

or to redeem prior installments of the Bond.

Upon collection of the installment of principal and interest due on November 30 and May 31 of each fiscal year on the special assessments to be levied with respect to the Improvements, the City Treasurer shall credit to the Interest Account so much of said special assessments as is collected as interest and the balance thereof to the Principal Account. Any installment of any special assessment paid prior to its due date with interest accrued thereon to the next succeeding interest payment date shall be credited with respect to principal and interest payments in the same manner as other assessments are credited to the District Fund. All money in the Interest Account and the Principal Account shall be used first to pay interest due, and any remaining money shall be used to pay the Bond then due and, if money is available, to redeem the Bond or principal installments thereof in accordance with Section 2.04. Redemption of Bond shall be in order of the principal installments, and interest shall be paid as accrued thereon to the date of redemption, in accordance with the provisions of Montana Code Annotated, Section 7-12-4206.

3.3. Loans from Revolving Fund. The Council shall annually or more often if necessary issue an order authorizing a loan or advance from the Special Improvement District Revolving Fund of the City (the "Revolving Fund") to the District Fund in an amount sufficient to make good any deficiency then existing in any Interest Account and shall issue an order authorizing a loan or advance from the Revolving Fund to the District Fund in an amount sufficient to make good any deficiency then existing in the Principal Account in such order and in each case to the extent that money is available in the Revolving Fund. A deficiency shall be deemed to exist in the Principal Account or the Interest Account if the money on deposit therein on any February 1 or August 1 (excluding amounts in the Principal Account representing prepaid special assessments) is less than the amount necessary to pay principal of the Bond due, and interest on the Bond payable, on the next succeeding interest payment date.

Pursuant to Resolution No. 3853 the City has undertaken and agreed to provide funds for the Revolving Fund by levying such tax or making such loan from the General Fund as authorized by Montana Code Annotated, Section 7-12-4222. In the event that the balance on hand in the Revolving Fund fifteen days prior to any date when interest is due on special improvement district bonds or warrants of the City is not sufficient to make good all deficiencies then existing in the special improvement district fund for which the City has covenanted to make loans from the Revolving Fund, then, pursuant to 7-12-4223 M.C.A., the balance on hand in the Revolving Fund shall be allocated to the funds of the special improvement district in which such deficiencies then exist in proportion to the amounts of the deficiencies on the respective dates of receipt of such money, until all interest accrued on such special improvement district bonds or warrants of the City has been paid. On any date when all accrued interest on special improvement district bonds and warrants of the City payable from funds for which the City has covenanted to make loans from the Revolving Fund has been paid, any balance remaining in the Revolving Fund shall be lent or advanced to the special improvement district fund for payment and redemption of bonds to the extent the district funds are deficient for such purpose, and, if money in the Revolving Fund is insufficient therefor, pro rata, in an amount proportionate to the amount of such deficiency.

Section 4. Covenants and Representations. The City covenants and agrees with the owners from time to time of the Bond that until the Bond and interest thereon are fully paid:

4.1. Compliance with the Resolution. The City will hold the District Fund and the Revolving Fund as trust funds, separate and apart from all of its other funds, and the City, its officers and agents, will comply with all covenants and agreements contained in this Resolution. The provisions hereinabove made with respect to the District Fund and the Revolving Fund are in accordance with the undertaking and agreement of the City made in connection with the sale of the Bond as set forth in Section 1.04.

4.2. Construction of Improvements. The City has taken all steps necessary to enforce the provisions of the construction contracts and bond relating to the Improvements and to ensure the completion of the Improvements for the benefit of the District in accordance with the plans and specifications and within the time therein provided, and has paid all costs thereof promptly as incurred and allowed, out of the District Fund. All awards of contracts have complied with the applicable bid and award statutes.

4.3. Levy of Assessments. The City will do all acts and things necessary for the final and valid levy of special assessments upon all assessable real property within the boundaries of the District in accordance with the Constitution and laws of the State of Montana and the Constitution of the United States in an aggregate principal amount not less than the original principal amount of the Bond. Such special assessments shall be levied on the basis or bases prescribed in the Resolution of Intention and shall be payable in semiannual installments during the term of the Bond. Each special assessment shall bear interest on the whole amount remaining unpaid at an annual rate equal to the sum, determined as of the date an installment of the special assessment is levied each fiscal year, of: (i) the then current Loan Rate, plus (ii) one percent (1.00%) per annum, plus (iii) if and to the extent that the Loan Rate is then less than 15% per annum (the maximum interest rate on the Bond), an additional one percent (1.00%) per annum, interest being payable with principal installments. The assessments to be levied will be payable on the 30th day of November and on the 31st day of May in each fiscal year during the term of the Bond and, if not theretofore paid, shall become delinquent on such date unless paid in full. The first partial payment of each assessment shall include interest on the entire assessment from the date of original registration of the Bond to the first interest payment date thereon, and each subsequent partial payment shall include interest for six months on that payment and the then remaining balance of the special assessment. The assessments shall constitute a lien upon and against the property against which they are made and levied, which lien may be extinguished only by payment of the assessment with all penalties, cost and interest as provided in Montana Code Annotated, Section 7-12-2168. No tax deed issued with respect to any lot or parcel of land shall operate as payment of any installment of the assessment thereon which is payable after the execution of such deed, and any tax deed so issued shall convey title subject only to the lien of said future installments, as provided in Montana Code Annotated, Section 15-18-214.

4.4. Reassessment. If at any time and for whatever reason any special assessment or tax herein agreed to be levied is held invalid, the City and this Council, its officers and employees, will take all steps necessary to correct the same and to reassess and re-levy the same, including the ordering of work, with the same force and effect as if made at the time provided by law, ordinance or resolution relating thereto, and will reassess and re-levy the same with the same force and effect as an original levy thereof, as authorized in Montana Code Annotated, Section 7-12-4186. Any special assessment, or reassessment or re-levy shall, so far as is practicable, be levied and collected as it would have been if the first levy had been enforced including the levy and collection of any interest accrued on the first levy.

If proceeds of the Bond, including investment income thereon, are applied to the redemption of principal installments thereof, as provided in Montana Code Annotated, Sections 7-12-4205 and 7-12-4206, or if refunding bonds are issued and the principal amount of the outstanding bond of the District is decreased or increased, the City will reduce or increase, respectively, the assessments levied in the District and then outstanding pro rata by the principal amount of such prepayment or the increment above or below the outstanding principal amount of bond represented by the refunding bonds in accordance with the provisions of Montana Code Annotated, Sections 7-12-4192.

4.5. Absence of Litigation. There is now no litigation pending or, to the best knowledge of the City, threatened questioning the validity or regularity of the creation of the District, or the undertaking and agreement of the City to levy special assessments therefor and to make good any deficiency in the collection thereof through the levy of taxes for and the making of advances from the Revolving Fund, or the right and power of the City to issue the Bond or in any manner questioning the existence of any condition precedent to the exercise of the City's powers in these matters. If any such litigation should be initiated or threatened, the City will forthwith notify in writing the Board of Investments, and will furnish the Board of Investments a copy of all documents, including pleadings, in connection with such litigation.

4.6. Waiver of Penalty and Interest. The City covenants not to waive the payment of penalty or interest on delinquent assessments levied on property in the District for costs of the Improvements.

4.7. Additional Pledge of Revolving Fund. The City agrees that so long as any principal or interest on the Bond is outstanding and unpaid, that it will not pledge to make a loan from the City Revolving Fund

as authorized in 7-12-4223 M.C.A. for the benefit of any additional City improvement district or any additional project within a currently established special improvement district without the Board of Investments' written consent.

Section 5. Mandatory Contribution to Revolving Fund As provided in 7-12-4222, M.C.A., the City must provide an amount equal to 5% of the principal amount of any bonds or warrants to be issued if the bonds or warrants are secured by the Revolving Fund. The County will deposit an amount equal to 5% of the principal amount of the Bond advanced into the Revolving Fund.

Section 6. Conclusive Findings as Required by Statute By adopting this Resolution, the City authorizes the issuance of the Bond and its sale to the Board of Investments. The City Revolving Fund is pledged as part of the security of the Bond. As required by 7-12-4225 M.C.A., the City makes the express finding that the creation of the District, the authorization of bonded indebtedness, and the pledge of the Revolving Fund are in the public interest after the Council has considered the following and other material factors as required by law:

- a) the estimated market value of the lots, parcels, or tracts included in the District at the time that the District is created in comparison to the estimated market value of the value of lots, parcels, or tracts after the improvements are made;
- b) the diversity of ownership of property in the District;
- c) the amount of the special assessments proposed to be levied against each lot, parcel, or tract in the District in comparison to the estimated market value of the lot, parcel, or tract after the improvements are made;
- d) the amount of any outstanding special assessments against the property in the District;
- e) the amount of delinquencies in the payment of outstanding special assessments or property taxes levied against property in the District; and
- f) the public benefit of the improvements proposed to be financed.

Section 7. Authentication of Transcript. The officers of the City are hereby authorized and directed to furnish to the Board of Investments certified copies of all proceedings relating to the issuance of the Bond and such other certificates and affidavits as may be required to show the right, power and authority of the City to issue the Bond, and all statements contained in and shown by such instruments, including any heretofore furnished, shall constitute representations of the City as to the truth of the statements purported to be shown thereby.

Section 8. Discharge. When the liability of the City on the Bond has been discharged as provided in Section 2, all pledges, covenants and other rights granted by this Resolution to the owners of the Bond shall cease.

PASSED by the Council of the City of Miles City, Montana, this 22nd day of September, 2015.

Mayor

Attest: _____
City Clerk

UNITED STATES OF AMERICA
STATE OF MONTANA
CITY OF MILES CITY
SPECIAL IMPROVEMENT DISTRICT NO. 211

\$59,703.00 SPECIAL IMPROVEMENT DISTRICT NO. 211 BOND

Interest at the rate per annum specified below
Payable February 15, 2016 and
semiannually thereafter
on the 15th day of February
and the 15th day of August in each year.

No. 2638-1

\$59,703.00

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>
Variable	August 15, 2030	October 2, 2015 September 18, 2015

REGISTERED OWNER: BOARD OF INVESTMENTS

PRINCIPAL AMOUNT: FIFTY-NINE THOUSAND SEVEN HUNDRED THREE AND NO/100 DOLLARS

The City Treasurer of City of Miles City, Montana, will pay to the Board of Investments of the State of Montana (the "Board"), or registered assigns, on the maturity date specified above the principal amount of FIFTY-NINE THOUSAND SEVEN HUNDRED THREE AND NO/100 DOLLARS (\$59,703.00), in principal installments on each February 15 and August 15 in the years and in the principal amounts set forth by the Board, solely from the revenues hereinafter specified, as authorized by Resolution No. 3853 adopted ~~September 22~~, 2015 (the "Resolution"), all subject to the provisions hereinafter described relating to the redemption of this Bond before maturity. Upon each disbursement of the SID Bond No. 2638-01 proceeds, the Board shall prepare an amortization schedule that will serve as specific evidence of actual draws made and outstanding.

Unpaid principal installments of this Bond shall bear interest from the date of delivery of the Bond at the rate per annum equal to the Loan Rate (as hereinafter defined), as determined from time to time, for the periods hereinafter described. Interest shall be payable on each February 15th and August 15th commencing February 15, 2016, to the owners of record of this Bond as such appear on the bond register on the date of payment, whether or not such day is a business day. This Bond represents all the principal installments of the issue.

SCHEDULE OF PRINCIPAL INSTALLMENTS

Payment Date	Principal Payment	Payment Date	Principal Payment
February 15, 2016	1,882.00	August 15, 2023	1,995.47
August 15, 2016	1,829.29	February 15, 2024	2,004.84
February 15, 2017	1,836.83	August 15, 2024	2,019.80
August 15, 2017	1,853.01	February 15, 2025	2,030.63
February 15, 2018	1,859.12	August 15, 2025	2,045.37
August 15, 2018	1,876.02	February 15, 2026	2,055.89
February 15, 2019	1,882.66	August 15, 2026	2,070.79
August 15, 2019	1,899.32	February 15, 2027	2,081.89
February 15, 2020	1,906.49	August 15, 2027	2,096.54
August 15, 2020	1,922.17	February 15, 2028	2,108.22
February 15, 2021	1,931.32	August 15, 2028	2,122.42
August 15, 2021	1,946.79	February 15, 2029	2,135.02
February 15, 2022	1,955.05	August 15, 2029	2,148.99
August 15, 2022	1,970.98	February 15, 2030	2,161.87
February 15, 2023	1,979.79	August 15, 2030	2,094.42

For purposes of this Bond, "Loan Rate" shall mean, for the period from the date of original registration of the Bond until February 15, 2016, the rate of one and twenty-five hundredths (1.25%) per annum, and, for each twelve-month or shorter period thereafter during the term of this Bond commencing on February 16th and concluding on February 15th in the next succeeding year an annual interest rate specified by the Trustee and calculated as provided under the Indenture (each as defined in the Resolution), which rate generally shall be equal to the sum of (i) the interest rate on the Board Bonds (as defined in Resolution) during such period (which interest rate may not exceed fifteen percent (15%) per annum) plus (ii) a rate, not to exceed one and one-half percent (1.50%) per annum, sufficient to produce the amount necessary to pay the City's share of Program Expenses (as defined in the Resolution). The principal of and interest on this Bond are payable in lawful money of the United States of America.

This Bond comprises an issue in the aggregate principal amount of \$59,703.00 and is issued pursuant to and in full conformity with the Constitution and laws of the State of Montana thereunto enabling, including Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42 to finance the costs of certain local improvements (the "Improvements") for the special benefit of property located in Special Improvement District No. 211 of the City (the "District"). Reference is made to the Resolution for a more complete statement of the terms and conditions upon which this Bond has been issued. The Bond is issuable only as a single, fully registered bond.

This Bond is payable from the collection of a special tax or assessment levied upon all assessable real property within the boundaries of the District, in an aggregate principal amount of not less than \$59,703.00, except as such amount may be reduced or increased in accordance with provisions of Montana law. Such assessments constitute a lien against the assessable real estate within the District, and this Bond is not a general obligation of the City's.

The principal installments of this Bond are subject to mandatory redemption in order of registration on any interest payment date if, after paying all principal and interest then currently due on this Bond, there are monies available in or to the credit of the Special Improvement District No. 211 Fund of the City, either from the prepayment of assessments levied in the District or from surplus proceeds of the Bond not required to pay costs of the Improvements, for the redemption thereof, and in the manner provided for the redemption of the same. The principal installments of this Bond are subject to redemption at the option of the City from other sources of funds available therefor on any interest payment date. The redemption price is equal to the amount of the principal installment or installments of the Bond to be redeemed plus interest accrued thereon to the date of redemption, without premium. The date of redemption shall be fixed by the City Treasurer, who shall give notice by first class mail, postage prepaid, to the owner or owners of this Bond at their addresses shown on the bond register, of the

numbers of the principal installments to be redeemed and the date on which payment will be made, which date shall not be less than ten days after the date of mailing of notice, on which date so fixed interest shall cease. On the date so fixed interest on the principal installments of this Bond so redeemed shall cease to accrue.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all things required to be done precedent to the issuance of this Bond have been properly done, happened and been performed in the manner prescribed by the laws of the State of Montana and the resolutions and ordinances of the City of Miles City, Montana, relating to the issuance thereof.

IN WITNESS WHEREOF, the City of Miles City, Montana, by its Council, has caused this Bond to be executed by the signatures of the Mayor and the City Clerk, and by the official seal of the City.

CITY OF MILES CITY, MONTANA

Mayor

City Clerk

(Seal)

Dated: _____

CERTIFICATE OF REGISTRATION

This Bond and the principal installments hereof have been registered as required by law on the books of the City as of the 15th day of September, 2015.


City Treasurer

REGISTRATION AND TRANSFER

This Bond shall be fully registered as to both principal and interest. No transfer of this Bond shall be valid unless and until (1) the registered holder of the Bond, or his duly authorized attorney or legal representative, executes the form of assignment appearing on this Bond, and (2) the City Treasurer, or any successor appointed by the City, as bond registrar (the "Registrar"), has duly noted the transfer on the Bond and recorded the transfer on the Registrar's registration books. The City shall be entitled to deem and treat the person in whose name this Bond is registered as absolute owner thereof for all purposes, notwithstanding any notice to the contrary. Payments on account of the Bond shall be made only to the order of the registered holder thereof, and all such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond to the extent of the sum or sums so paid.

THE FOLLOWING ENTRIES ARE TO BE MADE ONLY BY THE BOND REGISTRAR UPON REGISTRATION OF EACH TRANSFER

The City Treasurer of the City of Miles City, Montana, or any successor appointed by the City, acting as Bond Registrar, has transferred, on the books of the City, on the date last noted below, ownership of the principal amount of and the accrued interest on this Bond to the new registered holder noted next to such date, except for amounts of principal and interest theretofore paid.

<u>Date of Transfer</u>	<u>Name of New Registered Holder</u>	<u>Signature of Bond Registrar</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

MONTANA BOARD OF INVESTMENTS
ANNUAL ADJUSTABLE RATE TENDER OPTION
MUNICIPAL FINANCE CONSOLIDATION ACT BONDS
(INTERCAP REVOLVING PROGRAM)

Municipality:	Miles City	Final Payment:	August 15, 2030
Total Commitment:	\$59,703.00	Total # of Payments:	30
Total Draws to Date:	\$0.00	Draw Number:	2638 1
This Draw Down:	\$59,703.00	Date of this Draw:	October 2, 2015
Remaining Commitment:	\$0.00	Date of Bond:	September 18, 2015
Project:	Street improvements w/in SID #211	Series:	2007

<u>Payment Due</u>	<u>Interest Rate</u>	<u># Days Due</u>	<u>Interest Payment</u>	<u>Principal Payment</u>	<u>O/S Loan Balance</u>	<u>Total Amount of Payment</u>
			Beginning Balance		59,703.00	*please see comments
02/15/16	1.250%	150	278.07	1,882.00	57,821.00	2,160.07
08/15/16		182		1,829.29	55,991.71	
02/15/17		184		1,836.83	54,154.88	
08/15/17		181		1,853.01	52,301.87	
02/15/18		184		1,859.12	50,442.75	
08/15/18		181		1,876.02	48,566.74	
02/15/19		184		1,882.66	46,684.08	
08/15/19		181		1,899.32	44,784.76	
02/15/20		184		1,906.49	42,878.28	
08/15/20		182		1,922.17	40,956.11	
02/15/21		184		1,931.32	39,024.79	
08/15/21		181		1,946.79	37,078.00	
02/15/22		184		1,955.05	35,122.94	
08/15/22		181		1,970.98	33,151.96	
02/15/23		184		1,979.79	31,172.17	
08/15/23		181		1,995.47	29,176.71	
02/15/24		184		2,004.84	27,171.87	
08/15/24		182		2,019.80	25,152.07	
02/15/25		184		2,030.63	23,121.43	
08/15/25		181		2,045.37	21,076.06	
02/15/26		184		2,055.89	19,020.18	
08/15/26		181		2,070.79	16,949.38	
02/15/27		184		2,081.89	14,867.49	
08/15/27		181		2,096.54	12,770.96	
02/15/28		184		2,108.22	10,662.74	
08/15/28		182		2,122.42	8,540.32	
02/15/29		184		2,135.02	6,405.30	
08/15/29		181		2,148.99	4,256.31	
02/15/30		184		2,161.87	2,094.44	
08/15/30		181		2,094.44	0.00	
				59,703.00		

COMMENTS:

Interest payments shown are actual payments that will be due. Interest payments shown from February 16, 2015 to February 15, 2016 are computed at 1.25 percent. After February 15, 2016 interest rates will be adjusted to reflect the adjusted interest rate applied on the outstanding principal balance.

IMPORTANT: If payment is made by check, please send the enclosed amortization schedule(s) with check for proper credit. Please make sure that SpA Lockbox CM9695 is on both the check and envelope.

Please mail a **copy of the amortization schedule** with a check made payable to:

U.S. Bank Trust-SpA Lockbox CM9695
ATTN: Operations Center
1200 Energy Park Drive
St. Paul, MN 55108

OR

Please wire funds to:

U.S. Bank N.A. (Minneapolis)
ABA 091000022
FFC: U.S. Bank Trust N.A.
Account # 180121167365
Wire Clearing Account # 47300023
ATTN: 50364256/996103DKO
INTERCAP: Miles City

RESOLUTION NO. 3854

A RESOLUTION APPROVING A SHORT FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF MILES CITY, MONTANA, AND INTERSTATE ENGINEERING, INC., FOR DEVELOPMENT OF THE MILES CITY LONG RANGE TRANSPORTATION PLAN

WHEREAS, the City of Miles City desires to engage the services of Interstate Engineering, Inc., for professional services related to the development of the Miles City Long Range Transportation Plan;

AND WHEREAS, Interstate Engineering, Inc., has agreed to provide such services pursuant to the agreement attached hereto as Exhibit "A;"

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

1. The Short Form of Agreement Between Owner and Engineer for Professional Services, between the City of Miles City, Montana, and Interstate Engineering, Inc., 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

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 proposal and bind the 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 22nd DAY OF SEPTEMBER, 2015.

C. A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

**SHORT FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

Prepared by



and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
A Practice Division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

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SHORT FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of _____ (“Effective Date”)
between

_____ (“Owner”)
City of Miles City, Montana

and

_____ (“Engineer”).
Interstate Engineering, Inc.

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

_____ (“Project”).
Miles City Long Range Transportation Plan

Engineer's Services under this Agreement are generally identified as follows:

_____.
See Attachment #2: Scope of Work, Dated August 26, 2015

Owner and Engineer further agree as follows:

1.01 *Basic Agreement and Period of Service*

- A. Engineer shall provide, or cause to be provided, the services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above. Owner shall pay Engineer for its services as set forth in Paragraphs 7.01 and 7.02.
- B. Engineer shall complete its services within a reasonable time, or within the following specific time period: 12 Months from the Effective Date of this Agreement.
- C. If the Project includes construction-related professional services, then Engineer's time for completion of services is conditioned on the time for Owner and its contractors to complete construction not exceeding N/A months. If the actual time to complete construction exceeds the number of months indicated, then Engineer's period of service and its total compensation shall be appropriately adjusted.

2.01 *Payment Procedures*

- A. *Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 45 days of

receipt. If Owner fails to make any payment due Engineer for services and expenses within 45 days after receipt of Engineer's invoice, then the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said forth-fifth day. In addition, Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension. Payments will be credited first to interest and then to principal.

3.01 *Termination*

A. The obligation to continue performance under this Agreement may be terminated:

1. For cause,

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.

b. By Engineer:

1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

2) upon seven days written notice if the Engineer's services for the Project are delayed for more than 90 days for reasons beyond Engineer's control.

Engineer shall have no liability to Owner on account of a termination by Engineer under Paragraph 3.01.A.1.b.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon Engineer's receipt of written notice from Owner.

B. The terminating party under Paragraph 3.01.A may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

- C. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination.

4.01 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 4.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any contractor, subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

5.01 *General Considerations*

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Subject to the foregoing standard of care, Engineer and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- B. Engineer shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to such contractor's furnishing and performing of its work.
- C. This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located.

- D. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor. Engineer is not responsible for variations between actual construction bids or costs and Engineer's opinions or estimates regarding construction costs.
- E. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees) at the Project site or otherwise furnishing or performing any construction work; or for any decision made regarding the construction contract requirements, or any application, interpretation, or clarification of the construction contract other than those made by Engineer.
- F. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (EJCDC C-700, 2007 Edition) unless the parties agree otherwise.
- G. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment for all services relating to preparation of the documents and subject to the following limitations: (1) Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.
- H. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is greater.
- I. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq., or radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultants or contractors to

identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.

- J. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.

6.01 *Total Agreement*

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

7.01 *Basis of Payment—Hourly Rates Plus Reimbursable Expenses*

- A. Using the procedures set forth in Paragraph 2.01, Owner shall pay Engineer as follows:
 - 1. An amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class for all services performed on the Project, plus reimbursable expenses and Engineer's consultants' charges, if any.
 - 2. Engineer's Standard Hourly Rates are attached as Attachment 1.
 - 3. The total compensation for services and reimbursable expenses is \$122,950.00.

- 7.02 *Additional Services:* For additional services of Engineer's employees engaged directly on the Project, Owner shall pay Engineer an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees' times standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any. Engineer's standard hourly rates are attached as Attachment 1.

Attachments: Attachment 1: Engineer's Standard Hourly Rates

Attachment #2: Scope of Work, Dated August 26, 2015

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER:

By: _____

Title: _____

Date Signed: _____

Address for giving notices:

City of Miles City _____

P.O. Box 910 _____

Miles City, MT 59301 _____

(406) 234-3493 _____

ENGINEER: 

By: Jed E. Kirkland, P.E.

Title: Western Regional Vice President

Date Signed: 9/9/15

Engineer License or Firm's Certificate

Number: MT 19589

State of: Montana

Address for giving notices:

Interstate Engineering, Inc.

P.O. Box 20953

Billings, MT 59104-0953

406-256-1920

ATTACHMENT #1 SCHEDULE OF RATES

1.	<u>Engineers</u>		
	(A) Staff Engineer	\$95.00	per hour
	(B) Project Engineer	\$125.00	per hour
	(C) Senior Project Engineer	\$185.00	per hour
	(D) Hydrogeologist	\$190.00	per hour
	(E) Senior Traffic Engineer	\$200.00	per hour
	(F) Senior Project Manager	\$200.00	per hour
	(G) Principal Engineer	\$250.00	per hour
	(H) Principal Engineer / Land Surveyor	\$250.00	per hour
2.	<u>Surveyors</u>		
	(A) Field Assistant	\$58.00	per hour
	(B) Party Chief	\$87.00	per hour
	(C) Land Surveyor	\$115.00	per hour
	(D) GPS / Party Chief	\$122.00	per hour
	(E) Senior Land Surveyor	\$127.00	per hour
	(F) GPS / Robotic Surveyor	\$150.00	per hour
	(G) Senior Survey Manager	\$200.00	per hour
3.	<u>Technicians</u>		
	(A) Field Assistant	\$58.00	per hour
	(B) Technician	\$87.00	per hour
	(C) Project Technician	\$97.00	per hour
	(D) Senior Technician	\$130.00	per hour
4.	<u>Administrative – Draftspersons - Computer</u>		
	(A) Administrative Assistant	\$58.00	per hour
	(B) Draftsperson	\$87.00	per hour
	(C) Senior Draftsperson	\$100.00	per hour
	(D) Computer Specialist	\$135.00	per hour
5.	<u>Chargeable Expenses</u>		
	(A) Subsistence at actual cost		
	(B) Travel Vehicle	\$.69	per mile
	Survey Vehicle	\$.79	per mile
	Aircraft		Actual Cost
	(C) Any but ordinary first – class postage at actual cost.		
	(D) Cost of surveying materials, filing fee, drafting materials and other materials required for the job at actual cost plus 25%.		
	(E) Recordation Per Monument	\$35.00	per monument
	(F) Plat Certification	\$35.00	per certification
	(G) Printing		
	1. 8½" x 11"	\$0.15	per page B & W
		\$0.50	per page Color
	2. 11" x 17"	\$0.25	per page B & W
		\$0.50	per page Color
	3. 24" x 36"	\$9.00	per sheet
	4. Mylar	(\$3.00 ft ²)	
	(H) Equipment Rental Rates		
	1. ATV	\$75.00	per day
	2. UTV	\$150.00	per day
	3. UTV with Tracks / Snowmobile	\$200.00	per day
	(I) Subconsultant Services at Actual Cost Plus 10%		
	(J) Any and all sales and use tax, TERO or other special fees, which apply to this contract.		

Appendix 1, Standard Hourly Rates Schedule

EJCDC E-520 Short Form of Agreement Between Owner and Engineer for Professional Services.

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ATTACHMENT #2

MILES CITY LONG RANGE TRANSPORTATION PLAN SCOPE OF WORK

GENERAL:

This scope of work is intended to develop the Long Range Transportation Plan for the City of Miles City and meet the goals outlined in Agreement Exhibit A of the Subrecipient Agreement for the Miles City Area Transportation Plan between the City of Miles City and the Montana Department of Transportation.

PRE-CONTRACT ACTIVITIES:

1. INITIAL SCOPING MEETING (Telecom or Polycom)

Interstate Engineering (Engineer) will schedule a telephone conference call meeting with the City of Miles City (City) to review the Agreement Form, Scope of Work (Work Plan), Schedule, and Fee Estimate. The City will invite teleconference participants consisting of City Staff, Montana Department of Transportation (MDT) Staff, and possibly Custer County Staff and City or County elected official(s). Engineer will include Key Project Staff from the Engineer and its Subconsultant (Peaks to Plains Design).

The Objectives of the Initial Scoping Meeting are as follows:

- a. Review written scope of work, revise if necessary
- b. Review written schedule, revise if necessary
- c. Review work tasks and responsibilities, revise if necessary
- d. Establish format and timing of deliverables
- e. Formulate Project Advisory Committee (PAC)
- f. Identify Focus Groups and Group Contacts for Focus Group Meetings

PLAN ACTIVITIES:

1. INITIAL DATA GATHERING

Engineer will conduct initial data gathering activities ahead of the kick-off meeting. Data to be acquired will include, but not necessarily be limited to:

- a. Existing traffic volume data: Engineer will utilize data from the MDT web site, data present within the TransCAD Travel Demand Model (Model), and will request any additional traffic volume data from both the City and the MDT. In addition to traffic volume data, the Engineer will also seek out any available turn movement counts for major intersections within the study area. Should the Engineer and City agree to the need for additional traffic volume data, traffic volume counts for up to six (6) locations and peak period turning movement counts for up to six (6) intersections are included within this Scope of Work.

- b. Crash data: Engineer will request available crash data for the most recent three year period from the MDT, City Police, and County Sheriff for the entire study area.
 - c. Socio-economic data (employment, household, population): Engineer will utilize travel demand model (by TAZ) data provided by the MDT, and will obtain U.S. Census data. Data compiled by the State Department of Commerce, University System, and/or Local Officials, where available, will be provided by the City.
 - d. Existing land use / zoning data: The City will provide mapping depicting existing land use and zoning within the study area. We anticipate data will be provided in electronic map format (GIS or AutoCAD).
 - e. Inventory of existing motorized transportation facilities: Engineer will utilize the model network as the primary source for motorized facility inventory. It is anticipated that the model network will contain necessary facility data such as number of lanes, speed limits, functional classification, etc. The Engineer will request additional, supplemental inventory data from the City and will use it in conjunction with the model data to compile a complete inventory of the motorized facilities. Field inspections or inventory of facilities is not included in this Scope of Work.
 - f. Inventory of existing non-motorized transportation facilities: Engineer will request available mapping and inventory data for existing non-motorized transportation facilities from the City.
 - g. Miles City – Custer County Growth Policy: Engineer will request a copy of the most recent Miles City - Custer County Growth Policy document from the City for use with development of this Long Range Transportation Plan. We anticipate using the Growth Policy document to assist with development/confirmation of socioeconomic data and projected growth.
 - h. Other plans / studies performed for the Miles City Metro Area: Engineer will discuss other, available plans and/or studies completed within the study area with the City and will request copies of relevant studies. Relevant studies include any Traffic Impact Studies completed for development projects, Safety Studies, Project-specific Design Studies completed for transportation system improvement projects, etc.
2. COMPILE, MAP, AND SUMMARIZE DATA: Engineer will develop maps depicting system inventory, traffic volumes, land use/zoning and crash history for use with Initial Project Meetings and Project Advisory Committee Meetings. Where appropriate, tables and graphs will be developed to summarize data, specifically data related to socioeconomics (households, population, employment, etc.) and land use.

3. REVIEW STUDY AREA BOUNDARY: Engineer will perform a review of the proposed Study Area boundary in light of data collected and make recommendation(s) for any changes for consideration at Initial Project Advisory Committee Meetings. This review will consider information/data received about projected growth, the planning jurisdiction boundary, and limits of growth planning considered with the Growth Policy document.

4. PROJECT ADVISORY COMMITTEE: Together with the Engineer, the City will establish a Project Advisory Committee (PAC). The PAC will provide plan guidance through periodic meetings with the Engineer and review of technical memos and plan products developed as the plan progresses. It is suggested that the PAC include representatives of City & County staff, MDT staff, and elected officials from the City and/or County. It is anticipated that six (6) meetings of the PAC will be required throughout the course of Plan development, with three (3) meetings taking place in Miles City and three (3) meetings conducted via teleconference. Meetings are intended to be scheduled at key milestones of the Plan development (see Schedule, attached). It is anticipated PAC meetings will occur at City Hall with no cost to the project. Engineer will provide teleconference capabilities for those meetings anticipated to take place via telephone conference call. Meetings and their objectives are outlined below:
 - a. PAC Meeting #1 (in person, to occur in advance of Town Hall Meeting #1 and Focus Group meetings)
 - i. Present final project scope, schedule, and deliverables
 - ii. Establish project goals
 - iii. Review project process
 - iv. Understand PAC concerns & expectations
 - v. Establish project and community contacts
 - b. PAC Meeting #2 (telecom)
 - i. Review data collected
 - ii. Review growth projections
 - iii. Review key findings of Town Hall Meeting #1
 - c. PAC Meeting #3 (in person)
 - i. Review E+C Model results
 - ii. Review List of Improvement Alternatives
 - d. PAC Meeting #4 (in person)
 - i. Review model results of Alternatives
 - ii. Complete decision matrix of consult recommended preferred alternatives
 - iii. Obtain concurrence on Preferred Alternatives
 - e. PAC Meeting #5 (telecom)
 - i. Review Draft Report Document
 - ii. Review Executive Summary Presentation
 - f. PAC Meeting #6 (telecom)
 - i. Final Report edits

- ii. Project Close-out
5. TRAVEL DEMAND MODELING: Travel Demand Modeling necessary for development of this Plan will be conducted by the MDT with input/direction from the Engineer. A Model Scoping Meeting will be scheduled with the MDT and the City to discuss technical aspects of model development and coordination for modeling activities. Objectives for the Model Scoping Meeting are as follows:
- a. Model Scoping Meeting (telecom / polycom)
 - i. Determine format for data exchange
 - ii. Determine format for presentation of results and data
 - iii. Determine schedule for modeling activities

Base Model Development: The MDT will develop a travel demand base model. The MDT will research and assemble all necessary socioeconomic and geographic information necessary for the development of the base year model. The MDT will calibrate the base year model to base year traffic counts. The Engineer will review the base year model for acceptance. Engineer's review of the base year model will entail the following general tasks:

- i. Confirm Network Model is representative
- ii. Confirm TAZ socioeconomic data is representative
- iii. Confirm acceptable calibration to ground counts

The Engineer will work with the City to divide the study area into "neighborhoods" for growth allocation and model evaluation. We anticipate neighborhoods will represent areas of similar land use (residential, commercial, industrial, etc.), and that the study area will consist of 10-15 neighborhoods. Once accepted for use with the Plan, the Engineer will provide an analysis of base year model results. It is assumed that the MDT will provide the "loaded" network(s) from the base year model and necessary O/D results to enable the Engineer's analysis and reporting of the following general model result.

- iv. Congestion/capacity issues
- v. Travel time and travel miles statistics
- vi. Origin/Destination statistics (band widths) at neighborhood level

Develop Future Socioeconomic Data: The Engineer will research historic and projected land use patterns to identify historic and projected growth rates within the study area. Research will consist of review and evaluation of existing data and documentation (Growth Policy, Downtown Urban Renewal Plan, etc.). In consultation with the City and the MDT, the Engineer will determine final growth rates and develop future housing and employment totals for 10-year and 20-year growth horizons. In addition to the targeted growth, the Engineer will work with the City and the MDT to

develop up to two (2) additional growth scenarios representing alternative growth rates/locations for use with future year modeling.

Allocation of Future Growth: The Engineer, in consultation with the City, will coordinate allocation of the future 10-year and 20-year housing and employment throughout the study area to study area neighborhoods for up to three (3) growth scenarios. The growth allocations will be mapped and provided to the MDT. The MDT will translate the neighborhood distribution map information to achieve distribution of socioeconomic data to the TAZ level.

Model Future 20-Year Growth Scenarios with E+C Network: The MDT will model future 20-year growth scenarios (3) with the Existing plus Committed (E+C) roadway network. The City will work with the MDT to develop a list of committed transportation projects for this modeling. The MDT will develop the E+C network model. Once E+C modeling is completed, the MDT will provide the results of the modeling to the Engineer for analysis. The Engineer will provide analysis of model results in a similar fashion as the base year model results for easy comparison. It is assumed that the MDT will provide the “loaded” network(s) model and necessary O/D results to enable the Engineer’s analysis and reporting. In general, model analysis results will include the following:

- vii. Congestion/capacity issues
- viii. Travel time and travel miles statistics
- ix. Origin/Destination statistics (band widths) at neighborhood level

Develop list of improvements for alternatives network modeling: Based on an analysis of the E+C modeling, the Engineer, in consultation with the City and the MDT, will develop a list of potential improvement alternatives for additional modeling. The Engineer will develop model variables required for each improvement alternative. The Engineer will develop “packages” of improvement alternatives for additional modeling such that performance of each alternative improvement might be assessed without the need to model each improvement alternative separately. We anticipate the need to develop up to three (3) network improvements packages for modeling. Modeling of improvement alternative packages (up to three) will be performed by the MDT for the 20-year future horizons (three growth scenarios), for a total of nine (9) model runs. The results of the modeling will be provided to the Engineer for review and analysis. It is assumed that the MDT will provide the “loaded” network(s) model and necessary O/D results to enable the Engineer’s analysis and reporting. In general, model analysis results will include the following:

- x. Congestion/capacity issues
- xi. Travel time and travel miles statistics

- xii. Origin/Destination statistics (band widths) at neighborhood level

Select & Prioritize Preferred Network Improvement Alternatives: Following the analysis of the alternatives network modeling, the Engineer, in consultation with the City and the MDT will select preferred alternatives for final modeling. Final improvement alternatives will be modeled with final 10-year and 20-year growth scenarios selected by the City. The results of the final modeling will be provided to the Engineer for review and analysis. It is assumed that the MDT will provide the “loaded” network and necessary O/D results to enable the Engineer’s analysis and reporting. In general, model analysis results will include the following:

- xiii. Congestion/capacity issues
- xiv. Travel time and travel miles statistics
- xv. Origin/Destination statistics (band widths) at neighborhood level

The Engineer will utilize results from the final model to recommend preferred alternative implementation priorities to develop short- and long-range plans for the transportation system.

- 6. **TRANSPORTATION SYSTEM ANALYSIS:** In addition to travel demand modeling, the Engineer will also assess multiple aspects of the transportation system of the study area. Anticipated are analyses to assess mobility, safety, and community goals. Listed below are the additional assessments anticipated, along with the methodology/tools anticipated to be used for each assessment:

Transportation system implications of the Growth Policy:

- i. Determined through modeling of E+C network against expected future growth defined by the Growth Policy document.

System-wide vehicle miles of travel (VMT) and Travel Time:

- ii. Determined from model output for various scenarios.

Continuity/completeness of Arterial and Collector street network:

- iii. Examine E+C network, determine need for additional facilities to achieve continuity through examination of mapping and modeling (origin-destination travel demand).

Non-motorized transportation needs assessment:

- iv. Examine inventory of non-motorized system.
- v. Examine recommendations of other studies (Growth Policy, Downtown Urban Renewal Plan, etc.).
- vi. Focus Group and Public Meeting input for system needs.
- vii. Land Use examination (schools, parks, public facilities, etc.) for system connectivity and needs for both commuter and recreational non-motorized travel.

Capacity analysis for intersections and corridors:

- viii. Planning-level assessments for the Base Year model, as well as the E+C network modeled against future land use scenarios will be performed to assist with identification of needed improvements and the timing of those improvements.
- ix. Collection of peak period turning traffic counts to assist with more detailed assessment of up to six (6) intersections.

Problems / opportunities with special generators:

- x. Planning-level capacity assessment for access locations (intersections).
- xi. Mobility assessment for special needs (trucks, non-motorized, etc.).

Crash Assessment:

- xii. Map crash records using GIS.
- xiii. Use crash data to determine crash rates and identify high crash locations.
- xiv. Identify crash type trends at high crash locations (up to six (6) locations).
- xv. Use trends to identify potential improvements projects (up to six (6) locations)

Truck & Freight Traffic Analysis:

- xvi. Identify origins & destinations for freight traffic, including through trips without a local origin or destination.
- xvii. Identify logical routes & route constraints, including truck by-pass routes.
- xviii. Identify improvement alternatives for existing routes and/or potential alternative routes.

Access Management & Approach Ordinance/Permitting:

- xix. Research "model" ordinances for applicability and implementation.
- xx. Identify corridors likely to benefit most from access management projects.

Transportation System Management (TSM) Improvements:

- xxi. Identify corridors likely to benefit most from TSM improvements.
- xxii. Utilize public and focus group input to identify corridors where traffic calming measures will provide the most benefit.
- xxiii. Identify locations/corridors where viewing streets as "places" can provide commerce benefits without hindering mobility.

Capital Cost & Funding Assessment:

- xxiv. Research historical funding mechanisms and levels.
- xxv. Identify potential new sources for funding.
- xxvi. Provide details of each potential funding source (criteria, availability, restrictions, etc.) and applicability for identified improvement priorities.

- xxvii. Develop concept-level cost estimates for preferred improvements.
- xxviii. Develop a comparison of anticipated capital costs with projected revenue.

7. PUBLIC PARTICIPATION: The Engineer will conduct a public participation program that includes three (3) general public meetings and two (2) focus group meetings. The Engineer will also develop and maintain a plan web page to inform the public and receive input to the plan. The elements of the public participation program are outlined in the following sub-sections:

Three Community Engagement Opportunities:

- a. Town Hall Meeting #1 (Open House). Engineer will schedule meeting at a venue selected by the City. Any costs associated with the use of the meeting space are the responsibility of the City. The Engineer will provide the meeting agenda and all necessary exhibits, handouts, comment sheets, etc. necessary to conduct the meeting. The objectives of this meeting are as follows:
 - i. Opportunity to explain plan purpose and scope.
 - ii. Announce through print, radio, etc. Engineer will develop print advertisements for publication. Any publication costs are the responsibility of the City.
 - iii. Allow public input with a "blank slate" to express concerns regarding congestion, safety, aesthetic issues, etc.
 - iv. Formal presentation of plan, followed by open house format meeting with "stations" for issue areas and public input. Potential stations include:
 - 1. Motorized and Non-motorized transportation system
 - 2. Safety
 - 3. Congestion
 - 4. Freight (truck routes and access)
 - 5. Railways
 - 6. Air
 - 7. Anticipated growth
 - 8. Held at the beginning of the project (Item #2c above)
- v. Town Hall Meeting #2 (Open House). Engineer will schedule meeting at a venue selected by the City. Any costs associated with the use of the meeting space are the responsibility of the City. The Engineer will provide the meeting agenda and all necessary exhibits, handouts, comment sheets, etc. necessary to conduct the meeting. The objectives of this meeting are as follows:
 - 1. Inform public on data collection.
 - 2. Inform public on results of listening sessions (focus group meetings).

3. Inform public on model findings (congestion, mobility, opportunities and constraints).
 4. Inform public of selected, preferred improvements projects.
 5. Solicit input for any additional projects not on the plan
- vi. Public Hearing(s) for Draft Final Plan. Public hearings for adoption of the plan are assumed to take place in conjunction with regularly scheduled City Council meetings. The Engineer will attend up to two (2) Public Hearings. The Engineer will develop and present an "Executive Summary" of the plan at the Public Hearing(s).

Community Listening Sessions: The Engineer will conduct two (2) separate focus group meetings to reach out to those that may not ordinarily participate in public meetings. Meetings will be scheduled to coincide with the Town Hall Meeting #1 scheduled trip. Letters of invitation will be sent to contacts representing groups such as:

- vii. Hospital workers
- viii. Senior centers
- ix. Service organizations
- x. School District
- xi. Chamber of Commerce
- xii. Fairground users
- xiii. Miles City Community College
- xiv. Freight community
- xv. Mobility impaired community
- xvi. Non-motorized advocates

Project Web Site: The Engineer will develop and host a plan web site to provide information to the public about the plan and to provide a forum for public input. The web site will also be utilized to advertise public meetings and public hearings for the plan, and to provide periodic updates. The City will provide a link to the plan web page on the City's web page.

8. DELIVERABLES:

- a. Package of recommended improvements projects
 - i. Concept-level cost estimates for improvements.
 - ii. Prioritized improvements list based on significance of system needs and benefits of each improvement project.
 - iii. Potential funding sources applicable for each improvement project
- b. "Executive Summary" of project development and resulting package of recommended improvements
 - iv. Written document suitable for posting on the project web page.
 - v. Presentation (with graphics) suitable for use at the 2nd Public Meeting and at Public Hearings.
 - vi. Documentation of public comments received at Public Meetings.
- c. Draft Final Study Document
 - vii. Incorporate Model Documentation prepared by MDT.
 - viii. Document Transportation System Analysis, motorized and non-motorized.
 - ix. Include preferred improvements projects with concept-level cost estimates.
 - x. Include potential funding source applicability, levels, and anticipated revenue; compare to preferred improvements costs.
 - xi. 25 hard copies plus unbound reproducible, an electronic copy (PDF) and web-formatted version will also be developed
 - 1. Revise once based on Local Officials review
 - 2. Revise once based on Public Hearing
 - 3. Revise once based on review by City Council
- d. Final Study Document
 - xii. 11 hard copies (City and MDT)
 - xiii. Editable electronic format document (MS Word)
 - xiv. PDF format electronic document
- e. Mapping
 - xv. Mapping compatible with City of Miles City GIS platform
- f. Miscellaneous Deliverables
 - xvi. Agendas for Public Meetings, Focus Group Meetings, and PAC Meetings.
 - xvii. Record of meetings, including public comments.

RESOLUTION NO. 3855

A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO A MONTANA DEPARTMENT OF COMMERCE COAL BOARD CONTRACT TO ASSIST IN FUNDING THE FRANK WILEY MILES CITY AIRPORT IMPROVEMENT PROJECT.

WHEREAS, the Montana Department of Commerce Coal Board has awarded a grant to the City of Miles City in an amount not to exceed \$166,000.00 to assist in funding the Frank Wiley Miles City Airport Improvement Project;

AND WHEREAS, the Board has presented the City with a Contract setting forth the obligations of the parties with respect to such grant;

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

1. The “Montana Department of Commerce Coal Board Contract #MT-CB-17-0774,” attached hereto as Exhibit “A”, and made a part hereof, is hereby approved and adopted by this Council.

2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said Contract on behalf of the City of Miles City and bind the City of Miles City thereto; 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, AT A DULY CALLED MEETING THIS ___ DAY OF _____, 2015.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

**MONTANA DEPARTMENT OF COMMERCE
COAL BOARD
CONTRACT #MT-CB-17-0774**

This Contract is entered into by the City of Miles City, Montana (the Grantee), and the Montana Coal Board (the Board).

The Grantee and the Board hereby agree to the following terms:

Section 1. PURPOSE

The purpose of this Contract is to provide funding for project activities approved by the Coal Board (hereinafter "Board" or "Program") for which the Grantee has applied for grant funds pursuant to Sections 90-6-201 *et seq.*, Montana Code Annotated (MCA).

Section 2. AUTHORITY

This Contract is issued under authority of Title 90, Chapter 6, Part 2, MCA, and the Administrative Rules of Montana, Title 8, Chapter 101. The Board is attached to the Department for administrative purposes under Section 2-15-1821, MCA. The Department provides staff for the Board, and the Department and its staff are specifically authorized to direct and supervise the budgeting, recordkeeping, reporting, and related administrative and clerical functions of the Board with respect to this Contract. (Section 2-15-121, MCA.)

The Grantee warrants that it is eligible for Coal Board grants as required by Section 90-6-205, MCA, and has the statutory authority to make expenditures to provide for the particular government service or facility funded under this Contract.

Section 3. APPLICATION INCORPORATED BY REFERENCE

The Grantee's application for Program assistance, including any written modifications resulting from the review of the applications by the Board and/or the Department (collectively, the "Project"), is specifically incorporated into this Contract by this reference and the representations made therein are binding upon the Grantee.

Section 4. ACCEPTANCE OF PROGRAM REQUIREMENTS

- (a) The Grantee will comply with all applicable local, state, and federal laws, regulations, ordinances, and resolutions, as now in effect or as may be amended during the term of this Contract, and all administrative directives and procedures that may be established or amended by the Board and/or the Department, including all of the provisions, guidelines, and requirements set forth on the Board's website at: <http://comdev.mt.gov/COAL/default.mcp.x>.

- (b) The Grantee agrees that all contracts and subcontracts entered into for the completion of the activities described in Section 6 SCOPE OF WORK will require such contractors, subcontractors, and subrecipient entities to also comply with all applicable local, state, and federal laws, regulations, administrative directives, procedures, ordinances, and resolutions established by the Board and/or the Department.
- (c) The Grantee agrees that the Project will adhere to all applicable design standards and building codes and obtain all applicable federal, state, and local permits required for the project.
- (d) The Grantee expressly agrees to repay to the Department any funds advanced under this Contract that the Grantee, its contractors, subcontractors, or subrecipient entities, or any public or private agent or agency to which it delegates authority to carry out portions of this Contract, expends in violation of the terms of this Contract, the statutes and regulations governing the Program, or any applicable local, state, or federal requirements.

Section 5. EFFECTIVE DATE AND TIME OF PERFORMANCE

- (a) This Contract shall take effect upon execution by the parties and will terminate on upon approval of Grantee's final Request for Reimbursement by the Department, unless otherwise terminated earlier in accordance with the terms of this Contract.
- (b) All authorized expenses to be reimbursed must be incurred by the Grantee between July 1, 2015 and June 30, 2017. All Requests for Reimbursement must be submitted to the Department within 60 days of final Project close-out.
- (c) The activities to be performed by the Grantee will be completed according to the implementation schedule set forth in Exhibit A. The Grantee may modify the implementation schedule set forth in Exhibit A only upon obtaining the prior written approval of the Department.
- (d) The Department may grant a Contract extension upon request by the Grantee if the Department determines, in its sole discretion, that the Grantee has demonstrated progress toward completion of the Project; has engaged in a good faith effort to comply with the duties, terms, and conditions of this Contract, and that the failure to comply with any of those services, duties, terms, or conditions resulted from circumstances beyond the Grantee's control. A written request for an extension must be submitted at least 60 days prior to the termination date of the Contract.

Section 6. SCOPE OF WORK

- (a) The Grantee will complete the Project and administer this Contract as set forth in the Grantee's application for Program assistance, including any written modifications resulting from the review of the applications by the Program and/or the Department. The Grantee will use Program funds for the following major components of the Project:

- Engineering Design related to Frank Wiley Miles City Airport improvements.

Section 7. BUDGET

- (a) The total amount to be awarded to the Grantee under this Contract will not exceed \$166,118.00.
- (b) A copy of the preliminary Project budget is attached hereto as Exhibit B and specifically incorporated herein by this reference. After construction bids are awarded or other major Project activity cost elements are determined, the Grantee shall provide the Department with a final Project budget, which, upon receipt and approval by the Department, will supersede the preliminary budget in Exhibit B and thereby be incorporated as part of this Contract and binding upon the Grantee.
- (c) For budget adjustments of ten percent (10%) or less between line items of the Board portion of Exhibit B, Department approval of the Request for Reimbursement form will constitute approval of the budget adjustment. The Grantee shall describe the rationale for a budget adjustment and note the adjustments in the Request for Reimbursement submitted to the Department. Budget adjustments in excess of 10% must be approved in advance by the Department.
- (d) Any authorized funds under this grant not obligated on or before June 30, 2017, or a later date if approved by the Department pursuant to Section 5, will revert to the Department and will be used to finance other Board projects.

Section 8. METHOD OF REIMBURSEMENT

- (a) The Board and/or Department will not release any Program funds to the Grantee until the Grantee has obtained firm commitments for all other financial resources to be involved in the Project, as defined in Section 6 SCOPE OF WORK and Exhibit B. The Grantee may not expend or obligate any Program funds, other than for administrative purposes, until the Board and/or Department determines that this condition has been satisfied.
- (b) The Board agrees to reimburse the Grantee on an actual cost basis for successfully completing the activities set forth in Section 6 SCOPE OF WORK as eligible Project costs are incurred on or after July 1, 2015 supported by adequate documentation submitted by the Grantee, including but not limited to all claims and vendor invoices, and upon approval by the Board and/or Department of the Grantee's Request for Reimbursement. In drawing against the reserved amount, the Grantee will follow the draw down instructions supplied by the Department.
- (c) The Department agrees to reimburse the Grantee as set forth in this Section for successfully completing the activities set forth in Section 6 SCOPE OF WORK as eligible Project costs are incurred on or after July 1, 2015, supported by adequate documentation submitted by the Grantee, and upon the Department's approval of the Grantee's Request

for Reimbursement. Unless previously agreed to in writing by the Department, the Department will not reimburse Grantee for any costs related to land acquisition, construction, construction inspection, or contingency line items in Exhibit B until Grantee demonstrates all applicable permits for the project have been obtained, as required in Section 4(c). In requesting reimbursement, the Grantee will follow the instructions supplied by the Department.

- (d) The Department will not reimburse the Grantee for any costs incurred prior July 1, 2015; for any expenses not included in Exhibit B or an approved adjustment thereto; for any ineligible expenses as set forth in the Program application or guidelines; or for any expenses not clearly and adequately supported by the Grantee's records.
- (e) At the request of the Department, Requests for Reimbursement for contracted or subcontracted services must attach appropriate documentation demonstrating compliance with contract requirements.
- (f) As further set forth in Section 4 ACCEPTANCE OF PROGRAM REQUIREMENTS and Section 23 TERMINATION OF CONTRACT, if the Grantee fails to or is unable to comply with any of the terms and conditions of this Contract, any costs incurred will be the Grantee's sole responsibility and Grantee agrees to repay to the Board any funds advanced under the Contract.
- (g) Unless otherwise stated herein, the Department is allowed fifteen (15) working days to process a Request for Reimbursement once adequate supporting documentation has been received by the Department. The Grantee shall be required to provide banking information at the time of Contract execution in order to facilitate electronic funds transfer payments.
- (h) If actual Project expenses are lower than projected by the Grantee in Exhibit B, or the Grantee obtains a greater amount of grant funds from other sources than as presented in the Project application, the Board, at its discretion, may reduce the amount of Program funds to be provided to the Grantee under this Contract in proportion to the decrease in overall Project cost.
- (i) If the Grantee changes one of its sources of funding or the cost of the Project increases after the Grantee has obtained the firm commitment of non-Program funds, the Department may, at its discretion, suspend the distribution of Program funds until the Grantee obtains a firm commitment of funds for the full Project budget.
- (j) If the Department determines that the Grantee has failed to satisfactorily carry out its responsibilities under this Contract or has breached the terms of this Contract, the Department may withhold reimbursement to the Grantee until such time as the Department and the Grantee agree on a plan to remedy the deficiency.
- (k) The Grantee may not use monies provided through this Contract as payment for Project costs that are reimbursed from other sources.

Section 9. REPORTING REQUIREMENTS

- (a) Project Progress Reports. During the term of this Contract, the Grantee will submit project progress reports to the Department in conjunction with each Request for Reimbursement. These reports will describe the status of the activities set forth in Section 6 SCOPE OF WORK, including, at a minimum, the percentage completed, costs incurred, funds remaining, and projected completion date. The report must also provide documentation supporting each claim for expenses to be reimbursed, describe any significant problems encountered in carrying out the Project and the scope of any necessary modifications the Grantee is requesting in the Project scope of work, budget, or implementation schedule. The Department, at its sole discretion, may decline to honor any Request for Reimbursement if the required project progress report has not been submitted to or approved by the Department.

- (b) Project Completion Report. Upon completion of the Project, the Grantee will submit a final Project Completion Report for approval by the Department. The Project Completion Report will describe the total costs incurred for the Project, identify the final completion date, and summarize any significant problems encountered in carrying out the Project. Within 30 working days of receiving the Project Completion Report, the Department will issue the Notice of Project Close-out.

Section 10. LIAISONS

All project management and coordination on behalf of the Department shall be through a single point of contact designated as the Department’s liaison. Grantee shall designate a liaison that will provide the single point of contact for management and coordination of Grantee’s work. All work performed pursuant to this Contract shall be coordinated between the State’s liaison and the Grantee’s liaison. The liaisons for this this Contract are:

For the Board and the Department:

Aaron Pratt (or successor)
Coal Board Administrative Officer, MDOC
301 S. Park Ave.
P.O. Box 200523
Helena, MT 59620-0523
406-841-2770
apratt@mt.gov

For the Grantee:

Chris Grenz, Mayor (or successor)
City of Miles City
P.O. Box 910
Miles City, MT 59301
406-234-3462
mayor@milescity-mt.org

Section 11. ACCESS TO AND RETENTION OF RECORDS

- (a) The Grantee agrees to provide the Board, Department, Montana Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance. (Section 18-1-118, MCA.)
- (b) The Grantee agrees to create and maintain records supporting the services covered by this Contract, including but not limited to financial records, supporting documents, and such other records as are required by law or other authority, for a period of three (3) years after either the completion date of the Contract or the conclusion of any claim, litigation, or exception relating to the Contract taken by the State of Montana or third party, whichever is later. These records will be kept in the Grantee's offices in Miles City, Montana.

Section 12. PROJECT MONITORING

- (a) The Board, the Department, or any of their authorized agents may monitor and inspect all phases and aspects of the Grantee's performance to determine compliance with the SCOPE OF WORK, the proper use of funds, and other technical and administrative requirements of this Contract, including the adequacy of the Grantee's records and accounts. The Department will advise the Grantee of any specific areas of concern and provide the Grantee opportunity to propose corrective actions acceptable to the Board and/or Department.
- (b) Failure by the Grantee to proceed with reasonable promptness to take necessary corrective actions shall be a default. If the Grantee's corrective actions remain unacceptable, the Board may terminate this Contract in whole or in part, or reduce the contract award to reflect the reduced value of services received.

Section 13. COMPLIANCE WITH APPLICABLE LAWS

The Contractor must, in performance of work under the Contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973 and the Patient Protection and Affordable Care Act ("Affordable Care Act"). Any subletting or subcontracting by the Contractor subjects subcontractors to the same provisions. In accordance with Mont. Code Ann. § 49-3-207, the Contractor agrees that the hiring of persons to perform the Contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Contract.

The Affordable Care Act requires a Contractor, if Contractor is an applicable large employer under the ACA, to provide healthcare coverage for its employees, who provide services for the State and work for 30 or more hours per week. This coverage must also cover the eligible

employee's dependents under the age of 26. The coverage must (a) meet the minimum essential coverage, minimum value, and affordability requirements of the employer responsibility provisions under Section 4980H of the Code (ACA), and (b) otherwise satisfy the requirements of the Code § 4980 H (ACA) if provided by the State.

Section 14. ACCOUNTING, COST PRINCIPLES, AND AUDITING

- (a) The Grantee, in accordance with Section 2-7-503 and 18-4-311, MCA and other authorities, must maintain for the purposes of this Contract an accounting system of procedures and practices that conforms to Generally Accepted Accounting Principles (GAAP).
- (b) The Department or any other legally authorized governmental entity or their authorized agents may, at any time during or after the term of this Contract, conduct, in accordance with Sections 2-7-503, 5-13-304, and 18-1-118, MCA and other authorities, audits for the purposes of ensuring the appropriate administration, expenditure of the monies, and delivery of services provided through this Contract.

Section 15. AVOIDANCE OF CONFLICT OF INTEREST

- (a) The Grantee will comply with Sections 2-2-121, 2-2-201, 7-3-4256, 7-3-4367, 7-5-2106, and 7-5-4109, MCA, and any other applicable local, state, or federal law regarding the avoidance of conflict of interest.
- (b) The Grantee agrees that none of its officers, employees, or agents will solicit or accept gratuities, favors, or anything of monetary value from contractors, subcontractors, or potential contractors and subcontractors, who provide or propose to provide services relating to the project funded under this Contract.
- (c) The Grantee shall promptly refer to the Department any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted any false claim or has committed any criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this Contract.

Section 16. OWNERSHIP AND PUBLICATION OF MATERIALS

All reports, information, data, and other materials prepared by the Grantee, or any of its contractors or subcontractors, in furtherance of this Contract are the property of the Grantee and the Board and/or Department, which all have the royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, in whole or part, such property and any information relating thereto. No material produced in whole or part under this Contract may be copyrighted or patented in the United States or in any other country without the prior written approval of the Grantee and the Board and/or Department.

Section 17. PROPERTY MANAGEMENT AND EQUIPMENT

Title to real property or capital equipment acquired under a grant or subgrant will vest upon acquisition in the Grantee or subgrantee, respectively. The Grantee may not transfer title to any real property or capital equipment acquired in whole or in part with the funds provided under this Contract without first receiving the Board's written approval of the transfer. The Grantee is liable to the Board for the value of any real property or capital equipment disposed of in violation of this provision.

Section 18. ASSIGNMENT, TRANSFER AND SUBCONTRACTING

- (a) The Grantee may subcontract any portion of this Contract to accomplish the completion of the Project. However, Grantee accepts responsibility for the adherence to the terms of this Contract by such contractors, subcontractors, or subrecipient entities and by any public or private agents or agencies to which it delegates authority to carry out any portion(s) of this Contract. The Grantee shall not otherwise assign or transfer any portion of this Contract without the express written consent of the Board and/or Department.
- (b) The Grantee's assignment, transfer, or subcontract of this Contract or any portion thereof neither makes the Department a party to that agreement nor creates any right, claim, or interest in favor of any party to that agreement against the Department. No contractual relationship exists between any subcontractor, assignee, or transferee and the Department.
- (c) The Grantee must immediately notify the Department of any litigation concerning any assignment, transfer, or subcontract of this Contract or any portion thereof.

Section 19. HOLD HARMLESS AND INDEMNIFICATION

The Grantee agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Grantee's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Grantee and/or its agents, employees, representatives, assigns, subcontractors, under this Contract.

Section 20. INSURANCE

- (a) General Requirements. Grantee shall maintain and shall assure that its representatives, assigns, and subcontractors maintain for the duration of the Contract, at their own cost and expense, primary liability insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the duties and obligations in the Contract by Grantee, its agents,

employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission. The State, its officers, officials, employees, and volunteers are to be covered as additional insured's for all claims arising out of the use of grant proceeds provided by the State of Montana.

- (b) General Liability Insurance. At its sole cost and expense, the Grantee shall purchase occurrence coverage with minimum combined single limits of \$1 million per occurrence and \$2 million aggregate per year, or as established by statutory Tort limits of \$750,000 per claim and \$1,500,000 per occurrence as provided by a self-insurance pool insuring counties, cities, or towns, as authorized under Section 2-9-211, MCA.
- (c) Professional Liability Insurance. Grantee shall assure that any representatives, assigns, and subcontractors performing professional services under this Contract purchase occurrence coverage with combined single limits for each wrongful act of \$1,000,000 per occurrence and \$2,000,000 aggregate per year. Note: if "occurrence" coverage is unavailable or cost prohibitive, the Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three (3) year tail for claims that are made (filed) after the cancellation or expiration date of the policy.
- (d) Property Insurance. At its sole cost and expense, the Grantee shall maintain property and hazard insurance, including course of construction coverage, and earthquake insurance in areas where there is a shaking level above 10g (see map at <http://rmtd.mt.gov/Portals/62/aboutus/publications/files/NEHRP.pdf>) for loss or damage for any building related to the use of grant proceeds, and all related improvements and contents therein, on a replacement cost basis throughout the term of the Contract.
- (e) General Provisions. All insurance coverage shall be placed with a carrier licensed to do business in the State of Montana or by a domiciliary state and with a Best's rating of at least A-, or by a public entity self-insured program either individually or on a pool basis as provided by Title 2, MCA. All certificates and endorsements are to be received by the Department prior to beginning any activity provided for under the Contract. Grantee shall notify the Department immediately of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc. The Department reserves the right to request complete copies of Grantee's insurance policy at any time, including endorsements.

Section 21. DEBARMENT

The Grantee certifies and agrees to ensure during the term of this Contract that neither it nor its principals, contractors, subcontractors, or subrecipient entities are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or otherwise excluded from or ineligible for participation in this Contract by any governmental department or agency.