

AGENDA

*Special Council Meeting
City Hall Conference Room*

*October 15, 2012
12:00 p.m. - NOON*

**CALL TO ORDER
ROLL CALL**

BID AWARD - Riverside Park Restroom Project

RESOLUTION NO. 3555: A Resolution Authorizing The City Of Miles City To Enter Into A Construction Agreement With The Jackson Contractor Group, Inc., For Construction Of Pathway And Restroom Improvements In Riverside Park.

PUBLIC COMMENT

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.

RESOLUTION NO. 3555

A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO A CONSTRUCTION AGREEMENT WITH THE JACKSON CONTRACTOR GROUP, INC., FOR CONSTRUCTION OF PATHWAY AND RESTROOM IMPROVEMENTS IN RIVERSIDE PARK.

WHEREAS, the City has advertised for and accepted bids for the Riverside Park Path Project, including construction of restroom improvements in Riverside Park;

AND WHEREAS, Jackson Contractor Group, Inc., a Montana corporation, of 5800 U.S. Highway 93, Missoula, Montana 59804 was the lowest responsible bidder for such Project;

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

1. The Construction Agreement between the City of Miles City, Montana and Jackson Contractor Group, Inc., a Montana corporation, on file in the office of the City Clerk of the City of Miles City, and incorporated herein by reference, is hereby approved and adopted by this Council subject to final written approval of the City Attorney.
2. The Mayor of the City of Miles City, upon written approval of the City Attorney, is hereby empowered and authorized to execute said Construction Agreement on behalf of the City of Miles City and bind the City of Miles City thereto; and
3. The Mayor of the City of Miles City is hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of said Construction Agreement and bind the City of Miles City thereto.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 9TH DAY OF OCTOBER, 2012.

C.A. Grenz, Mayor

ATTEST:

Rebecca Stanton, City Clerk

DIVISION 0 – BIDDING AND CONTRACT DOCUMENTS
SECTION 00500 – AGREEMENT FORM

AGREEMENT FORM

THIS AGREEMENT is dated as of the _____ day of _____ in the year _____ by and between City of Miles City hereinafter called OWNER and _____ hereinafter called CONTRACTOR.

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK

CONTRACTOR shall complete all work, as specified or indicated in the Contract Documents. The work is generally described as follows: Building demolition, utility services, provide and install new restroom facility, construct new park path, do maintenance work on parking areas, install new lighting, provide and install new benches, trash receptacles, and bike racks.

The project for which the work under the Contract Documents Riverside Park Path – Miles City.

Article 2. ENGINEER

The project has been designed by:

DOWL HKM
713 Pleasant Street
Miles City, MT 59301

in cooperation with the OWNER, represented by:

Dawn Colton
Miles City Program Assistant
City Hall
17th S. 8th Street
Miles City, Montana 59301

who is hereinafter called ENGINEER and who is to act as OWNER'S representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the work in accordance with the Contract Documents.

Article 3. CONTRACT TIME

3.1 The Work must be substantially complete within 90 calendar days of the start date given in the Notice to Proceed. Final payment will be withheld until final completion and acceptance of the work, as stipulated in this Agreement.

3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement, and that OWNER will suffer financial loss if the work is not substantially complete within the time specified above, plus any extensions thereof allowed in accordance with the General Conditions.

They also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the work is not substantially complete on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that, as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER Five Hundred and no/100 dollars (\$500.00) for each day that expires after the time specified herein until the work is substantially completed.

Article 4. CONTRACT PRICE

4.1 OWNER shall pay CONTRACTOR for performance of the work in accordance with the Contract Documents a maximum sum (subject to adjustment as provided in the Contract Documents) of _____ (\$_____). Said maximum sum is determined by the Proposal included as Attachment #1 of this form.

Article 5. PAYMENT PROCEDURES

CONTRACTOR shall submit applications for payment in accordance with the General Conditions. Applications for payment will be processed, as provided in the General Conditions.

5.1 Progress Payments. OWNER will make progress payments monthly on account of the contract price on the basis of CONTRACTOR'S applications for payment, as recommended by ENGINEER. All progress payments will be on the basis of the progress of the work measured by the schedule of values or as otherwise provided for in the General Conditions.

5.1.1 The OWNER may retain a portion of the amount due the CONTRACTOR in accordance with the General Conditions and as outlined herein. Five percent (5%) of the amount of each payment shall be withheld until work is 50 percent completed, based upon dollar value of the contract work items. When work is 50 percent complete, the amount withheld may be reduced at the discretion of the OWNER and provided that the CONTRACTOR is making satisfactory progress, and there is no specific cause for greater withholding. When the work is substantially complete, the amount withheld shall be further reduced below five percent (5%) to an amount determined by the ENGINEER necessary to assure completion. Up to five percent (5%) withholding may be reinstated after the 50 percent completion stage if the OWNER, at his discretion, determines that the progress is not satisfactory or if there is other specific cause for such withholding.

5.2 Final Payment. Upon final completion and acceptance of the work in accordance with the General Conditions, OWNER shall pay the remainder of the contract price, as recommended by the ENGINEER.

Article 6. INTEREST

All monies not paid when due hereunder shall bear interest at the simple rate of seven percent (7%) per annum and paid solely by OWNER.

Article 7. CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

7.1 CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, work, locality, and with all location conditions and federal, state, and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress, or performance of the work.

7.2 CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress, or performance of the work which were relied upon by the ENGINEER in the preparation of the drawings and specifications and which have been identified in the modifications to the General Conditions.

7.3 CONTRACTOR has made, or caused to be made, examinations, investigations, tests, and studies of such reports and related data, in addition to those referred to above, as he deems necessary for the performance of the work at the contract price, within the contract time, and in accordance with the other terms and conditions of the Contract Documents, and no additional examinations, investigations, tests, reports or similar data are, or will be, required by CONTRACTOR for such purposes.

7.4 CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.

7.5 CONTRACTOR has given ENGINEER written notice of all conflicts, errors, or discrepancies that he has discovered in the Contract Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

Article 8. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire Agreement between OWNER and CONTRACTOR are attached to this Agreement, made a part hereof, and consist of the following:

- 8.1 This Agreement
- 8.2 Exhibits to this Agreement (if any)
- 8.3 Performance Bond and Payment Bond
- 8.4 Proposal Form (where applicable)
- 8.5 Disadvantaged Business Enterprises (DBE) Requirements (where applicable)
- 8.6 FHWA Form 1273
- 8.7 Required Contract Provisions Federal-Aid Construction Contracts
- 8.8 Special Provisions, EEO Affirmative Action Requirements on Federal and Federal-Aid Construction Contracts
- 8.9 Supplementary Specifications
- 8.10 Certificates of Insurance (Requirements indicated on the Contractor's Insurance Checklist following this section).
- 8.11 Standard General Conditions
- 8.12 Wage Rates
- 8.13 Standard Modifications, if applicable

- 8.14 Special Provisions, if applicable
- 8.15 Montana Public Works Standard Specifications, Sixth Edition, dated April 2010, if applicable, and addenda
- 8.16 Technical Specifications, as listed in Table of Contents thereof, if applicable
- 8.17 Drawings
- 8.18 Addenda listed on the bid forms
- 8.19 CONTRACTOR'S executed bid forms
- 8.20 Documentation submitted by CONTRACTOR prior to Notice of Award
- 8.21 Notice of Award
- 8.22 Notice to Proceed
- 8.23 Any modification, including Change Orders, duly delivered after execution of Agreement
- 8.24 Any Notice of Partial Utilization
- 8.25 Notice of Substantial Completion
- 8.26 Lien Waivers
- 8.27 Notices of Final Completion and Acceptance

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be altered, amended or repealed by a modification (as defined in the General Conditions).

Article 9. MISCELLANEOUS

- 9.1 Terms used in this Agreement, which are defined in the General Conditions, shall have the meanings indicated in the General Conditions.
- 9.2 This Agreement and all of the covenants hereof shall inure to the benefit of and be binding upon the OWNER and the CONTRACTOR, respectively, and his partners, successors, assigns, and legal representatives. Neither the OWNER nor the CONTRACTOR shall have the right to assign, transfer, or sublet his interest or obligations hereunder without written consent of the other party. The OWNER reserves the right to withdraw at any time from any subcontractor whose work has proven unsatisfactory the right to be engaged in or employed upon any part of the work.
- 9.3 In the event it becomes necessary to either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement, or to give any notice required herein, the prevailing party or the party giving notice shall be entitled to reasonable attorney's fees and costs.

9.4 Any amendment or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall, after execution, become a part of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

(CONTRACTOR)

By _____ (SEAL & ATTEST)

Title _____

(Joint Venture)

By _____ (SEAL & ATTEST)

Title _____

CITY OF MILES CITY
(OWNER)

By _____ (SEAL & ATTEST)

TITLE _____ MAYOR

City Clerk

APPROVED AS TO FORM:

City Attorney

END OF SECTION 00500

DIVISION 0 – BIDDING AND CONTRACT DOCUMENTS
SECTION 00610 – PERFORMANCE BOND

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that _____
(insert full name, address or legal title of CONTRACTOR)

as Principal, hereinafter called CONTRACTOR, and _____

(insert full name, address or legal title of Surety)

as Surety, hereinafter called SURETY, are held and firmly bound unto

City of Miles City, 17 S. 8th Street, P.O. Box 910, Miles City, MT 59301

(insert full name, address or legal title of OWNER)

as Oblige, herein after called OWNER, in the amount of _____ Dollars (\$ _____), for the payment whereof CONTRACTOR and SURETY bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS,

CONTRACTOR has by written Agreement, dated _____, entered into a contract with OWNER for Riverside Park Path – Miles City, in accordance with drawings and specifications prepared by the City of Miles City, MT, which contract is by reference made a part hereof, and is hereinafter referred to as the Agreement.

NOW, THEREFORE, the condition of this obligation is such that if CONTRACTOR shall promptly and faithfully perform said Agreement, then this obligation shall be null and void; otherwise it shall remain in full force and effect. As a minimum, this obligation shall remain in full force and effect beyond the completion of all work to include the correction period, as specified in the Contract Documents.

The SURETY hereby waives notice of any alternation or extension of time made by the OWNER.

Whenever CONTRACTOR shall be, and declared by OWNER to be in default under the Agreement, the OWNER having performed OWNER'S obligations thereunder, the SURETY may promptly remedy the default, or shall promptly:

1. Complete the Agreement in accordance with its terms and conditions, or
2. Obtain a bid or bids for completing the Agreement in accordance with its terms and conditions, and upon determination by SURETY of the lowest responsible bidder, or if the OWNER elects, upon determination by the OWNER and the SURETY jointly of the lowest responsible bidder, arrange for a contract between such bidder and OWNER, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph); sufficient funds to pay the cost of completion less the balance of the contract price, but not

exceeding, including other costs and damages for which the SURETY may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by OWNER to CONTRACTOR under the Agreement and any amendments thereto, less the amount properly paid by OWNER to CONTRACTOR.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the OWNER named herein or the heirs, executors, administrators, or successor of the OWNER.

IN WITNESS WHEREOF, this instrument is executed in four (4) counterparts, each one of which shall be deemed an original, this the _____ day of _____, 2012.

(Principal) Secretary

(Principal)

(SEAL)

By _____

(Address)

(Witness as to Principal)

(Address)

ATTEST:

(Surety) Secretary

(Surety)

(SEAL)

By _____

(Attorney-In-Fact)

(Witness as to Surety)

(Address)

NOTE: Date of bond must not be prior to date of Contract. If CONTRACTOR is Partnership, all partners should execute bond.

END OF SECTION 00610

DIVISION 0 – BIDDING AND CONTRACT DOCUMENTS
SECTION 00620 PAYMENT BOND

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That _____
(Insert the name and address or legal title of CONTRACTOR)

as Principal, hereinafter called PRINCIPAL, and _____

(Insert the legal title of Surety)

as Surety, hereinafter called SURETY, are held and firmly bound unto

City of Miles City, 17 S. 8th Street, P.O. Box 910, Miles City MT 59301

as obligee, herein after called OWNER, for the use and benefit of claimants as herein below defined in the amount of _____ Dollars (\$) for the payment whereof PRINCIPAL and SURETY bond themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS:

PRINCIPAL has by written Agreement, dated _____, entered into a contract with OWNER for Riverside Park Path – Miles City, in accordance with drawings and specifications prepared by the City of Miles City, MT, which contract is by reference made a part hereof, and is hereinafter referred to as the Agreement.

NOW, THEREFORE, the condition of this obligation is such that, if the PRINCIPAL shall promptly make payments to all claimants as hereinafter defined, for all labor and materials used or reasonably required for use in the performance of the Agreement, and any duly authorized modifications that may hereafter be made, then this obligation shall be void; otherwise, it shall remain in full force and effect subject, however, to the following conditions.

1. A claimant is defined as one having a direct contract with the PRINCIPAL or with a subcontractor of the PRINCIPAL, as defined by Title 18, Chapter 2, Part 2, MCA for labor, materials, or both, used or reasonably required for use in the performance of the Agreement; labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental of equipment directly applicable to the Agreement.
2. The above-named PRINCIPAL and SURETY hereby jointly and severally agree with the OWNER that every claimant as herein defined who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for sue of such claimant in the name of the OWNER, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon, provided, however, that the OWNER shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant.
 - (a) Unless claimant shall have complied with applicable State laws.
 - (b) Other than in a State Court of competent jurisdiction in and for the County or other political subdivision of the State in which the project, or any part thereof, is situated or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.
4. Special Exceptions: None
5. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payments by SURETY of mechanic's liens, which may be filed on record against said improvement, whether or not claim for the amount of such lien by presented under and against this bond.

IN WITNESS WHEREOF, this instrument is executed in four (4) counterparts, each one of which shall be deemed an original, this the ____ day of _____, 2012.

(Principal) Secretary

(Principal)

(SEAL)

By _____

(Address)

(Witness as to Principal)

(Address)

ATTEST:

(Surety) Secretary

(Surety)

(SEAL)

By _____

(Attorney-In-Fact)

(Witness as to Surety)

(Address)

NOTE: Date of Bond must not be prior to date of Contract. If CONTRACTOR is Partnership, all partners should execute bond.

END OF SECTION 00620

**AGREEMENT TO COMPLY WITH NONDISCRIMINATION
PROVISIONS OF MONTANA STATUTE**

In compliance with §49-3-207 MCA, **JACKSON CONTRACTOR GROUP, INC.**, a Montana corporation, as a condition precedent to the execution of its contract with the City of Miles City, Montana for the construction of the Riverside Park Path, Miles City, Montana (Federal Aid Project No. STPE 8099(8)), and as an additional term of the contract for such Project, agrees with the City of Miles City, as follows:

1. Jackson Contractor Group, Inc. will conduct all hiring for the project on the basis of merit and qualifications;
2. Jackson Contractor Group, Inc. will not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin in the performance of the contract.

DATED this _____ day of _____, 2012.

Jackson Contractor Group, Inc, a Montana
corporation,

By: _____
Doug Jackson, President

BID BOND

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

BIDDER (Name and Address):
Jackson Contractor Group, Inc.
P.O. Box 967
Missoula, MT 59806

SURETY (Name and Address of Principal Place of Business):
Liberty Mutual Insurance Company
175 Berkeley Street
Boston, MA 02116

OWNER (Name and Address):
City of Miles City
P.O. Box 910, 17 South 8th Street
Miles City, MT 59301

COUNTERSIGNED:
HUB INTERNATIONAL MOUNTAIN
STATES LIMITED

Rene C. LeVeaux
RENE C. LEVEAUX

BID

Bid Due Date: 9/25/2012

Description (Project Name and Include Location): Riverside Park Path, Miles City, Montana
Federal Aid Project No. STPE 8099(8)

BOND

Bond Number: 5534778

Date (Not earlier than Bid due date): 9/25/2012

Penal sum Ten Percent of the Total Amount Bid \$ 10%
(Words) (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER
Jackson Contractor Group, Inc. (Seal)
Bidder's Name and Corporate Seal

SURETY
Liberty Mutual Insurance Company (Seal)
Surety's Name and Corporate Seal

By: *[Signature]*
Signature

By: *[Signature]*
Signature (Attach Power of Attorney)

Doug Jackson
Print Name

Jenny Arbuckle
Print Name

President
Title

Attorney-In-Fact
Title

Attest: *[Signature]*
Signature

Attest: *[Signature]*
Signature

Heather Carter-Office Mngr.
Title

Brooke A. Garness, Bond Clerical
Title

Note: Above addresses are to be used for giving any required notice. Provide execution by any additional parties, such as joint venturers, if necessary.

PENAL SUM FORM

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
 - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2 All Bids are rejected by Owner, or
 - 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

American Fire and Casualty Company Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company Peerless Insurance Company
West American Insurance Company

Certificate No. _____

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That American Fire & Casualty Company and The Ohio Casualty Insurance Company are corporations duly organized under the laws of the State of Ohio; that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts; that Peerless Insurance Company is a corporation duly organized under the laws of the State of New Hampshire; and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies") pursuant to and by authority herein set forth, does hereby name, constitute and appoint: BETHA WINDOM; BILLY J. BOLT; BRODIE A. GARNES; CHRIS JERMUNSON; CHRISTOPHER T. HINDOEN; GARY D. ROWERS; JAMIE M. ROE; JENNY ARBUCKLE; JOHN D. LEAF; KAYE U. MUZZANA; KRISTIN A. PICCIONI; LYNN ST. PIERRE; MICHAEL E. DEFNER; TIMOTHY R. BARNES

all of the city of GREAT FALLS state of MT each individually if there be more than one named, its true and lawful attorney in fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 24th day of August 2012.



American Fire and Casualty Company
The Ohio Casualty Insurance Company
Liberty Mutual Insurance Company
Peerless Insurance Company
West American Insurance Company

By: Gregory W. Davenport
Gregory W. Davenport, Assistant Secretary

STATE OF WASHINGTON
COUNTY OF KING

On this 24th day of August 2012, before me personally appeared Gregory W. Davenport, who acknowledged himself to be the Assistant Secretary of American Fire and Casualty Company, Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, Peerless Insurance Company and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Seattle, Washington, on the day and year first above written.



By: KD Riley
KD Riley, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, West American Insurance Company and Peerless Insurance Company, which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS - SECTION 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys in fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys in fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney in fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts - SECTION 5. Surety Bonds and Undertakings. Any officer of the Company authorized for that purpose in writing by the chairman or the president and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys in fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys in fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the Secretary.

Certificate of Designation. - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes Gregory W. Davenport, Assistant Secretary to appoint such attorney in fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization. - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, David M. Carey, the undersigned, Assistant Secretary, of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, West American Insurance Company and Peerless Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 25th day of SEPTEMBER, 20 12.



By: David M. Carey
David M. Carey, Assistant Secretary

To confirm the validity of this Power of Attorney, call 1-519-532-8240 between 9:00 am and 4:30 pm EST on any business day.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

STPE 8099 (8)
(Federal Aid Project Number)

Riverside Park Path – Miles City
(Federal Aid Project Name)

THE DBE GOAL FOR THIS CONTRACT IS 0.00%

To be eligible for award of this contract, the bidder must execute and submit as part of its bid, these DBE REQUIREMENTS. Contract award may be conditioned upon satisfaction of the Montana Department of Transportation's (MDT) requirements as set forth below and in the Department's written DBE Program Requirements.

1. The SCHEDULE OF PARTICIPATION (Schedule) will be used to determine whether the bidder has complied with the DBE goals of the project.
 - a) Where a numerical goal greater than 0% (zero percent) has been assigned to the project, those bids that do not contain a Schedule, or contain a blank Schedule, will be considered irregular and may be considered non-responsive and be rejected. Those bids containing a Schedule that is incomplete or does not meet the assigned goal will be considered irregular and may be considered non-responsive and be rejected. In any case where the apparent low bidder does not comply with the assigned project goal, a determination will be made within 48 hours of the bid opening, based upon the good faith efforts (Good Faith Efforts are outlined in the MDT DBE Program).
 - b) DBEs not certified by MDT prior to the date the bids are opened will not be considered in determining whether the bid has complied with the goals.
 - c) Where a numerical goal of 0% (zero percent) has been assigned to the project, bidders are encouraged to utilize the Schedule to indicate a commitment to using a DBE for a portion of the work in the project.
2. The BIDDER'S LIST will be used to gather information for use in determining appropriate DBE goals for upcoming fiscal years. Each firm, bidding on prime contracts and bidding or quoting subcontracts on federally assisted projects MUST submit a completed Bidder's List within 48 hours of the bid opening. If the prime contractor has not received any bid or sub-quote information, the prime bidder must indicate NONE on the Bidder's List.

The Bidder's List may be included with the bid, or supplied to the local agency within 48 hours of the bid opening.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS (cont.)

STPE 8099 (8)
(Federal Aid Project Number)

Riverside Park Path – Miles City
(Federal Aid Project Name)

3. In accordance with 49 CFR §26.13(b) which states, "Each contract that MDT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate."
4. The prime contractor agrees to use MDT certified DBEs in the award of subcontracts to the fullest extent consistent with the performance of the contract. Under this certification, the bidder agrees to maintain records to document all contacts and specific efforts made to identify potential DBE firms, seek out, and utilize DBE contractors.
5. Substitution of DBEs or dollar amounts shown on the Schedule will not be permitted prior to the award of the contract. If it is determined that the scheduled DBE is unable to perform due to default, over extension, suspension, decertification or other reasons, the prime contractor agrees to replace the DBE subcontractor in accordance with the substitution process outlined in the MDT DBE Program.
6. DBE goal achievement or participation will be determined and counted towards the goal when each DBE executes, performs and is paid for each work item specified in their subcontract and in accordance with the MDT DBE Program.
7. The following criteria will be used when determining the amount of achievement towards DBE goals:
 - a) **Manufacturer, 100% of the cost:** A certified DBE that produces goods from raw materials or substantially alters goods before resale.
 - b) **Supplier/Regular Dealer, 60% of the cost:** A certified DBE that maintains and furnishes a supply of the goods involved for the purposes of resale to the general public.
 - c) **Jobber/Broker, 100% of the fee:** The DBE's normal fee received over the cost of any goods, equipment or services supplied to the project.
 - d) **Contractor/Subcontractor, 100%:** Work performed using the DBE's own equipment and/or personnel.

SCHEDULE OF PARTICIPATION BY DBEs

STPE 8099 (8)
(Federal Aid Project Number)

Riverside Park Path -- Miles City
(Federal Aid Project Name)

List below the information pertaining to MDT-certified DBEs with which the bidder has negotiated an agreement to participate in this contract in accordance with the MDT DBE Program requirements.

Name of Prime Contractor: JACKSON CONTRACTOR GROUP
(Bidder's/Proposer's name)

DBE NAME:
ADDRESS:
EXPIRATION DATE:
BID QUOTE:
USED AS (CFU):
USED QUOTE:

DBE NAME:
ADDRESS:
EXPIRATION DATE:
BID QUOTE:
USED AS (CFU):
USED QUOTE:

DBE NAME:
ADDRESS:
EXPIRATION DATE:
BID QUOTE:
USED AS (CFU):
USED QUOTE:

Entered: total 0% or total \$
Required: total 0% or total \$

BIDDER'S LIST

STPB 8099 (8)
(Federal Aid Project Number)

Riverside Park Path - Miles City
(Federal Aid Project Name)

Name of Prime Bidder: JACKSON CONTRACTOR GROUP, INC.
(Bidder's/Proposer's name)

In order to meet the requirements of the MDT DBE Program, each contractor supplying bid information on a federal-aid project must submit a completed Bidder's List within 48 hours of the bid opening. This must include a list of all contractors that have provided the bidder with quote, subquote, or estimate information. Whether or not the prime bidder used the information, all companies that provided bid information must be listed.

In the event the bidder has not received any bid information, the bidder must indicate that fact by writing NONE on the list. Blank or incomplete Bidder's Lists will not be accepted.

Name: HD Supply Waterworks , LTD.

Name: RFL LTD

Name: UBC Precast Concrete Products

Name: Yellowstone Electric Co.

Name: Glader Electric

Name: SAX Electric

Name: Don's Electric, Inc.

Name:

Name:

Name:

Name:

Note: Use additional sheets as necessary

END OF SECTION 00300