because of negligence on the part of the Sub-grantee, its agents, representatives, or employees. The Subgrantee shall hold harmless the MHS from any and all claims arising out of the execution of this Agreement for injury to third persons, including their agents, employees, or volunteers, recipients, and to the public at large, for injury to property of persons, which arise out of any Sub-grantee's actions.

SECTION XI: WORKERS' COMPENSATION

The Sub-grantee and all independent subcontractors earning compensation under this funding agreement must elect to be bound personally and individually by the provisions of compensation plans 1, 2 or 3, but he/she may apply to Montana Workers' Compensation division for an exemption from the Worker's Compensation Act. The application must be made in accordance with the rules adopted by the division.

The division may deny the application only if it determines that the applicant is not an independent contractor. When the division approves an application it is conclusive as to the status of an independent contractor and precludes the applicant from obtaining benefits under this chapter.

SECTION XII: MODIFICATIONS AND PREVIOUS AGREEMENTS

1. This instrument contains the entire Agreement between the parties, and no previous statements, promises, or inducements made by either party or agent of either party which are

not contained in this written agreement shall be valid or binding. This agreement may not be enlarged, modified, or altered except in writing signed by the parties and attached to the original of this Agreement, except as provided under Section IV (1). No change, addition, or erasure of any printed portion of this Agreement shall be valid or binding upon either party.

2. Any changes that substantially alter the scope of work or the cost of the approved project must be submitted by the Sub-grantee as a project amendment. These amendments must have prior written approval from NPS before the change is implemented. Change orders will be treated as amendments. The Sub-grantee must consult with the grantor to review the proposed change to determine if it substantially alters the scope of work or the cost of the approved project. If the grantor determines the change to be substantial, the grantor will process the amendment through NPS. Failure of the Subgrantee to notify the grantor of any such changes may be construed as just cause for revocation and/or recovery of the grant funds by the grantor.

SECTION XIII: CONFLICT OF INTEREST

No officer or employee of the MHS or member of the Society Board or State Historic Preservation Review Board and no member of the Sub-grantee's governing body at localities in which the project is situated or being carried out who exercises any functions or responsibilities, or who enjoys a position of influence in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Agreement which affects his or her personal or pecuniary interest. The Sub-grantee agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.

SECTION XIV: COPYRIGHT PROHIBITION

1. Except as otherwise provided in the terms and conditions of the grant agreement, the Sub-grantee is free to copyright any books, publications, or other copyrightable materials developed as a result of this Agreement. However, any such copyrightable materials will be subject to a royalty-free, nonexclusive, and irrevocable license throughout the work to the Grantor and/or the US Government to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

2. Any materials produced as a result of this Agreement which are to be publicly distributed, shall include the following statement:

The (activity) that is the subject of this (type of publication) has been financed (in part/entirely) with Federal funds from the National Park Service, U.S. Department of Interior, and administered by the SHPO of Montana. The contents and opinions do not necessarily reflect the views or policies of the U.S. Department of the Interior or the Montana Historic Preservation Office, or does the mention of trade names or commercial products constitute endorsement or recommendation by the Department of the Interior or SHPO.

3. Publications must include the nondiscrimination statement:

This program receives Federal financial assistance for identification and protection of historic properties. Under Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, age, or disability in its federally assisted programs. If you believe you have been discriminated against in any program, activity, or facility as described above, or if you desire further information, please write to:

Office for Equal Opportunity
National Park Service
849 C Street, N.W.
Washington, D.C. 20240

4. The Sub-grantee shall not include in the materials produced as a result of this Agreement any copyrighted matter without the written approval of the copyright owner that provided SHPO and the United States Government with written permission to use the material in the manner provided herein.

SECTION XV: AUDITING

The Sub-grantee agrees to allow access to the records of the activities covered by this Agreement as may be necessary for legislative post audit and analysis purposes in determining compliance with the terms of this Agreement. The Sub-grantor shall maintain all administrative and fiscal records relating to this project for three years after the final grant reimbursement is made by the Grantor to the Sub-grantee. Notwithstanding the provisions of SECTION IV, this Agreement shall automatically terminate upon any refusal of the Sub-grantee to allow access to records necessary to carry out the legislative post audit and analysis functions set forth in Title 5 Chapter 12 and 13, MCA and the financial and programmatic audit conducted by the Secretary of the Interior and the Comptroller General of the United States provided for in 2 CFR part 200.333 through 200.338.

Subgrantees that expend \$500,000 or more in Federal funds, shall perform an audit in compliance with the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 et seq. and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." For local governments and school districts, the subgrantee will provide the report to the State of Montana, Department of Administration, Local Government Services Bureau. All other subgrantees, such as Tribal Communities and Non-Profit Organizations, will provide the report to the Montana Historical Society, State Historic Preservation Office.

SECTION XVI: SEVERABILITY

It is understood and agreed by the parties hereto that if any term or provision of this contract is by the courts held to be illegal or in conflict with any Montana law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

RESOLUTION NO. 3791

A RESOLUTION APPROVING NEW BY-LAWS FOR THE MILES CITY AIRPORT BOARD

WHEREAS, the Miles City Airport Board (Board) is organized under the authority of the City of Miles City and under an Agreement for Joint Action between the City of Miles City and the County of Custer;

AND WHEREAS, the Board has recommended the adoption of new by-laws for the governance of the Board, which revise certain terms contained within said Agreement for Joint Action;

AND WHEREAS, the City finds the proposed by-laws to be appropriate to ensure the organized oversight of the operation of the airport, and agrees to revise said Agreement for Joint Action to the extent said by-laws conflict with its provisions;

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

1. The By-Laws Of The Miles City Airport Board, as set forth in Exhibit "A", attached hereto and made a part hereof, are hereby approved and adopted by this Council.
2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said by-laws on behalf of the City of Miles City.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, AT A REGULAR MEETING THIS 24TH DAY OF MARCH, 2015.

C. A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

EXHIBIT "A"

BY-LAWS OF THE MILES CITY AIRPORT BOARD

ARTICLE I: NAME

The official name of this organization shall be the Miles City Airport Board, hereinafter referred to as the "Board."

ARTICLE II: AUTHORITY

The Board is organized under the authority of the City of Miles City and under an Agreement for Joint Action between the County of Custer and the City of Miles City, Montana.

ARTICLE III: PURPOSE

The purpose of the Board is to conduct the business, planning, and other affairs of the Miles City Airport which is also known as Frank Wiley Field. The Board shall plan, acquire, establish, develop, construct, improve, maintain, equip, operate, regulate, protect, and police the Miles City Airport ("Frank Wiley Field"). The Board shall conduct such activities as are necessary and appropriate to meet the needs of the public using the Miles City Airport.

ARTICLE IV: MEMBERSHIP OF BOARD

1. The Board shall consist of seven members:
 - a. One member appointed from the Board of County Commissioners (BOCC) hereinafter referred as "BOCC", by the BOCC.
 - b. One member appointed from the City Council by the mayor. The mayor may be the appointment.
 - c. Five members appointed: Two members appointed by County Commissioners. Two members appointed by City Council acting through its Mayor. Each entity is responsible for advertising for their vacancies. One member appointed by County Commission and approved by City Council will be advertised by the County.
2. Terms of Appointment
 - a. All members of the Airport Board shall serve staggered terms of three (3) years.
 - #1 - term ending June, 2016 joint appointed
 - #2 - term ending June, 2015 City appointed
 - #3 - term ending June, 2015 City appointed
 - #4 - term ending June, 2016 County appointed
 - #5 - term ending June, 2016 County appointed
 - b. After advertising for a board vacancy, the applicants will be interviewed by the Airport: Board. The Airport Board will recommend to the appropriate entity: (city or county) their nomination for approval.
 - c. A member of the Board whose term expires may be appointed by the appropriate entity

- d. If a member of the Board resigns before their term expires, a board member will be appointed by the appropriate entity to complete the remainder of the term.
3. Meeting Attendance
 - a. Board members shall make reasonable efforts to attend all meetings.
 - b. The Chairman may request replacement of any member who does not attend three consecutive meetings, except for excused absences.
 - c. Board members shall notify the Chairman of an intended absence from a meeting no less than one business day prior to the day of the meeting to be considered excused. The Chairman may excuse absences for extraordinary circumstances.
 4. Board Members appointed hereunder shall exercise authority only when attending an Airport Board meeting or when directly authorized by written Board action.

ARTICLE V: OFFICERS

1. The Chairman shall exercise the executive authority of the Board. The Chairman may delegate, with the advice of the Board, such executive authority to the Airport Manager as may be required to carry out the business of the Airport.
2. Election of officers will be held annually at the January meeting. The commission shall elect the following officers; a Chairman and a Vice-Chairman.
3. In the absence of the Chairman, the Vice-Chairman shall act in his/her stead.
4. The Board shall appoint an individual to serve as Secretary. The Secretary shall record and publish the minutes of all meetings of the Miles City Airport Board. The Secretary shall record minutes of all Board meetings and maintain such records, including member attendance at meetings, as may be necessary or convenient for the functions of the Board. Copies of all minutes shall be mailed to all members. The official records of the Board are to be kept at City Hall. (Within 10 days after meeting)
5. An Airport Manager shall be appointed by the Board using the recruitment and selection process adopted by the City.

ARTICLE VI: MEETINGS

1. Regular Meeting Dates
 - a. Meetings will be held once a month at 2:00 on the second Monday of the month. Notice of meetings shall be given in conformity with legal requirements. The Chairman may postpone a meeting to a more convenient time or cancel a meeting by notice to the Secretary who shall contact Board members.
 - b. Agendas of the meetings will be published in the Miles City news media (Miles City Star), the Thursday before the Monday meeting. Agenda items for meetings shall go through the Chairman of the Miles City Airport Commission if the Chairman is absent then through the Vice Chairman.
2. Special Meeting Dates

- a. Special meetings may be called by the Chairman or by two members upon written request to the Chairman. The Secretary shall send written notice to all members, starting time and place of such meeting and the topic to be discussed, at least two days in advance of a special meeting. Written notice of a special meeting is not required if the time and place of said meeting has been fixed in a regular meeting, or if all members are present when such special meeting is scheduled. (The agenda process)
3. Quorum: A majority of the Board shall constitute a quorum. A quorum consists of four Members (4).
4. The Chairman shall have the right to make, and second motions and only vote to break a tie.
5. Majority Vote: All decisions requiring the action of the Board will be made by majority vote of attending members. The approval of the annual budget and bylaw changes requires 2/3 majority vote.

ARTICLE VII: AMENDMENTS TO BY-LAWS

These by-laws will be amended jointly by the City Council and the Board of County Commissioners after the Airport Board approval.

We hereby certify the forgoing By-Laws were duly adopted this ____ day of _____, 2015.

Miles City Mayor

County Commissioner Chairman

