



# CITY OF MILES CITY AGENDA

*Regular Council Meeting*  
*City Council Chambers*

*November 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 11/10/2015
  - B. Finance Committee Meeting 11/05/2015
  
2. SCHEDULE MEETINGS
  
3. REQUEST OF CITIZENS & PUBLIC COMMENT
  
4. APPOINTMENTS

Board of Appeals- Matthew Anderson  
Board of Appeals- (Alternate) Noah Mahan
  
5. PROCLAMATIONS
  
6. STAFF REPORTS
  
7. CITY COUNCIL COMMENTS
  
8. MAYOR COMMENTS
  
9. COMMITTEE RECOMMENDATIONS

Accept Ed Martin's bid for purchase of 502 Marion Property
  
10. BID OPENINGS  
BID AWARDS
  
11. PUBLIC HEARINGS
  - A. **ORDINANCE NO. 1300: An Ordinance Establishing the Miles City Downtown Urban Renewal Agency and Providing for its Operation; Pursuant to MCA 7-15-4232; Establishing May 12, 2015 as the Effective Date for Tax Increment Financing, Revising City Code Sections 7-46 and 7-56 Through 7-64, and Providing for an Effective Date Thereof**

12. UNFINISHED BUSINESS

- A. **ORDINANCE NO. 1300:** *(Second Reading)* **An Ordinance Establishing the Miles City Downtown Urban Renewal Agency and Providing for its Operation; Pursuant to MCA 7-15-4232; Establishing May 12, 2015 as the Effective Date for Tax Increment Financing, Revising City Code Sections 7-46 and 7-56 Through 7-64, and Providing for an Effective Date Thereof**

13. NEW BUSINESS

- A. **RESOLUTION NO. 3861:** *(First Reading)* **A Resolution Pursuant to 7-6-4006 of the Montana Code Annotated, Authorizing Amendment of Final Budget for FY 2015-2016 to Increase Budgeted Amounts in the Retired Senior Volunteer Program Fund 2985**
- B. **RESOLUTION NO. 3862:** **A Resolution, Pursuant to Title 7, Chapter 2, Part 46 MCA, Annexing Certain Contiguous Lands to the City of Miles City, Montana, to-Wit: A Tract of Land Situated in the S1/2NE1/4 of Section 3, T.7N., R.47 E., P.M.M., Custer County, Montana, Being lots 1 and 2 of Block 1 of Baber Meadows Subdivision, According to the Official Plat on File in the Office of the Clerk and Recorder of Said County, Under Document No. 164215, Envelope No. 546A**
- C. **RESOLUTION NO. 3864:** *(First Reading)* **A Resolution of Intention of the City of Miles City, Montana to Increase Rates For the Users of the City's Sewer System**
- D. **RESOLUTION NO. 3865:** **A Resolution Authorizing the City of Miles City to Sell Certain Real Property to Ed L. Martin and Helen K. Martin**
- E. **RESOLUTION NO. 3866:** **A Resolution of the City Council of the City of Miles City, Montana to Adopt the City of Miles City Growth Policy Update**
- F. **RESOLUTION NO. 3867:** **A Resolution of the City Council of the City of Miles City, Montana Establishing an Annexation and Extension of Services Plan**
- G. **RESOLUTION NO. 3868:** **A Resolution Establishing Wages and Salaries for City Employees for Fiscal Year 2015-2016**
- H. ADJOURNMENT

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

# **REGULAR COUNCIL MEETING November 10, 2015**

**7:00 p.m.**

## **CALL TO ORDER**

The Regular Council meeting was held Tuesday, November 10, 2015, in the City Hall Conference Room at City Hall, 17 S. 8<sup>th</sup> Street, Miles City, Montana. Mayor C. A. Grenz called the meeting to order. Council Members present were Ken Gardner, Jerry Partridge, Rachel Sloan, Dwayne Andrews, Susanne Galbraith, John Hollowell, Roxanna Brush and Mark Ahner.

Also present were City Attorney Dan Rice, Police Officer Luke Smith, Public Works Director Scott Gray, Public Utilities Director Allen Kelm, Fire Chief Gary Warren, Grant Writer/Planner in Training Dawn Colton, Historic Preservation Officer/Grant Writer Connie Muggli 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: 10/27/2015**

**\*\*** *Councilperson Gardner moved to approve the minutes of the Regular Council Meeting of October 27, 2015, and seconded by Councilperson Galbraith. The motion **passed** by unanimous consent, 8-0.*

## **SCHEDULE MEETINGS**

**None**

## **REQUEST OF CITIZENS & PUBLIC COMMENT**

Blaine Watts, 2815 Tompy Street, representing the Miles City Baseball Association explained the date that Director Gray had given the association, June 15 through June 19 every other year for their tournament, probably wasn't the best date for them. He said that it was the weekend after the Harry Griffith tournament and felt there wasn't enough time to repair the field and get organized. He asked the City to consider the second week in August so the association could have the tournament annually.

Director Gray said that he tried to work with the association by offering them four dates. After going back and forth with the Miles City Baseball Association and

the Outlaws with no agreement, he decided to make the decision himself as the Park Administrator.

The consensus of the City Council was that they supported Director Gray's decision, but hoped that a better date that worked for the Miles City Baseball Association could be worked out.

### **APPOINTMENTS**

None

### **PROCLAMATIONS**

None

### **STAFF REPORTS**

Clerk Pearce explained that the annual audit went well. One item that the City had been written up for last year did not make it on this year findings. She was very pleased. She also asked the Council if it wanted to treat the process for filling the two vacant positions in Ward III, the same as last time. The consensus was to advertise and bring all letters of interest to the Council.

Director Kelm announced that there was a water leak in front of the Water Treatment Plant and would not be fixed until midafternoon Thursday. He asked the Public to conserve water.

### **CITY COUNCIL COMMENTS**

Councilperson Gardner wanted to remind the public that cold weather is coming and our four legged friends need adequate food and water.

Councilperson Brush said there was a serious accident in her ward. A pickup truck hit a dirt bike coming out of the Transco property. She said that in the past there had been plenty of signs erected, but were being taken down or vandalized by someone. She didn't know what the answer was, but felt it needed to be controlled. Councilperson Gardner said that Wells Street had the same problem until heavy duty signs (ones that couldn't be torn down) were put up.

Councilperson Hollowell said that he had noticed some lawn leaves were not being bagged but dumped into the street. He reminded everyone that doing this blocks the storm drainage system, and in the spring there will be a drainage problem.

### **MAYOR COMMENTS**

Congratulated Councilperson Hollowell for a well runned campaign and wished him the best of luck. He also asked Council if they see something illegally being done, would they do something about it or just let it go. Most of the Council thought that it was his decision and would do what was appropriate.

## **STANDING COMMITTEE RECOMMENDATIONS**

### **Recommend approval of Ambulance request payment be reduced to \$15.00**

*\*\* Councilperson Galbraith moved to reduce the said ambulance payment to \$15.00 a month and seconded by Councilperson Andrews. The motion passed 6-2 with Councilperson Ahner and Partridge voting no*

## **BID OPENINGS**

### **502 Marion Street Property**

Three bids were received:

- Shannon Molzahn for an amount of \$7,550
- Christopher Todoroff for an amount of \$9,500
- Ed Martin for an amount of \$15,555

*\*\* Councilperson Ahner moved to refer the bids to the Finance Committee and seconded by Councilperson Partridge. The motion passed 8-0*

## **BID AWARDS**

None

## **PUBLIC HEARINGS**

None

## **UNFINISHED BUSINESS**

None

## **NEW BUSINESS**

### **A. Renovation of Council Chamber**

*\*\* Councilperson Hollowell moved to accept plan B for the renovation of the Council Chambers, seconded by Councilperson Brush. After a long discussion the motion failed 8-0*

*\*\* Councilperson Hollowell moved to refer the renovation to the Finance Committee for review and seconded by Councilperson Brush. The motion passed 7-1 with Councilperson Ahner voting no.*

### **B. ORDINANCE NO. 1300: (First Reading) An Ordinance**

**Pursuant to Title 7 Chapter 15 Part 42 of the Montana Code Annotated Establishing the Miles City Downtown Urban Renewal Agency and providing For its Operation**

**\*\*** *Councilperson Hollowell moved to approve the Ordinance, by title only, seconded by Councilperson Galbraith and on roll call vote passed 8-0. Mayor Grenz referred the Ordinance to the Finance Committee*

**C. RESOLUTION NO. 3863: A Resolution Adopting Findings of Fact and Approving the Amended Plat for the Purpose of Boundary Line Relocation of Lots 2-6 in Block 2 of the Woodland Park Addition to the City of Miles City**

**\*\*** *Councilperson Galbraith moved to approve the Resolution, seconded by Councilperson Hollowell. On roll call vote the motion passed 8-0. Resolution No. 3863 passed*

**D. APPROVAL OF OCTOBER CLAIMS**

**\*\*** *Councilperson Hollowell moved to approve October claims seconded by Councilperson Galbraith and on roll call vote passed 8-0.*

**ADJOURNMENT**

**\*\*** *Councilperson Hollowell moved to adjourn the meeting, seconded by Councilperson Galbraith, and passed unanimously.*

The meeting was adjourned at 8:23 p.m.

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**C. A. Grenz, Mayor**

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**Lorrie Pearce, City Clerk**

## Finance Committee Meeting

November 5, 2015

The Finance Committee met Thursday, November 5, 2015, at 3:00 p.m. in the City Hall Conference Room. Present were Committee Chairperson Susanne Galbraith and Committee Members Rachel Sloan and John Hollowell. Committee Member Dwayne Andrews was excused.

Also present were Public Works Director Scott Gray, Public Utility Director Al Kelm, Fire Chief Gary Warren, Grant Writer/City Planner in Training Dawn Colton and Committee Recorder/City Clerk Lorrie Pearce.

Committee Chairperson Galbraith called the meeting to order.

**1. Request of Citizens:**

-None.

**2. Discussion and recommendation on ambulance bill**

*\*\* Committee Member Hollowell moved to approve payments of \$15.00 for patient number 24345. The motion was seconded by Committee Member Sloan. The motion passed 3-0*

**3. Review of quotes for the purchase of a 4X4-1 Ton pickup for the Public Works Department**

Director Gray said that the purchase of the pickup was approved in his budget for \$45,000. He received three bids:

- Notbohm- A 2016 Chevrolet 3500 4x4 SRW Crew Cab for an amount of \$33,898.00
- Deluxe Motors- A 2016 Ram 3500 Tradesman Crew Cab 4X4 for an amount of \$33,879
- Mac's Frontierland- A 2016 F-Series SD for an amount of \$35,684

He felt the Chevy's warranty was a little better and recommended purchasing the Chevy Crew Cab from Notbohm.

*\*\* Committee Member Galbraith moved to approve the purchase of the Chevy pickup from Notbohm's. The motion was seconded by Committee Member Hollowell. The motion passed 3-0*

**4. Discussion and recommendation on which organization's budget to charge legal fees for South Gate law suit**

*\*\* Committee Member Galbraith moved to charge the Attorney's fund 1000-004-411100. The motion was seconded by Committee Member Hollowell. The motion passed 3-0*

**5. Adjournment**

**\*\*** *Committee Member Hollowell moved to adjourn the meeting, seconded by Committee Chairperson Sloan and passed unanimously, 3-0.*

The meeting was adjourned at 3:15 p.m.

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**Susanne Galbraith, Chairperson**

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**Lorrie Pearce  
Recorder/City Clerk**



# Public Hearing

ORDINANCE NO. 1300

AN ORDINANCE ESTABLISHING THE MILES CITY DOWNTOWN URBAN RENEWAL AGENCY AND PROVIDING FOR ITS OPERATION; PURSUANT TO MCA 7-15-4232; ESTABLISHING MAY 12, 2015 AS THE EFFECTIVE DATE FOR TAX INCREMENT FINANCING, REVISING CITY CODE SECTIONS 7-46 AND 7-56 THROUGH 7-64, AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

WHEREAS, the City Council of the City of Miles City has previously adopted resolutions finding that: (1) one or more blighted areas exist in the City of Miles City, (2) the rehabilitation, redevelopment, or a combination thereof of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of the City; and (3) its intent to establish an Urban Renewal District in order to address said conditions in accordance with Section 7-15-4210, Section 7-15-4216 and Section 7-15-4280 MCA; and

WHEREAS, the Miles City Downtown Urban Renewal Plan has been prepared, and reviewed by the City Planning Board in accordance with Section 7-15-4212 MCA of the Urban Renewal Law; and

WHEREAS, said plan conforms to the Miles City Growth Policy and its updates, as required by Section 7-15-4213 MCA of the Urban Renewal Law; and

WHEREAS, said plan contains a workable program providing maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise and public private partnerships; and

WHEREAS, a sound and adequate financial program is set forth in the urban renewal plan for the implementation of said plan, including the use of tax increment financing as authorized by Section 7-15-4282 MCA of the Urban Renewal Law; and

WHEREAS, said tax increment financing will be applied to a district described in Attachments One of this Ordinance, and

WHEREAS, the City Council of the City of Miles City has adopted Ordinance 1294 on May 12, 2015 adopting the Miles City Downtown Urban Renewal Plan establishing said District.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THE FOLLOWING:

**Section 1:**

City Code Sections 7-46 and 7-56 through 7-64 are hereby amended to read as follows:

Sec. 7-46. Effective date of plan. The City of Miles City establishes May 12, 2015 as the effective date for the purposes of employing tax increment financing according to Section 7-15-4282 MCA of the Urban Renewal Law.

...

Sec. 7-56. Created. There is created a Miles City Downtown Urban Renewal Agency, which shall be a public agency and public body corporate created by this ordinance in accordance with Section 7-15-4232 MCA.

Sec. 7-57. Appointment of commissioners. That the Chief Executive, by and with the advice and consent of the City Council, shall appoint a board of five commissioners of the Agency.

Sec. 7-58. Same – certificate of appointment. The initial membership shall consist of one commissioner appointed for one (1) year, one for two (2) years, one for three (3) years, and two for four (4) years. A certificate of appointment or reappointment shall be filed with the Clerk of the City, and shall be conclusive evidence of the due and proper appointment of such commissioner.

Sec. 7-59. Same – Succession; qualifications; commissioners not to hold other public office. Each commissioner shall hold office until a successor has been appointed and qualified. Any persons may be appointed if they reside within the City of Miles City. A commissioner shall not hold any other public office under the municipality other than their commissionership within this agency.

Sec. 7-60. Same – Removal. A commissioner may be removed for inefficiency, neglect, or misconduct in office.

Sec. 7-61. Quorum; bylaws. The powers and responsibilities of the Agency shall be exercised by the Commissioners in accordance with the Miles City Urban Renewal Board of Commissioners Bylaws as established in Resolution No. 3843 thereof. A majority of the commissioners shall constitute a quorum.

Sec. 7-62. Annual Report. The Agency shall file with the City Council, on or before March 31 of each year, a report of its activities for the preceding calendar year, including a complete financial report. At the time of filing said report, the Agency shall publish in a newspaper of general circulation within the municipality a notice to the effect that such been filed and is available for inspection in the office of the Clerk of the City and in the Agency office.

Sec. 7-63. Staff. The Agency shall be staffed with the necessary employees, permanent and temporary, as it may require.

Sec. 7.64. Powers.

(a) The powers which may be exercised by the agency are:

(1) to formulate and coordinate a workable program as specified in 7-15-4209;

(2) to assist city staff in the preparation of urban renewal plans or modifications to such plans and make recommendations to the City Council;

(3) to review urban renewal projects and make recommendations to the City Council regarding the funding of such projects;

(4) to undertake and carry out urban renewal projects as required by the local governing body;

(5) to disseminate blight clearance and urban renewal information;

(6) to perform such duties as the local governing body may direct so as to make the necessary arrangements for the exercise of the powers and performance of the duties and responsibilities entrusted to the local governing body, as provided in MCA 71-15-4233.

(b) Powers reserved for the City Council include but are not limited to:

(1) Any powers granted in MCA 7-15-4233 that are not included in this Ordinance as powers of the Urban Renewal Agency in lieu thereof may only be exercised by the local governing body.

**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.

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C.A. Grenz, Mayor

ATTEST:

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Lorrie Pearce, City Clerk

## EXHIBIT A

### **BOUNDARY DESCRIPTION**

Legal Description of Miles City Downtown Urban Renewal District The area being considered for inclusion in the proposed urban renewal area is described as:

Beginning at the intersection of Tatro Street and 7th St, continuing east on Tatro Street along the northern border of the City's easement right of way setback to the municipal limits, paralleling the city limits south and east to the intersection of Ullman St and Gordon St, continuing east on Gordon Street along the northern border of the City's easement right of way setback to the intersection of Gordon St and Woodbury St, continuing South on Woodbury along the eastern border of the City's easement right of way setback to the intersection of Woodbury St. and Leighton Blvd, continuing west on Washington St along the southern border of the City's easement right of way setback to the intersection of Washington St and 10St, continuing south on 10th St along the eastern border of the City's easement right of way setback to the intersection of 10th and Pleasant St, continuing east along the northern border of the City's easement right of way setback to the intersection of Pleasant St and N Center Ave, continuing South on N Prairie Ave along the eastern border of the City's easement right of way setback to the intersection of N Prairie Ave and Main St, continuing east on Main Street along the northern border of the City's easement right of way setback to the intersection of Main St and S Lake Ave, continuing south along the eastern border of the City's easement right of way setback to the intersection of S Lake Ave and Fort St, continuing west on Fort Street along the southern border of the City's easement right of way setback to the intersection of Fort St and S Montana Ave, continuing southwest on Montana Street along the southwestern border of the City's easement right of way setback to the intersection of S Montana Ave, Pearl Street and 10<sup>th</sup> St, continuing northwest on 10<sup>th</sup> St along the southern border of the City's easement right of way setback to the intersection of 10th St and S Montana Ave and Atlantic Ave, continuing southwest on Atlantic along the southeastern border of the City's easement right of way setback to the intersection of Atlantic and NueVu, continuing southeast on NueVue along the eastern border of the City's easement right of way setback to the intersection of NueVu and Yellowstone, continuing southwest on Yellowstone along the southern border of the City's easement right of way setback to the city limits and the Tongue River, following the municipal limits west, north, and east to the intersection of Dike Rd and Wilderness Rd, continuing northeast on Wilderness Rd to the intersection of Wilderness Rd and Hubbell St, continuing east on Hubbell St. along the northern border of the City's easement right of way setback to the intersection of Hubbell St and 6th St, continuing north on 6<sup>th</sup> St along the western border of the City's easement right of way setback to the intersection of 6th and William St, continuing east on William St along the northern border of the City's easement right of way setback to the intersection of William St and 7th St, continuing north on 7<sup>th</sup> St along the western border of the City's easement right of way setback north to the intersection of 7th St and Tatro Street.

MAP

Miles City Urban Renewal  
District with Tax Increment  
Finance Authority  
Ordinance 1294 - May 12, 2015



## EXHIBIT A

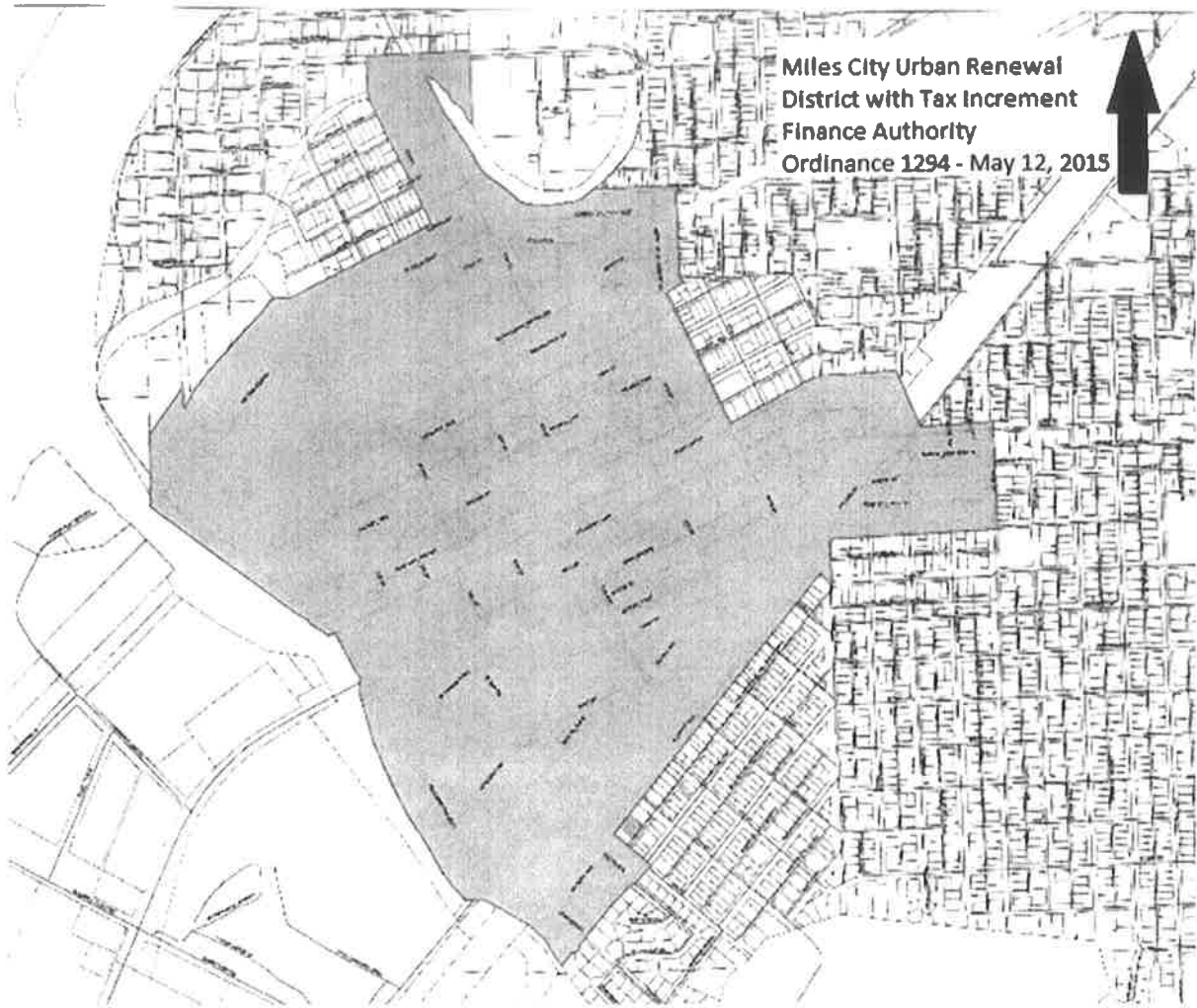
### **BOUNDARY DESCRIPTION**

Legal Description of Miles City Downtown Urban Renewal District The area being considered for inclusion in the proposed urban renewal area is described as:

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MAP





Milles City Urban Renewal  
District with Tax Increment  
Finance Authority  
Ordinance 1294 - May 12, 2015

# New Business

## RESOLUTION NO. 3861

A RESOLUTION PURSUANT TO §7-6-4006 OF THE MONTANA CODE ANNOTATED, AUTHORIZING AMENDMENT OF FINAL BUDGET FOR FY 2015-2016 TO INCREASE BUDGETED AMOUNTS IN THE RETIRED SENIOR VOLUNTEER PROGRAM FUND 2985.

*WHEREAS*, the City of Miles City wishes to amend the budget for Fiscal Year 2015-2016 to account for budgeting in the Retired Senior Volunteer Program fund, for mergers of Grant #15SRPMT003 (Custer/Rosebud RSVP) and Grant #14SRPMT001 (Fallon/Carter RSVP), which will allow RSVP to operate on the same fiscal year as the City;

*AND WHEREAS*, such amendment of the final budget will result in an overall increase in appropriation authority within the Retired Senior Volunteer Program,

*AND WHEREAS* the provisions of §7-6-4006 MCA require public hearing upon any budget amendment resulting in an overall increase in appropriation authority,

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

The appropriations for the Final Budget for Fiscal Year 2015-2016 shall be increased in the following amounts:

Retired Senior Volunteer Program Fund	
2985-015-450340-111	\$24,000- Wages
2985-015-450340-141	\$ 103- Unemployment
2985-015-450340-142	\$ 304- Workman Comp
2985-015-450340-143	\$ 3,864- Health Insurance
2985-015-450340-144	\$ 1,756- FICA
2985-015-450340-145	\$ 1,419- PERS
2985-015-450340-311	\$ 22- Postage, Box rent,etc
2985-015-450340-330	\$ 83- Publicity, Subscription
2985-015-450340-334	\$ 100- Dues
2985-015-450340-345	\$ 832- Telephone
2985-015-450340-370	\$ 25- Travel
2985-015-450340-530	\$ 2,449- Rent
2985-015-450300-131	\$ 1,051- Vacation
2985-015-450300-132	\$ 80- Sick Leave
2985-015-450300-133	\$ 92- Other Leave
2985-015-450300-330	\$ 7- Publicity, Subscription
2985-015-450300-360	\$ 288- Control R&M
2985-015-450330-210	\$ 465- Office Supplies
2985-015-450330-220	\$ 152- Operating Expenses
2985-015-450330-311	\$ 612- Postage, box rent
2985-015-450330-334	\$ 50- Membership

2985-015-450330-370

\$ 300- Travel

The appropriations for the Final Budget for Fiscal Year 2015-2016 shall be decreased in the following amounts:

2985-015-450300-111	\$24,000- Wages
2985-015-450300-141	\$ 161- Unemployment
2985-015-450300-142	\$ 301- Workman Comp
2985-015-450300-143	\$ 4,117- Health Insurance
2985-015-450300-144	\$ 2,186- FICA
2985-015-450300-145	\$ 2,343- PERS
2985-015-450300-210	\$ 744- Operating Supplies
2985-015-450300-334	\$ 150- Dues
2985-015-450300-345	\$ 964- Telephone
2985-015-450300-370	\$ 1,806- Travel
2985-015-450300-530	\$ 2,362- Rent
2985-015-450330-379	\$ 136- Other Travel

BE IT FURTHER RESOLVED that a public hearing shall be held on the above proposed amendment to the Final Budget for Fiscal Year 2015-2016 on the 8<sup>th</sup> day of December, 2015, at 7:00 p.m. in the City Council Chambers at City Hall, Miles City, Montana. The City Clerk shall cause notice of such hearing to be published in the Miles City Star, in accordance with §7-1-4128 MCA, at least 2 times with at least 6 days separating each publication.

SAID RESOLUTION READ AND PUT UPON ITS FINAL PASSAGE THIS 24<sup>th</sup> DAY OF NOVEMBER, 2015.

\_\_\_\_\_  
C. A. GRENZ, Mayor

ATTEST:

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

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 8<sup>th</sup> DAY OF DECEMBER, 2015.

\_\_\_\_\_  
C. A. GRENZ, Mayor

ATTEST:

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

## RESOLUTION NO. 3862

**A RESOLUTION, PURSUANT TO TITLE 7, CHAPTER 2, PART 46 MCA, ANNEXING CERTAIN CONTIGUOUS LANDS TO THE CITY OF MILES CITY, MONTANA, TO-WIT: A TRACT OF LAND SITUATED IN THE S1/2NE1/4 OF SECTION 3, T. 7 N., R. 47 E., P.M.M., CUSTER COUNTY, MONTANA, BEING LOTS 1 AND 2 OF BLOCK 1 OF BABER MEADOWS SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE OFFICE OF THE CLERK AND RECORDER OF SAID COUNTY, UNDER DOCUMENT NO. 164215, ENVELOPE NO. 546A.**

*WHEREAS*, pursuant to Title 7, Chapter 2, Part 46, Montana Code Annotated, a petition for annexation has been filed with the City Council of the City of Miles City by CHS, Inc., who are the owners of 50% or more of the area of the real property sought to be annexed, to-wit:

### **Legal Description of property owned by CHS, Inc.:**

A tract of land situated in the S1/2NE1/4 of Section 3, T. 7 N., R. 47 E., P.M.M., Custer County, Montana, being Lots 1 and 2 of Block 1 of Baber Meadows Subdivision, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 164215, Envelope No. 546A; said tract being more particularly described as follows, to-wit:

Beginning at a point being the southeast corner of said Lot 2; thence, from said Point of Beginning, S 89°59'14" W along the south line of said Lot 2, a distance of 525.00 feet to the southwest corner of said Lot 1; thence N 00°11'18" E along the west line of said Lot 1, a distance of 556.95 feet to the northwest corner of said Lot 1, said corner also being on the southeasterly line of Tract 3B of Certificate of Survey No. 103322; thence N 65°55'23" E along said southeasterly line of Tract 3B, a distance of 324.64 feet to the southeasterly corner of said Tract 3B, said corner also being the southwesterly corner of Tract 2 of Certificate of Survey No. 98096; thence N 65°55'23" E along the southeasterly line of said Tract 2, a distance of 273.17 feet to the southeasterly corner of said Tract 2, said corner also being the northeast corner of said Lot 1; thence along the easterly line of said Lot 1, the following courses and distances:

S 00°11'18" W a distance of 142.29 feet;

S 14°13'25" W a distance of 41.23 feet;

S 00°11'18" W a distance of 300.00 feet

S 14°13'29" W a distance of 41.23 feet to the southeasterly corner of said Lot 1, said corner also being the northeast corner of

said Lot 2; thence S 00°11'18" W along the east line of said Lot 2, a distance of 278.51 feet to said Point of Beginning; said described tract having an area of 8.278 acres.

**AND WHEREAS**, the area petitioned to be annexed hereunder is not a part of any incorporated city or town, and no portion of the area petitioned to be annexed hereunder, at the time the petition was presented to the City Council, was used in whole or part for agricultural, mining, smelting, refining, transportation, or any industrial or manufacturing purpose or any purpose incident thereto;

**AND WHEREAS**, pursuant to §7-2-4601(3)(b) the City Council of the City of Miles City approves the petition upon its merits;

**AND WHEREAS**, pursuant to §7-2-4610, the City of Miles City has provided the plan for provision of services to such petitioned area of annexation as provided in Exhibit "A", attached hereto and made a part hereof;

**AND WHEREAS**, an election on the petition is not required under §7-2-4601(3)(a) in that the petition is signed by more than 50% of the resident electors owning real property in the area sought to be annexed.

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

1. The boundaries of the City of Miles City, Montana are extended to include the following described real property, to-wit:

A tract of land situated in the S1/2NE1/4 of Section 3, T. 7 N., R. 47 E., P.M.M., Custer County, Montana, being Lots 1 and 2 of Block 1 of Baber Meadows Subdivision, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 164215, Envelope No. 546A; said tract being more particularly described as follows, to-wit:

Beginning at a point being the southeast corner of said Lot 2; thence, from said Point of Beginning, S 89°59'14" W along the south line of said Lot 2, a distance of 525.00 feet to the southwest corner of said Lot 1; thence N 00°11'18" E along the west line of said Lot 1, a distance of 556.95 feet to the northwest corner of said Lot 1, said corner also being on the southeasterly line of Tract 3B of Certificate of Survey No. 103322; thence N 65°55'23" E along said southeasterly line of Tract 3B, a distance of 324.64 feet to the southeasterly corner of said Tract 3B, said corner also being the southwesterly corner of Tract 2 of Certificate of Survey No. 98096; thence N 65°55'23" E along the southeasterly line of said Tract 2, a

distance of 273.17 feet to the southeasterly corner of said Tract 2, said corner also being the northeast corner of said Lot 1; thence along the easterly line of said Lot 1, the following courses and distances:

S 00°11'18" W a distance of 142.29 feet;

S 14°13'25" W a distance of 41.23 feet;

S 00°11'18" W a distance of 300.00 feet

S 14°13'29" W a distance of 41.23 feet to the southeasterly corner of said Lot 1, said corner also being the northeast corner of said Lot 2; thence S 00°11'18" W along the east line of said Lot 2, a distance of 278.51 feet to said Point of Beginning; said described tract having an area of 8.278 acres.

2. An election on the petition is not required under §7-2-4601(3) in that the petition is signed by the owners of 50% or more of the real property in the area sought to be annexed.

3. The plan for the provision of services to the area annexed hereunder, attached hereto as Exhibit "A" and made a part hereof, is approved.

4. The area annexed hereunder is not a part of any incorporated city or town, and no portion of the area annexed hereunder, at the time the petition was presented to the City Council, was used in whole or part for agricultural, mining, smelting, refining, transportation, or any industrial or manufacturing purpose or any purpose incident thereto.

5. Upon passage of this Resolution, the Clerk shall promptly make and certify under the seal of the City of Miles City a copy of the record of this Resolution as entered upon the minutes and file such certified record with the Clerk and Recorder of Custer County, Montana. Upon the filing of such record the annexation of the real property described herein shall be complete and the real property annexed hereunder shall thereafter be a part of the City of Miles City.

**SAID RESOLUTION PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2015.**

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

ATTEST:

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

## ANNEXATION OF BABER MEADOWS, BLOCK 1, LOTS 1 & 2

### EXTENSION OF SERVICES PLAN

*November 24, 2015*

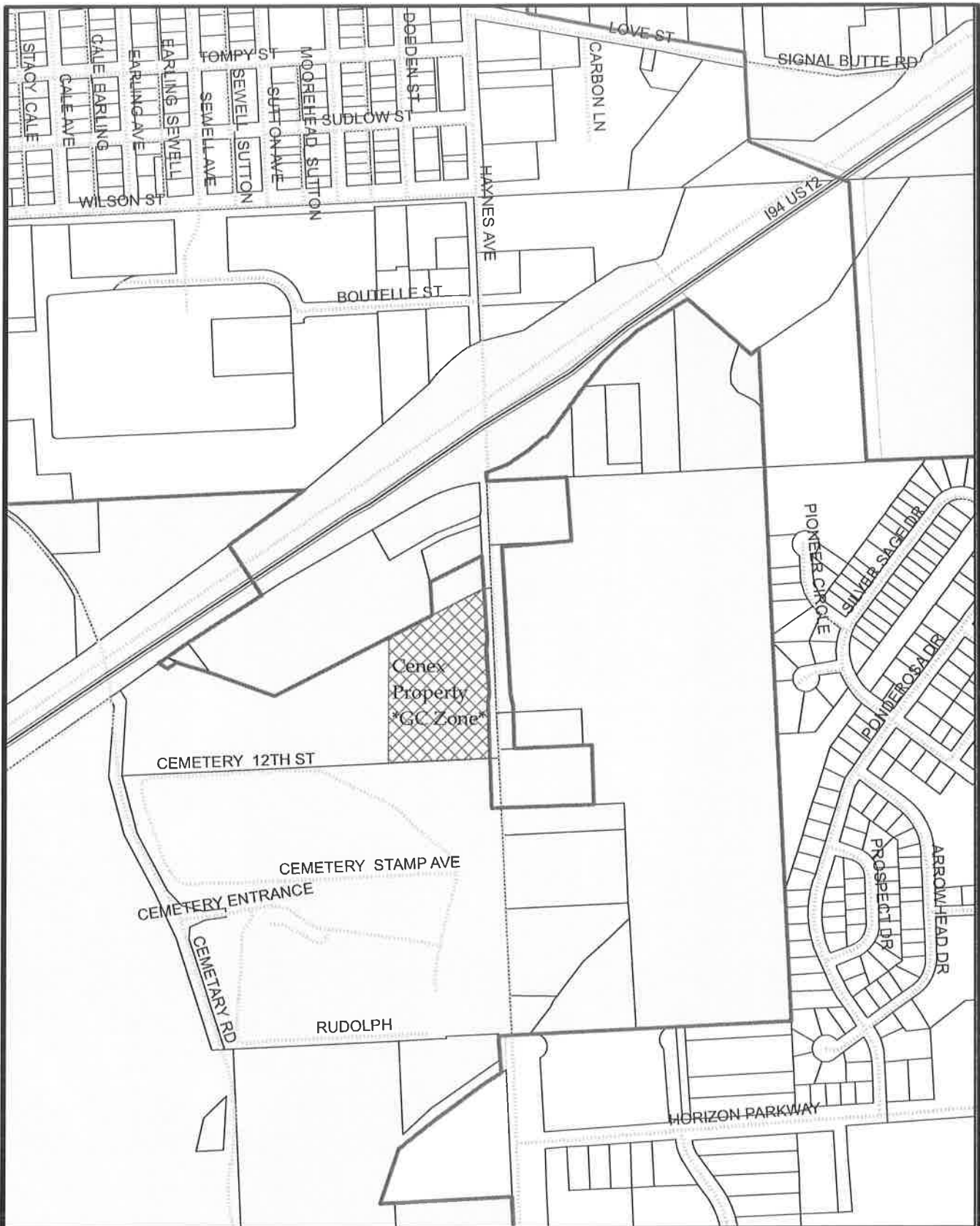
The City of Miles City has received a Petition to Annex from 100% of the landowners for Baber Meadows, Lot 1 and Lot 2 of Block 1, pursuant to Title 7, Chapter 2, Part 46, MCA “Annexation by Petition”. This plan for extension of municipal services to the area to be annexed for the years 2015 through 2020 complies with 7-2-4732, MCA.

- **Property owner verification:** The owner of record for Baber Meadows Lots 1 & 2 is Cenex Harvest States, as listed on a warranty deed, Doc # 164406, filed in Env. 546A in the plat cabinet at the Clerk & Recorder’s Office of Custer County, MT.
- The area of proposed annexation is contiguous to the City.
- No part of the area of proposed annexation is within the boundary of another incorporated municipality.
- The area of proposed annexation is addressed in a Growth Policy adopted for that area and conforms to that Policy.
- The area of proposed annexation is not within a fire district organized under Part 21 Chapter 33, MCA.
- Storm water drainage plans must be approved by DEQ at time of development.
- **Police Protection:** The Police Department has identified no significant issues for services in regards to police response to the proposed annexed area. The additional area can be covered within the current staffing/equipment time and budget.
- **Fire Protection:** The Fire Department has determined that the annexation will cause little impact to the Department's budget, fire inspector's time and the demand for fire suppression services.
- **Garbage Services:** The City does not provide solid waste collection services. This service is provided by private companies and the Custer County Solid Waste District. This annexation proposal complies with 7-2-4736 – Preservation of existing garbage or solid waste services.
- The proposed annexation area does not include lighting or street maintenance services that require financing from the City budget as the City does not provide those services on private property. Street lighting may be provided by MT Dept. of Transportation or by individual private property owners. Street construction and maintenance will be the responsibility of the property owners.
- Water and sanitary sewer service is to be provided by the Custer County Water and Sewer District No 2 (“the CCWSD”) and will remain under their jurisdiction. However, the water distribution and sanitary sewer collector main lines are owned by the City. The sanitary sewer crossing point under Highway 59 must be located






for site plan development. Water pressure for general service and fire flows may be an issue if future development taps into the water main located near the I-94 Interchange. The developer will need to work with the District and City Staff to determine if a new system is necessary or if new development in this area can tie into the Southgate distribution system.

- The Miles City treatment facilities are able to handle the additional utility needs. The properties surrounding the proposed area of annexation are within District boundaries and will receive future services from the District in cooperation with the City facility managers.
- Annexation of lands to the south of the proposed annexation area is restricted by the Custer County Cemetery with no apparent development plans by the owner (Custer County) within the next five years. The owners of the land to the west (Baber/Kapitzke) have no further development plans at this time. The adjoining property (Grenz) to the north may be developed in the next five years but there are no plans at this time. The property to the north and west, owned by R Double S, is for sale as a commercial property; however, there are no current plans for development. All of these properties are within the CCWSD. Should any development take place in the next five years that require water/sewer services, the CCWSD will provide those services.
- The proposed annexation area will not have public roads or streets. Future development to the west may include publicly dedicated streets to access Lot 3 of the Baber Meadows Subdivision from Highway 59 on the east end or Cemetery Road on the west end. Should future development in the annexed area include infrastructure that will be public property, the properties may be included in Lighting District 165 and/or Maintenance District 204. At that time, services will be provided on substantially the same basis and in the same manner as those services are provided within the rest of the municipality.
- In this annexation plan, the entire municipality tends to share the tax burden for services and this area will be annexed without a bond issue. The municipal services, including fire protection, emergency medical, and police protection will be provided to the area of proposed annexation in a manner consistent with established personnel, budgetary, operating, and capital levels and policies.



**Legend**

-  ANN-2015-01
-  City\_Limits
-  Custer County Sewer and Water District

# Proposed Cenex Annexation



## PETITION FOR ANNEXATION

1. The legal description of the area sought to be annexed is attached hereto as Exhibit "A", and a map attached hereto as Exhibit "B" is part hereof. (attach Exhibit "A" and "B")

2. The undersigned constitute (check appropriate box):

- More than 50% of the resident electors owning real property in the area sought to be annexed; or
- The owners of 50% or more of the area of the real property sought to be annexed; or
- Both

3. No portion of the land sought to be annexed hereunder is a part of any incorporated town.

4. No portion of the land sought to be annexed hereunder is used in whole, or in part, for agriculture, mining, smelting, refining, transportation, or any industrial or manufacturing purposes or for any purpose incident thereto.

### Please Note:

1. If there are **two or more owners** of a tract of real property, **all owners** must sign.
2. If the real property is owned by an **entity** (i.e. a corporation, limited liability company, etc.) the party signing on behalf of the entity must state their **authority**, such as "**President**", "**Member**", "**Manager**".

Signature *Rick Bates*

I reside on the property

Printed Name CHS, Inc. / Representative: Rick Bates

Mailing Address 16124 E. Marietta Lane

City Spokane Valley State WA Zip 99216



Affix seal/stamp as close to signature as possible.

*Katherine Hamersky*  
Notary Signature

[Montana notaries must complete the following, if not part of the stamp.]

Printed Name:

Katherine J. Hamersky

Notary Public for the state of WA

Residing at 13303 E. Mission Ave #32, Spokane Valley WA 99216

My Commission expires: August 13<sup>th</sup> 2018

## EXHIBIT 'A'

### LEGAL DESCRIPTION:

A portion of the SE1/4NE1/4 of Section 3, T. 7 N., R. 47 E., P.M.M., Custer County, Montana, being Lots 1 and 2 of Block 1 in Baber Meadows Subdivision, according to the official plat on file in the office of the Clerk and Recorder of Custer County, Montana, being more particularly described as follows, to-wit:

Beginning at a point being the intersection of the westerly right-of-way line of South Haynes Avenue with the east-west midsection line of said Section 3, whence said point bears S 89°59'14" W along said midsection line, a distance of 80.00 feet from the E1/4 corner of said Section 3; thence, from said Point of Beginning, S 89°59'14" W along said midsection line, a distance of 525.00 feet; thence, leaving said midsection line, N 01°11'18" E a distance of 556.95 feet to a point on the southeasterly line of Tract 3B of Certificate of Survey No. 103322; thence N 65°55'23" E along said southeasterly line of Tract 3B, a distance of 324.64 feet to the southeasterly corner of said Tract 3B, said corner also being the southwesterly corner of Tract 2 of Certificate of Survey No. 98096; thence N 65°55'23" E along the southeasterly line of said Tract 2, a distance of 273.17 feet to the southeasterly corner of said Tract 2, said corner also being on said westerly right-of-way line of South Haynes Avenue; thence along said right-of-way line, the following courses and distances:

S 00°11'18" W a distance of 142.29 feet;

S 14°13'25" W a distance of 41.23 feet;

S 00°11'18" W a distance of 300.00 feet

S 14°13'29" W a distance of 41.23 feet;

S 00°01'48" W a distance of 278.51 feet to said Point of Beginning;

said described tract having a gross area and a net area of 8.278 acres.

## EXHIBIT "B"

### ***Legal Description of Cenex Harvest States Properties:***

A tract of land situated in the S1/4NE1/4 of Section 3, T. 7 N., R. 47 E., P.M.M., Custer County, Montana, being Lots 1 and 2 of Block 1 of Baber Meadows Subdivision, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 164215, Envelope No. 546A; said tract being more particularly described as follows, to-wit:

Beginning at a point being the southeast corner of said Lot 2; thence, from said Point of Beginning, S 89°59'14" W along the south line of said Lot 2, a distance of 525.00 feet to the southwest corner of said Lot 1; thence N 00°11'18" E along the west line of said Lot 1, a distance of 556.95 feet to the northwest corner of said Lot 1, said corner also being on the southeasterly line of Tract 3B of Certificate of Survey No. 103322; thence N 65°55'23" E along said southeasterly line of Tract 3B, a distance of 324.64 feet to the southeasterly corner of said Tract 3B, said corner also being the southwesterly corner of Tract 2 of Certificate of Survey No. 98096; thence N 65°55'23" E along the southeasterly line of said Tract 2, a distance of 273.17 feet to the southeasterly corner of said Tract 2, said corner also being the northeast corner of said Lot 1; thence along the easterly line of said Lot 1, the following courses and distances:

S 00°11'18" W a distance of 142.29 feet;

S 14°13'25" W a distance of 41.23 feet;

S 00°11'18" W a distance of 300.00 feet

S 14°13'29" W a distance of 41.23 feet to the southeasterly corner of said Lot 1, said corner also being the northeast corner of said Lot 2; thence S 00°11'18" W along the east line of said Lot 2, a distance of 278.51 feet to said Point of Beginning; said described tract having an area of 8.278 acres.

The assigned address for Lot 1 is 1815 S. Haynes Ave.

The assigned address for Lot 2 is 1915 S. Haynes Ave.

**PLAT OF**  
**BABER MEADOWS SUBDIVISION**  
 SITUATED IN THE S1/2NE1/4 OF SECTION 3, T. 7 N., R. 47 E., P.M.M.,  
 LYING SOUTH OF INTERSTATE 94,  
 CUSTER COUNTY, MONTANA  
 PREPARED FOR : JOHN BABER  
 PREPARED BY : SANDERSON STEWART  
 SEPTEMBER, 2015  
 BILLINGS, MONTANA

**CERTIFICATE OF SANITATION**  
 I, Sharon Beckel, the Registered Sanitarian for Custer County, hereby certify that the plat hereon shown has been prepared and approved to be in compliance with the provisions of Subchapter 10-09, and especially A.M.U. 10-09-02, of the Montana Code Annotated, 1972.  
 Dated this 22<sup>nd</sup> day of September, 2015.  
 Sharon Beckel  
 Registered Sanitarian, Custer County

**CERTIFICATE OF SANCTION**  
 On the basis of my examination, investigation, and belief, I, Richard S. Beckel, of Billings, Montana, hereby certify that the plat hereon shown is a true and correct copy of the original plat as shown to me by the person who claims to be the owner of the same, and that the same is in compliance with the provisions of Subchapter 10-09, and especially A.M.U. 10-09-02, of the Montana Code Annotated, 1972.  
 Dated this 22<sup>nd</sup> day of September, 2015.  
 Richard S. Beckel  
 Notary Public for the State of Montana

**CERTIFICATE OF DESIGNATION**  
 I, John Baber, do hereby certify that the plat hereon shown is a true and correct copy of the original plat as shown to me by the person who claims to be the owner of the same, and that the same is in compliance with the provisions of Subchapter 10-09, and especially A.M.U. 10-09-02, of the Montana Code Annotated, 1972.  
 Dated this 22<sup>nd</sup> day of September, 2015.  
 John Baber  
 Notary Public for the State of Montana

**CERTIFICATE OF COUNTY COMMISSIONER**  
 I, Richard S. Beckel, do hereby certify that the plat hereon shown is a true and correct copy of the original plat as shown to me by the person who claims to be the owner of the same, and that the same is in compliance with the provisions of Subchapter 10-09, and especially A.M.U. 10-09-02, of the Montana Code Annotated, 1972.  
 Dated this 22<sup>nd</sup> day of September, 2015.  
 Richard S. Beckel  
 County Commissioner, Custer County

**CERTIFICATE OF COUNTY TREASURER**  
 I, Sharon Beckel, do hereby certify that the plat hereon shown is a true and correct copy of the original plat as shown to me by the person who claims to be the owner of the same, and that the same is in compliance with the provisions of Subchapter 10-09, and especially A.M.U. 10-09-02, of the Montana Code Annotated, 1972.  
 Dated this 22<sup>nd</sup> day of September, 2015.  
 Sharon Beckel  
 County Treasurer, Custer County

JOHN BABER  
 5/16/15  
 SHARON BECKEL  
 5/16/15



PLAT OF  
**BABER MEADOWS SUBDIVISION**  
 SITUATED IN THE S1/2NE1/4 OF SECTION 3, T. 7 N., R. 47 E., P.M.M.,  
 LYING SOUTH OF INTERSTATE 94,  
 CUSTER COUNTY, MONTANA

PREPARED FOR : JOHN BABER

PREPARED BY : SANDERSON STEWART & P.C.

SEPTEMBER, 2015  
 BILLINGS, MONTANA

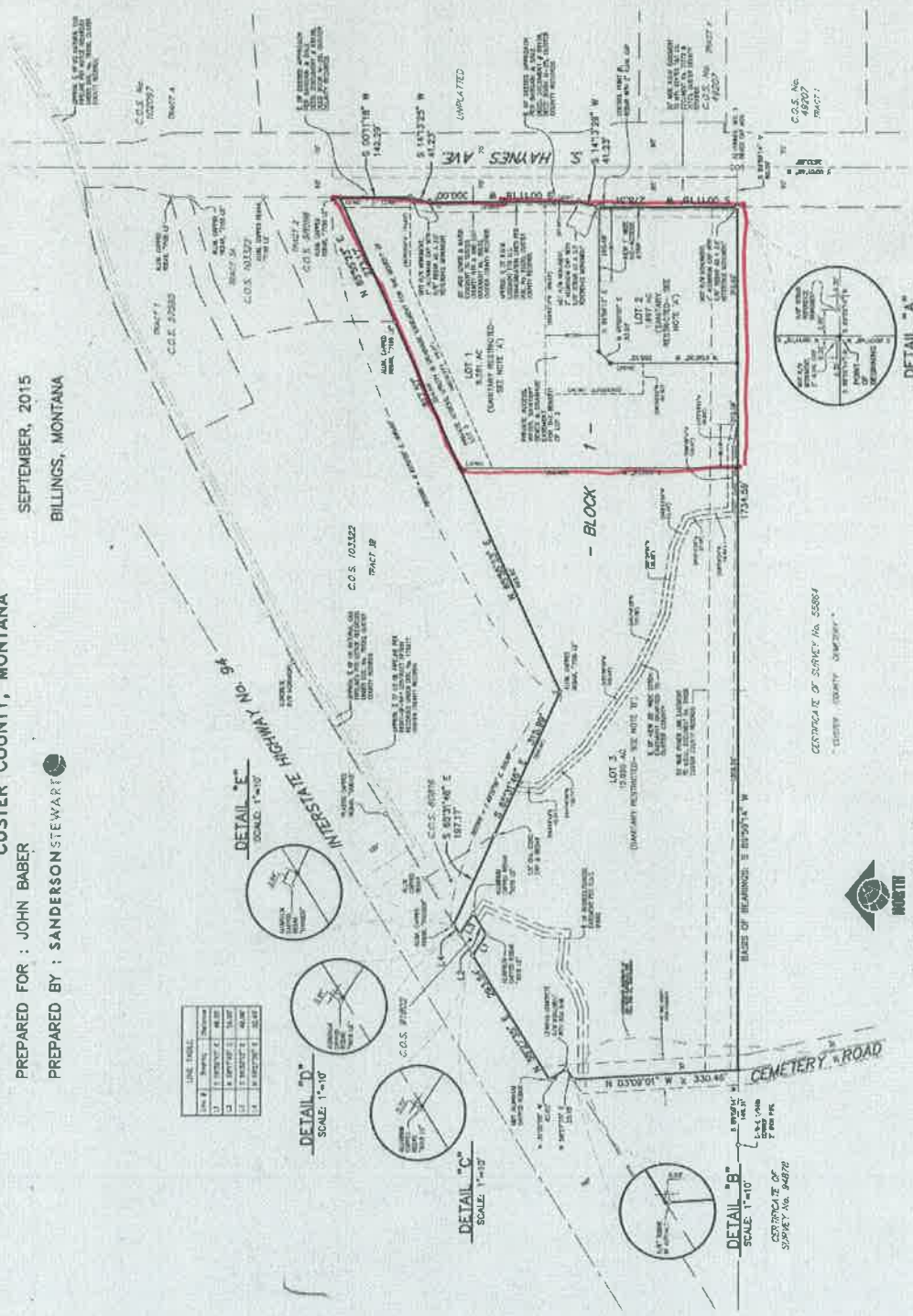
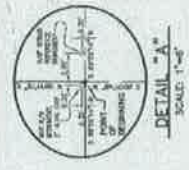


LINE #	BEARING	DISTANCE
1	S 89° 15' 00" E	142.27'
2	S 89° 15' 00" E	142.27'
3	S 89° 15' 00" E	142.27'
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12	S 89° 15' 00" E	142.27'
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46	S 89° 15' 00" E	142.27'
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48	S 89° 15' 00" E	142.27'
49	S 89° 15' 00" E	142.27'
50	S 89° 15' 00" E	142.27'

DETAIL "D"  
 SCALE: 1"=10'

DETAIL "C"  
 SCALE: 1"=10'

DETAIL "B"  
 SCALE: 1"=10'



- NOTES:
1. THIS PLAT IS BASED UPON THE SURVEY BY SANDERSON STEWART & P.C. DATED 08/11/15. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE MONTANA SURVEYING ACT AND THE MONTANA PROFESSIONAL SURVEYOR'S BOARD. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE MONTANA SURVEYING ACT AND THE MONTANA PROFESSIONAL SURVEYOR'S BOARD. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE MONTANA SURVEYING ACT AND THE MONTANA PROFESSIONAL SURVEYOR'S BOARD.
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John Baber 5/24  
 SANDERSON STEWART & P.C.

## Lorrie Pearce

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**From:** Alsaker, Dayton <DAlsaker@dowl.com>  
**Sent:** Thursday, November 12, 2015 9:17 AM  
**To:** Dawn Colton  
**Cc:** Marum, Andrew  
**Subject:** RE: Annexation

Dawn,

I had not seen this before so not sure what happened with your earlier submittal.

We can prepare a more official letter on District letterhead, but I thought I would make a few comments in response to this water and sewer service at this location.

- This area is in the District as you note, but both the water and sewer main lines in this location are City lines, so we also need to coordinate the response on this matter closely with AI and the City.
  - The District should be fine with a development at this location, but for water service, there are some concerns and these need to be resolved before this location can be approved for development, especially for something as big as a truck stop.
- Regarding Sewer.
  - The sewer main is the City's Haynes Avenue interceptor. From our recent modeling of this line, it has sufficient capacity to serve this development.
  - The main is located on the east side of Haynes, but there was a crossing installed when the highway was reconstructed several years ago, and we'll need to check records on where this crossing is and therefore the best point for a connection.
  - So sewer service should be fine, we just need to verify the best point for connection.
- Regarding Water.
  - The water main under I-94 is the City line that goes to Southgate. This main was tapped by the hotels in this area.
  - This parcel is at a slightly higher in elevation than the other services south of I-94, so its pressure will be lower.
  - It appears the static (best) pressure will be about 37 psi, depending a bit on the exact elevation of their building.
  - I believe this is too low of a starting pressure because there will be losses through the service line and if they are required to install backflow prevention.
  - DEQ requirements are that 35 psi be provided at all times (except fire flow conditions), and this will be difficult to do.
  - Another issue here is "how much pressure do they want for the design of the plumbing within their facilities?" I suspect this pressure will be too low for them, but in any case, they need to understand the pressure available before they go too far with their plans.
  - Whenever pressure is low, fire flows become an issue. So the design of their fire suppression system comes into play. While I don't know their fire flow needs, I suspect it will be difficult to meet them given the pressure available.
  - They could maybe run a line from the Southgate system as this is higher pressure, but that means a water main extension which I'm sure they would not be expecting.
- Water System Improvements.
  - Under our current study of the Miles City water and sewer systems and development of models of these systems, we've developed preliminary plans for a new pressure zone going to the south along Highway 59. This would provide the necessary supply, pressures and fire flows for an expansion to the City's service area south along Highway 59. Potential service areas were previously reviewed with AI Kelm. This new system would provide a second crossing under I-94, and its own pump station and tank



so as not to rely on the older and smaller facilities for Southgate. This new system (new pressure zone) will provide very good supply to the proposed Cenex site, and all points south along Highway 59, including over the hill and past the road to the cemetery.

- Such a project will take time to fully develop – plan out and size all the facilities, obtain easements, develop a funding plan and obtain the funds, design and construct. So it is likely a few years away from becoming a reality. How to fund is the big question.
- Another option would be for them to put in their own private pumping facility to serve them until the new system is constructed. This requires analysis and approvals, because we need to make sure it does not adversely affect the rest of the system. The City has to approve and DEQ has to approve. So this is not a straight-forward solution but can be considered.
- Summary. So there is not easy answer for connection to water. Under the best of circumstances it will take further analysis and consideration, must be acceptable to Cenex, must be acceptable to the City, must be acceptable for fire codes, and must be approved by DEQ. I don't know if we can obtain all of these, so we cannot tell them that this is an acceptable location for them to build on (at least in the shorter term), until these questions are resolved.

Contact me if you have any follow-up questions, or if we need to set up a meeting for further discussion.  
Dayton Alsaker

---

**From:** Dawn Colton [mailto:dawncolton@milescity-mt.org]  
**Sent:** Tuesday, November 10, 2015 4:31 PM  
**To:** Alsaker, Dayton  
**Cc:** Marum, Andrew  
**Subject:** RE: Annexation

Dawn Colton

*City of Miles City  
Community Services and Planning  
P - 406-234-3493 F - 406-234-6392  
E - [dawncolton@milescity-mt.org](mailto:dawncolton@milescity-mt.org)*

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**From:** Alsaker, Dayton [mailto:DAlsaker@dowl.com]  
**Sent:** Tuesday, November 10, 2015 3:54 PM  
**To:** Dawn Colton  
**Cc:** Marum, Andrew  
**Subject:** RE: Annexation

Dawn,  
I don't recall getting a letter previously, but I'll take a look at this and get back to you.  
Definitely before the 18<sup>th</sup>.  
Can you resend the letter to make sure I'm not missing anything.  
Thanks, Dayton

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**From:** Dawn Colton [mailto:dawncolton@milescity-mt.org]  
**Sent:** Tuesday, November 10, 2015 3:51 PM  
**To:** Alsaker, Dayton  
**Cc:** Marum, Andrew; Dawn Colton  
**Subject:** Annexation

Hi Dayton,

I sent you a letter awhile back concerning the annexation of the new Baber Tracts (Cenex Truck Stop) and Butch's property to the north. I haven't heard back from you. Also, the situation has changed a little. Butch has decided not to sign the petition to annex so we'll put the annexation of the Baber Tracts 1 & 2 on the council agenda for 11/24. Could you please reply to my letter by 11/18? Thank you!

Dawn Colton

*City of Miles City*  
*Community Services and Planning*  
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CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of City of Miles City, Montana (the "City"), hereby certify that the attached is a true copy of Resolution No. 3864, entitled: "RESOLUTION OF INTENTION OF THE CITY OF MILES CITY, MONTANA TO INCREASE RATES FOR THE USERS OF THE CITY'S SEWER SYSTEM" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at its regular meeting on November 24, 2015, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Council Members voted in favor thereof: \_\_\_\_\_; voted against the same: \_\_\_\_\_; abstained from voting thereon: \_\_\_\_\_; or were absent: \_\_\_\_\_.

WITNESS my hand officially this \_\_\_\_\_ day of November, 2015.

\_\_\_\_\_  
City Clerk

RESOLUTION NO. 3864

RESOLUTION OF INTENTION OF THE CITY OF MILES  
CITY, MONTANA TO INCREASE RATES FOR THE USERS  
OF THE CITY'S SEWER SYSTEM

WHEREAS, the City of Miles City, Montana (the "City") has undertaken to provide sewer services to local residents and businesses through its municipal sewer system (the "System"); and

WHEREAS, the City Council of the City (the "Council") has established a monthly rate for the System; and

WHEREAS, the City has determined that it is necessary to undertake certain improvements to the System, including construction of a UV disinfection facility, a protective building surrounding the UV channel, improvements to the solids handling capabilities of the System and related improvements (the "Improvements"); and

WHEREAS, based on information provided to the City by Robert Peccia & Associates (the "Engineer"), the estimated total cost of the Improvements is approximately \$6,604,000, which amount is subject to change; and

WHEREAS, the City anticipates issuing a sewer system revenue bond (the "Bond") in the estimated amount of \$6,004,000 to pay for a portion of the costs of the Improvements, to fund a debt service reserve for the Bond and to pay costs of issuance of the Bond; and

WHEREAS, costs of the Improvements in excess of the proceeds of the Bond are expected to be paid from a Treasure State Endowment Program grant in the amount of \$500,000 and a Renewable Resource Grant and Loan Program Grant in the amount of \$100,000; and

WHEREAS, it will be necessary for the City to collect sufficient revenues to repay the Bond, to pay the costs associated with the operation and maintenance of the System and to establish appropriate reserves; and

WHEREAS, the City has determined that the current rate system does not produce sufficient revenues and has worked with the Engineer to determine what level of rate increase will produce sufficient revenues; and

WHEREAS, under Section 69-7-101, Montana Code Annotated, the City has the power and authority to regulate, establish, and change, as it considers proper, rates, charges, and classifications imposed for utility services to its inhabitants and other persons served by the municipal systems. Rates, charges, and classifications must be reasonable and just; and

WHEREAS, pursuant to Section 69-7-111, Montana Code Annotated, the City Council of the City (the "Council") shall order a public hearing prior to the passage or enactment of an ordinance or resolution imposing, establishing, changing or increasing rates, fees, or charges for services or facilities.

NOW, THEREFORE, BE IT RESOLVED by the Council as follows:

Section 1. Current User Charges. The City currently charges a monthly sewer charge for the use and availability of the System, all as set forth on Exhibit A, attached hereto and incorporated by reference.

Section 2. Intent to Increase Sewer User Charges. It is the intent of the City to implement a rate increase, commencing with the January 2016 billing, for the use and availability of the System, as set forth on Exhibit B, attached hereto and incorporated herein by reference. The City does not currently intend to increase the cost per unit flow or the cost per pound BOD to industrial users.

Section 3. Rate of Proposed Increase. The proposed increase to the “minimum rate” represents an increase of approximately 97% over the existing minimum rate for residential users, commercial users, non-city users, unmetered residential and unmetered commercial users. The proposed increase to the usage charge represents an increase of approximately 35% over the existing usage charge for residential users, commercial users and non-city users. For residential users, commercial users or non-city users using 4,000 gallons of water per month, the proposed rates represent an increase of approximately 119% over the existing rates.

Section 4. Proposed 2% Annual Increase. In addition to the proposed rate increase set forth on Exhibit B hereto, the City proposes to implement an annual 2% increase to the “minimum rate” for metered users and the flat rate for unmetered users. The proposed annual 2% increase will be implemented in the first billing cycle of each fiscal year, commencing with the July 2016 billing for the 2016/17 fiscal year, and will continue for 10 years, through and including a 2% increase in the July 2025 billing for the 2025/26 fiscal year.

Section 5. Determination of Annual Budget for System. At least once every year the Council shall determine the amount of money needed to pay the costs of the System including but not limited to: (a) the payment of the reasonable expense of operation and maintenance of the System; (b) administration of the System; (c) the payment of principal and interest on any bonded or other indebtedness of the System; and (d) the establishment or maintenance of any required reserves, including reserves needed for expenditures for depreciation and replacement of facilities, as may be determined necessary from time to time by the Council or as covenanted in the ordinance or resolution authorizing any outstanding bonds of the System. Based on the annual needs of the System, the Council will establish monthly charges for the use of the System.

Section 6. Further Rate Increases. Subsequent adjustment to the rates and charges for the use of the System will be made by a resolution of the Council duly adopted after a public hearing with notice thereof given as provided by law, if required.

Section 7. Public Hearing. A public hearing on the rate increase will be held on December 22, 2015, commencing at 7:00 p.m. in the City Council Chambers at City Hall, 17 South 8th Street, Miles City, Montana.

Section 8. Notice. The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a notice of the passage of this resolution in the *Miles City Star*, a

newspaper of general circulation in the City, on December 4, December 11 and December 18, 2015, in the form and manner prescribed by law, and to mail or cause to be mailed a copy of said notice to all persons served by the System and to the Montana consumer counsel at least 7 days and not more than 30 days prior to the public hearing. The mailed notice must contain an estimate of the amount that the customer's average bill will increase.

Section 9. Effective Date of Resolution. This resolution shall become effective upon passage.

Passed and approved this 24th day of November, 2015.

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Mayor

Attest:

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City Clerk

**EXHIBIT A**

**CURRENT WASTEWATER RATES**

The City currently charges all users of the System a monthly amount as follows:

- Residential:**                    **\$12.95 Minimum**  
\$2.793 / 1,000 gallons after 3,000 gallons. Amount over 3,000 gallons to be based on winter water use average (December, January, February and March) over 3,000 gallons.
- Commercial:**                **\$14.72 Minimum**  
\$3.990 / 1,000 gallons after 3,000 gallons. Based on yearly water use average per month. Excessive Biochemical Oxygen Demand (BOD) ((BOD-200) / 200 = 0.2019/1,000 gal.) Excessive Suspended Solid (SS) ((SS-250) / 250) = 0.0996/1,000 gal).
- Industrial:**                    Federal regulations provide that industrial class users must pay an additional amount for the sewerage that, during the design life of the System, will equal the E.P.A. share for that user proportional use of the system capacity.

The following formula will be used to calculate these charges:

$$\frac{\text{E.P.A. funds allocated to category}}{\text{System capacity for category}} \times \frac{\text{Unit of Measurement}}{\text{Project Design Life}}$$

**Cost Per Unit Flow**

The design flow is 1,980,000 gal/day minus 10% infiltration equals 1,782,000 gal/day. The cost is \$2,157,164 and the design life of the system is 20 years, therefore:

$$\frac{\$2,157,164}{1,782,000} \times \frac{1000}{20 \text{ yr}} = \$60.53 \text{ per } \frac{(1000 \text{ gal})}{\text{day}} \text{ per year}$$

**Cost Per Pound BOD**

The design BOD is 4,500 lbs/day, the BOD cost is \$858,357 and design life of the system is 20 years, therefore:

$$\frac{\$858,357}{4,500 \text{ lbs/day}} \times \frac{1}{20 \text{ yr}} = \$9.54 \text{ per } \frac{(1 \text{ lbs})}{\text{day}} \text{ per year}$$

- Non-City Users:**            **\$10.36 Minimum**  
\$2.793/1,000 gal. used after 3,000 gallons.

**Unmetered Residential:** \$22.73, based on an average of 6,500 gallons of water used per month. If no water meter is installed to measure the actual water used, then the average “in City” user of the same class will be used in determining the user flow.

**Unmetered Commercial:** \$28.69, based on an average of 6,500 gallons of water used per month. If no water meter is installed to measure the actual water used, then the average “in City” user of the same class will be used in determining the user flow. This classification cannot be used by industrial users outside the City to avoid the industrial cost recovery provisions as set forth in CFR 35.95-11 and CFR 35.928 through 35.928-4 (Ref. Federal Register, Wednesday, September 27, 1978 Part III).



## EXHIBIT B

### PROPOSED WASTEWATER RATES

Commencing with the January 2016 billing, the City proposes to increase monthly minimum rates for residential, commercial, non-city, unmetered residential and unmetered commercial users, and proposes to increase usage rates for residential, commercial and non-city users as follows:

- Residential:**                                 **\$25.51 Minimum**  
\$3.771 / 1,000 gallons after 3,000 gallons. Amount over 3,000 gallons to be based on winter water use average (December, January, February and March) over 3,000 gallons.
- Commercial:**                                 **\$29.00 Minimum**  
\$5.387 / 1,000 gallons after 3,000 gallons. Based on yearly water use average per month. Excessive Biochemical Oxygen Demand (BOD) ((BOD-200) / 200 = 0.2019/1,000 gal.) Excessive Suspended Solid (SS) ((SS-250) / 250) = 0.0996/1,000 gal).
- Industrial:**                                 Federal regulations provide that industrial class users must pay an additional amount for the sewerage that, during the design life of the System, will equal the E.P.A. share for that user proportional use of the system capacity.

The following formula will be used to calculate these charges:

$$\frac{\text{E.P.A. funds allocated to category}}{\text{System capacity for category}} \times \frac{\text{Unit of Measurement}}{\text{Project Design Life}}$$

#### Cost Per Unit Flow

The design flow is 1,980,000 gal/day minus 10% infiltration equals 1,782,000 gal/day. The cost is \$2,157,164 and the design life of the system is 20 years, therefore:

$$\frac{\$2,157,164}{1,782,000} \times \frac{1000}{20 \text{ yr}} = \$60.53 \text{ per } \frac{(1000 \text{ gal})}{\text{day}} \text{ per year}$$

#### Cost Per Pound BOD

The design BOD is 4,500 lbs/day, the BOD cost is \$858,357 and design life of the system is 20 years, therefore:

$$\frac{\$858,357}{4,500 \text{ lbs/day}} \times \frac{1}{20 \text{ yr}} = \$9.54 \text{ per } \frac{(1 \text{ lbs})}{\text{day}} \text{ per year}$$

- Non-City Users:** **\$20.41 Minimum**  
\$3.771/1,000 gallons used after 3,000 gallons.
- Unmetered Residential:** **\$44.78**, based on an average of 6,500 gallons of water used per month. If no water meter is installed to measure the actual water used, then the average “in City” user of the same class will be used in determining the user flow.
- Unmetered Commercial:** **\$56.52**, based on an average of 6,500 gallons of water used per month. If no water meter is installed to measure the actual water used, then the average “in City” user of the same class will be used in determining the user flow. This classification cannot be used by industrial users outside the City to avoid the industrial cost recovery provisions as set forth in CFR 35.95-11 and CFR 35.928 through 35.928-4 (Ref. Federal Register, Wednesday, September 27, 1978 Part III).

Water and Sewer Rates for Montana Communities

Current as of 2015 Rate Study

Based on 3/4 residential Service 6000 gallons per month usage

Community	Water	Sewer	Combined
Great Falls	\$18.77	\$27.19	\$45.96
Butte	\$35.01	\$27.75	\$62.76
Helena	\$25.91	\$28.08	\$53.99
Billings	\$25.72	\$30.51	\$56.23
Harlowton	\$34.00	\$36.09	\$70.09
Miles City	\$33.93	\$36.59	\$70.52
Plentywood	\$31.70	\$37.00	\$68.70
Havre	\$39.65	\$37.10	\$76.75
Kalispel	\$22.88	\$37.12	\$60.00
Colstrip	\$49.91	\$37.86	\$87.77
Whitefish	\$47.75	\$39.25	\$87.00
Glendive	\$51.64	\$40.28	\$91.92
Lewistown	\$26.74	\$43.29	\$70.03
Forsyth	\$33.90	\$46.38	\$80.28
Laurel	\$41.77	\$50.86	\$92.63
Livingston	\$26.32	\$59.83	\$86.15
Sidney	\$23.57	\$60.00	\$83.57
Culbertson	\$22.99	\$61.66	\$84.65
projected rates			
Ranked according to sewer rates using projected rates for Miles City			

## Water and Sewer Rates for Montana Communities

Current as of 2015 Rate Study

Based on 3/4 residential Service 6000 gallons per month usage

Community	Water	Sewer	Combined	
Great Falls	\$18.77	\$27.19	\$45.96	
Helena	\$25.91	\$28.08	\$53.99	
Billings	\$25.72	\$30.51	\$56.23	
Kalispel	\$22.88	\$37.12	\$60.00	
Butte	\$35.01	\$27.75	\$62.76	
Plentywood	\$31.70	\$37.00	\$68.70	
Lewistown	\$26.74	\$43.29	\$70.03	
Harlowton	\$34.00	\$36.09	\$70.09	
Miles City	\$33.93	\$36.59	\$70.52	projected rates
Havre	\$39.65	\$37.10	\$76.75	
Forsyth	\$33.90	\$46.38	\$80.28	
Sidney	\$23.57	\$60.00	\$83.57	
Culbertson	\$22.99	\$61.66	\$84.65	
Livingston	\$26.32	\$59.83	\$86.15	
Whitefish	\$47.75	\$39.25	\$87.00	
Colstrip	\$49.91	\$37.86	\$87.77	
Glendive	\$51.64	\$40.28	\$91.92	
Laurel	\$41.77	\$50.86	\$92.63	

Ranked according to combine water and sewer rates using projected rates for Miles City