



# CITY OF MILES CITY

## AGENDA

*Regular Council Meeting  
City Council Chambers*

*November 26, 2019  
6:00 p.m.*

### CALL TO ORDER PLEDGE OF ALLEGIANCE ROLL CALL

1. **APPROVAL OF COUNCIL MINUTES/COMMITTEE MINUTES**
  - A. Regular City Council Meeting 11/12/2019
  - B. Finance Committee Meeting 11/07/2019
  - C. Public Safety Committee Meeting 11/19/2019
2. **SCHEDULE MEETINGS**
3. **REQUEST OF CITIZENS & PUBLIC COMMENT**

Request from Church of Jesus Christ of Latter-Day Saint to set off paper lanterns
4. **APPOINTMENTS**

Elliot Grayson- Confirmed Firefighter  
Austin Rychner- Confirmed Firefighter
5. **PROCLAMATIONS**
6. **STAFF REPORTS**
7. **CITY COUNCIL COMMENTS**
8. **MAYOR COMMENTS**
9. **COMMITTEE RECOMMENDATIONS**

Public Safety Committee- Purchase of ZETX Trax Suite program at a cost of \$2,194
10. **BID OPENINGS**
11. **BID AWARDS**
12. **PUBLIC HEARINGS**
13. **UNFINISHED BUSINESS**
14. **NEW BUSINESS**
  - A. **RESOLUTION NO. 4294- A Resolution Approving a Revised Collective Bargaining Agreement Between the City of Miles City and the Local No. 600 Union**

**B. RESOLUTION NO. 4297- A Resolution Approving an Affiliate/Multi-Location Agreement with Iron Mountain Information Management, LLC for Shredding Services**

**15. 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

# Minutes

**REGULAR COUNCIL MEETING November 12, 2019**  
**6:00 p.m.**

**CALL TO ORDER**

The Regular Council meeting was held Tuesday, November 12, 2019, in the City Hall Conference Room at City Hall, 17 S. 8<sup>th</sup> Street, Miles City, Montana. Mayor John Hollowell called the meeting to order. Council Members present were Brant Kassner, Dwayne Andrews, Ken Gardner, John Uden, Rick Huber, Austin Lott, and Susanne Galbraith. Council Member Kathy Wilcox was not present.

Also present were City Attorney Dan Rice, Public Works Director Scott Gray, Police Chief Doug Colombik, Public Utilities Director Tom Speelmon, and Deputy City Clerk/Minute Recorder Mary Rowe.

**PLEDGE OF ALLEGIANCE**

Mayor Hollowell led the Council in the Pledge of Allegiance.

**APPROVAL OF COUNCIL & COMMITTEE MINUTES**

**City Council Minutes: 10/22/2019**

\*\* *Councilperson Uden moved to approve the minutes of the Regular Council Meeting of October 22, 2019, subject to any changes, and seconded by Councilperson Kassner. The motion passed by unanimous consent, 7-0.*

**Human Resources Committee Minutes: 10/15/2019**

\*\* *Councilperson Kassner moved to approve the minutes of the Human Resources Committee Meeting of October 15, 2019, and seconded by Councilperson Gardner. The motion passed by unanimous consent, 7-0.*

**SCHEDULE MEETINGS**

*The following meetings will be held in the City Hall Conference Room:*

- Public Safety Committee Meeting on November 19, 2019 at 6pm

**REQUEST OF CITIZENS & PUBLIC COMMENT**

None

**APPOINTMENTS**

1. **Police Commissioner - Blayne Watts**

**\*\*** *Councilperson Uden moved to appoint Blayne Watts as Police Commissioner and seconded by Councilperson Huber.*

A few questions were asked and answered about the qualifications and character of Mr. Watts.

**\*\*** *The motion passed by unanimous consent, 7-0.*

## **PROCLAMATIONS**

Mayor Hollowell Proclaimed Saturday, November 30, 2019 to be Small Business Saturday.

## **STAFF REPORTS**

Director Gray

- Updated the Council on the Strevell Project, which included the upcoming completion of the season (weather permitting), where the road would open back up. The project will resume in the spring after the winter shutdown.
- Wanted to let everyone know that the Horse Sculpture is up at Riverside Park and encourages people to go check it out. He gave a special thanks to Erin Thormodsgard with the help of her husband Dan Thormodsgard, A-1 Concrete, Karen Stevenson and Jenny Sloan from Keep Miles City Beautiful, Yellowstone Environmental, and anyone else who was involved in the project that he may have missed.

## **CITY COUNCIL COMMENTS**

Councilperson Uden suggested that a plaque be installed at Riverside Park showing appreciation to the horse sculpture artist. Mayor Hollowell stated that since it is an appropriation of funds it will take Council approval.

**\*\*** *Councilperson Uden moved to have a plaque for participation/recognition, for the artist of the Horse Sculpture, be installed at Riverside Park, and seconded by Councilperson Andrews.*

Mayor Hollowell asked Director Gray to work on the plaque, to which he agreed.

**\*\*** *The motion passed by unanimous consent, 7-0.*

Councilperson Lott informed the Council that the Flood Steering Committee has been working on Economic Development Agency grants. There was a short conversation about anticipated costs for the Tongue and the Yellowstone River and how the grant process worked.

Councilperson Huber wanted to let everyone know that Southeastern Montana Development Corporation (SEMDC) is having a roundtable presentation at Miles Community College on November 21<sup>st</sup>. He believes it is at 6pm in room 316 and he thinks that all the Council Members should be present to learn and get involved.

**MAYOR COMMENTS**

None

**COMMITTEE RECOMMENDATIONS**

None

**BID OPENINGS**

None

**BID AWARDS**

None

**PUBLIC HEARINGS**

None

**UNFINISHED BUSINESS**

None

**NEW BUSINESS**

- A. Approval on the design for a storage shed and a picnic shelter at Spotted Eagle, presented by Walleyes Unlimited**

**\*\*** *Councilperson Gardner moved to approve the design, seconded by Councilperson Huber and passed unanimously, 7-0.*

- B. RESOLUTION NO. 4293- A Resolution Revising City of Miles City Personnel Policy Regarding Travel**

**\*\*** *Councilperson Lott moved to approve the Resolution, seconded by Councilperson Galbraith and passed unanimously, 7-0.*

- C. RESOLUTION NO. 4295- A Resolution Levying and Assessing the Cost of Removal and Disposal of Nuisance Weeds in the City of Miles City, Montana, From September 1, 2019 to November 15, 2019**

**\*\*** *Councilperson Uden moved to approve the Resolution and seconded by Councilperson Galbraith.*

Councilperson Galbraith explained that there was a final invoice that was received after the packet was sent out and stated that the vote would include the final invoice for 616 Orr Street, owned by Ned K and Patsy J Summers in the amount of \$639.67 on Resolution 4295.

**\*\*** *On a roll call vote the Resolution passed, 7-0.*

**D. RESOLUTION NO. 4296- A Resolution Approving an Amendment to Task Order with Kadrmas, Lee & Jackson, Inc. For Services Related to the Darling Addition Street and Utilities Rehabilitation Project**

**\*\*** *Councilperson Galbraith moved to approve the Resolution and seconded by Councilperson Andrews.*

Councilperson Galbraith said that the Task Order had gone through the Finance Committee and was approved for recommendation to Council.

**\*\*** *On a roll call vote the Resolution passed, 7-0.*

**E. Approval of October claims**

**\*\*** *Councilperson Andrew moved to approve the October claims and seconded by Councilperson Kassner.*

Councilperson Lott inquired about the charge for DUI blood draws. He wanted to know if that was a City expense, or if there was a reimbursement.

Mayor Hollowell, Attorney Rice, and Police Chief Colombik explained that 50% of the charge is reimbursed by the DUI Task Force Program, and the remaining 50% is paid by the City. The previous Judge had been asked to add the remaining cost to the offender's fine, to which he declined. The Mayor stated that he would reinvestigate the remaining 50% allocation again with City Judge Stein and City Attorney Rice.

Councilperson Huber requested that City Judge Stein be present at the next City Council Meeting to address the remaining 50% cost of the DUI blood draws.

**\*\*** *The motion passed unanimously, 7-0.*

**ADJOURNMENT**

**\*\*** *Councilperson Andrews moved to adjourn the meeting, seconded by Councilperson Lott and passed unanimously.*

The meeting was adjourned at 6:45 p.m.

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**John Hollowell, Mayor**

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**Mary Rowe, Deputy City Clerk**

## Finance Committee Meeting

November 7, 2019

The Finance Committee met Thursday, November 7, 2019 at 6:00 p.m. in the City Hall Conference room. Present were Committee Members Susanne Galbraith, Brant Kassner and Rick Huber. Dwayne Andrews was excused.

Also present were: Public Utilities Director Tom Speelmon, Fire Chief Branden Stevens and Clerk/Recorder Lorrie Pearce.

Chairperson Galbraith called the meeting to order.

### 1. Request of Citizens and Public Comment:

Chief Stevens explained that \$25,000 in line 940 of the fire fund will not be spent on the water tender since the City did not receive the grant. He asked the Committee if he could spend it on hand held radios. Each radio would cost \$1,100 and he would replace the one that are not working at this time. He said that there was an incident with a callout and a radio did not work. This cause a huge problem with communication to dispatch. He added that the radios are really old and there are very few of them that work. After a short conversation, the Committee thought that it was his budget and he could spend the money where he felt it needed to be spent.

### 2. Discussion and Recommendation on Resolution No. 4295- A Resolution Levying and Assessing the Cost of Removal and Disposal of Nuisance Weeds in the City of Miles City, Montana, From September 1, 2019 to November 15, 2019

Clerk Pearce explained that the invoice from 7<sup>th</sup> and Orr had not been received from Haynes Enterprise and would like to add it if it is received before Council meets. Consensus of the Committee was to add the additional cost if received in time.

**\*\*** *Chairperson Huber moved to recommend to Council to approve the resolution, Committee Member Galbraith seconded the motion. On a Roll Call vote the motion passed, 3-0*

### 3. Discussion and Recommendation on Resolution No. 4296- A Resolution Approving an Amendment to Task Order With Kadrmas, Lee & Jackson, Inc. For Services Related to the Darling Addition Street and Utilities Rehabilitation Project

Director Speelmon said that the task order is for the next phase for the Darling project. Director Gray and himself wanted to get the task order completed early so bids can possibly go out in February. If that happened, then phase III could be started early and hopefully completed on time. The task order is not budgeted, but a strip on Strevell was not completed this year, so that savings would cover the cost.



**\*\*** *Chairperson Galbraith moved to recommend to Council to approve the resolution, Committee Member Kassner seconded the motion. On a Roll Call vote the motion passed, 3-0*

**4. Discussion and Approval on bid received for Bobcat Skid-Steer Loader**

Director Speelmon explained that the purchases are in the budget and brought it to the Committee for transparency. Three bids were received from various Bobcat companies and the local Bobcat company sent in the lowest bids for the loader, wheel saw and blade. The total for all three is \$53,000 which is lower than the \$100,000 that was budgeted.

**\*\*** *Chairperson Kassner moved to purchase the loader, wheel saw and blade (items 4-6) from the local Bobcat company, which are the lowest bids, Committee Member Huber seconded the motion. On a Roll Call vote the motion passed, 3-0*

**5. Discussion and Approval on bid received for Bobcat WS18 Wheel Saw**

**6. Discussion and Approval on bid received for Bobcat 108" Snow V-Blade**

**7. Review and discuss financial reports consisting of General Fund and Ambulance**

Chief Stevens explained that he looks at his budgets from July 1<sup>st</sup> to July 1<sup>st</sup> because the costs are comparable. He felt his budgets were adequate for the month that was reviewed. He added that the fire department is participating in the Pathway Program which brings high school students into the fire/ambulance environment and hopes that it will influence them to stay in Miles City and come work for the City. Also, he is looking into moving the training center to the water plant area. This would open up the area to rebuild the fire department and also help with the possibility of training other cities and towns. It was the consensus of the Committee that General Fund and the Ambulance Fund was at their proper spending percentage that they should be for September.

**8. Adjournment**

**\*\****Committee Member Huber moved to adjourn the meeting, seconded by Committee Member Kassner and passed unanimously, 3-0.*

The meeting was adjourned at 6:58 p.m.

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**Susanne Galbraith, Chairperson**

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**Lorrie Pearce, Recorder**

**Public Safety Committee Meeting  
November 19, 2019**

The Public Safety Committee met Tuesday, November 19, 2019, at 6:00 pm in the City Hall Conference Room, 17 S. 8th. Present were Committee Members John Uden, Kathy Wilcox, Ken Gardner and Austin Lott. Also present were: Mayor John Hollowell, Councilperson Rick Huber, Police Chief Doug Colombik, Police Lt. Dan Baker, Police Officer Coy Sheets, Fire Chief Branden Stevens, Fire Captain Jake Richards, Fire Lt. Taran Harbaugh and Human Resources Officer/Recorder Linda Wilkins.

Chairperson Uden called the meeting to order.

**1. Request of Citizens**

None

**2. Committee Member Comments**

None

**3. New Business**

**A. Discuss Police Dept.'s need for a new search warrant related computer program**

Chief Colombik passed out a quote from ZetX for the purchase of the Trax Suite annual subscription service in the amount of \$2,194.00. He stated that Officer Sheets had attended training paid for by the Secret Service on the use of the Trax Suite, this subscription service is used for the tracking cell phone usage of suspects in a criminal investigation. He asked Officer Sheets to speak to the Committee regarding the four-month free preview that the department has been using, the free preview expired November 1. Officer Sheets provided a status report on the training he attended on the use of this subscription service. During the free preview period he has used the subscription service very effectively in the investigation of a high-profile case. This subscription service has provided good results during this investigation. The evidentiary information from cell phone usage was provided quickly within a few days. This information, normally, would take months to obtain. The service cuts down on the time and effort of an officer and frees time up for other duties. Committee Chair Uden asked if there was money in the budget for this purchase. Chief Colombik commented that he would be meeting with the County Attorney's office regarding the cost of this service to see if they would share the cost. He also commented that this type of service is a necessity with the way technology is advancing. Lt. Baker also commented that the service will be helpful in searching for alias' information used by suspects. Committee Chair Uden asked how training would be provided for this service. Officer Sheets stated he has put together a lesson and training plan and would be training other officers when using this service. Lt. Baker stated that county attorneys and judges are aware of this technology and the time saved and information obtained is invaluable. Committee Member Lott noted at the bottom of the quote the quote it stated; "Multi-annual locked in pricing subscriptions are available for final invoice: contact ZetX for details." He thought it would be good to find out what type of cost savings could be obtained from locking in pricing for a few years. He stated it is important to be as fiscally responsible.

*\*\*Committee Member Wilcox moved to recommend to Council that the Police Department obtain the Trax Suite from ZetX, seconded by Committee Member Lott. On roll call vote the motion passed 4-0.*

**B. Future use of cell phones and texting for official law enforcement business per FBI and**

State of MT.

Chief Colombik stated that CJIN provided new information that the use of personal cell phones is not allowed when communicating criminal justice information. He would like the command staff to have access to cell phones provided by the City. These phones would be simple flip phones. He has been looking at the cost associated with providing phones to six command staff. He has contacted both the State and AT&T. AT&T's cost was approximately \$16-\$17 per month for each phone. The Mayor commented that he understands this will require money, but the City can only afford so much the City is taking steps to reverse financial trends. Committee Member Wilcox suggested to provide the committee with a worksheet with cost comparisons from two vendors and bring it back to the committee for review.

*\*\*Committee Chair Uden moved to continue this item at the next Public Safety Meeting on December 17, seconded by Committee Member Wilcox. The motion passed by unanimous consent 4-0.*

C. Discuss potential for future Police Dept. operational quarters

Committee Chair Uden asked Chief Colombik where the construction committee stood on current plans. Chief Colombik stated that Lt. Baker had been spearheading this building planning up for the last two years and that there are plans from the architects. He stressed that the cost currently for keeping the Police Department housed at its current location, at the VA Hospital, was costing \$3,116/month. He would like to see a meeting take place with the public so decisions can be made, he then asked Lt. Baker for his comments. Lt. Baker stated that three Preliminary Architectural Reports (PAR) have been completed by JGA Architects. Chief Stevens commented the cost for each tax payer within the City would be approximately the cost of two cups of specialty coffee at about \$12/month. He stated when people are considering a place to live one of the primary things they consider is quality of life. The issues of housing the Police Department and Miles City fire and rescue can not continue. He thought it was a good idea for the City to look at its needs for the future.

Lt. Baker continued with the 1<sup>st</sup> building option. This option came in with an estimate of \$7.8 million. This option they believe is too small and would not face Main Street. He informed the committee this cost includes all furniture and is high. The Council needs to approve a PAR before any further work can be done to secure funding, these are just preliminary plans and can and will be changed. Chief Stevens commented that this plan is being built on the current footprint which is limited based on the area. Lt. Baker stated they are negotiating with the residents east of the current fire station; however, Myles Gaub may sacrifice a portion of his parking lot to the west. Mayor Hollowell commented that Mr. Tom Hanel has been negotiating on obtaining the property east of the current building.

2<sup>nd</sup> building option – This would be facing Main Street and reconfigured on the same footprint. It would include an isolated impound garage for safety. It would house the City agencies, Montana Probation and Parole, the Drug Task Force and Montana Highway Patrol. Housing other agencies other than the City would provide rental income. Committee Chair Uden asked if they had been in touch with these other agencies. Lt. Baker has been in contact and all agencies are very interested, these agencies have, in fact, sat down with the architects and put in special requests for their agencies. This option is workable for now and in the future, it provides space for further expansion and meets the needs of all agencies. The cost of this PAR is \$9.7 million, again this is on the high side of cost and adjustments can be made to the plan, if this option is chosen.

3<sup>rd</sup> building option – This plan is very similar to the 2<sup>nd</sup> option. The only changes are moving a few walls, providing inside storage for the search and rescue boat and placing glass windows around the parking area of the fire trucks. Cost of this PAR \$10.3 million.

Both the 2<sup>nd</sup> and 3<sup>rd</sup> options, would require the fire training center to be relocated, and they are tossing around some options for relocation.

Committee Member Wilcox commented that it would be a good idea to allow a full hour for the Council to review the three PARs prior to the Regular Council Meeting. The Mayor agreed this could take place.

*\*\*Committee Member moved to recommend a full review by Council at a Special Council Meeting on December 10, seconded by Committee Chair Uden. On roll call, the motion passed 4-0.*

#### **4. Adjournment**

*\*\*Committee Member Wilcox moved to adjourn the meeting, seconded by Committee Member Lott and passed unanimously, 4-0.*

The meeting was adjourned at 7:45 p.m.

Respectfully Submitted:

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John Uden, Chairperson

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Linda Wilkins, Recorder

# Recommendations

Chief Colombik,  
Captain Prell,  
Lieutenant Baker,  
Sergeants

Officer Coy Sheets  
Miles City Police Department

Mobile Device Examinations  
Status Report 8-17-19

Early in 2019, I, Officer Coy Sheets, had a conversation with Lt. Dan Baker regarding the area of digital forensics and mobile device (cellular phone) investigations. Recognizing the growing evidentiary value of the contents of cellphones, I volunteered to attend training specific to the subject matter of cellular phones and cellular record tracking.

Lt. Baker arranged for me to attend training in Missoula, 7-15-19 through 7-19-19, by a company called ZetX. The training was in partnership with the Custer County Attorney's Office, with the CCAO paying a portion of the cost of attendance (\$750.00 estimated).

The training required that attendants bring laptop computers capable of processing large amounts of data. ZetX recommended an i7 processor with 16 gigs of RAM. There were no laptops available within the city or police department with that capability. I researched laptop computers with the required systems. Refurbished laptops with the same capabilities were around \$300.00 and new started around \$800.00. I spoke to Matt Salacinski with the Regional Computer Forensics Laboratory in Billings. He stated that a refurbished unit would not be a good idea unless the hard drive was thoroughly inspected. I informed Lt. Baker of my findings and he asked me to speak to Chief Colombik.

Chief Colombik advised me to buy a new laptop. I bought a Dell Inspiron 15 5000 from Amazon on 7-8-19 (serial number DDQHWR2). The cost was \$849.99. In addition to the computer, some software was required. I purchased Microsoft Office (includes Word, Excel, and Powerpoint) for a one-time price of \$149.99. Excel was required for the training. The other programs, along with Excel, are necessary for other aspects of law enforcement work as well. McAfee virus protection was also required. I purchased a one-year subscription of the service for \$19.99. It will require renewal each year. Other items for the laptop (carry case, wireless mouse, USB drives) were available from the supply closet.

\$1019.97 – total cost of computer and software.

I attended the ZetX training in Missoula. ZetX operates a system called TRAX. With ZetX TRAX, cell phone records can easily be mapped in Google Earth Pro. Once records are received from a

cell provider (Verizon, etc.), the entire document containing complicated records can be dragged and dropped into the TRAX program. The program will automatically map the records using the type of record, location (lat and long), and time of record. This allows the investigator to "zoom in" on a record in a detailed map application for a specific date and time. ZetX also provides real-time tracking in exigent circumstances. Without this program, an investigator has to manually input the data into a mapping application (some warrants return thousands of call and text records).

Zetx included a four-month free preview of the program, which will expire around mid-November. An annual subscription to the service was quoted at \$2194.00.

Lt. Baker also arranged for me to attend training at the National Computer Forensic Institute (NCFI) from 8-12-19 through 8-16-19. To attend the NCFI in Hoover, Alabama, I had to be nominated by our Secret Service Agent in Billings. I attended the Basic Mobile Device Investigation (BMDI) class. The Secret Service paid for the training, travel, lodging, and per diem. The only cost for our department was my daily wage.

The BMDI course covered many topics about mobile device investigations from on scene seizure, legal issues, cell networks, devices, hardware, extraction methods, mapping, and other general topics. It was great basic course meant to be expanded upon.

Once back at home, I created the goal of submitting periodic status reports (this being the first). These will include any additional costs that may arise, devices examined, amount of data examined, beneficial training opportunities, etc. I am in the process of creating a PowerPoint presentation to disseminate some of the things I have learned to the rest of the officers. There are many new tools and skills I have gained that can be passed along to help with many types of investigations. I am also trying to go over my study materials and notes to retain what was taught.

I hope to attend more trainings at the NCFI in the future. Other basic courses offered include digital evidence, social media investigations, basic computer and electronic crimes, digital currency, and network investigation. Again, there is very little cost to our department to attend these courses.

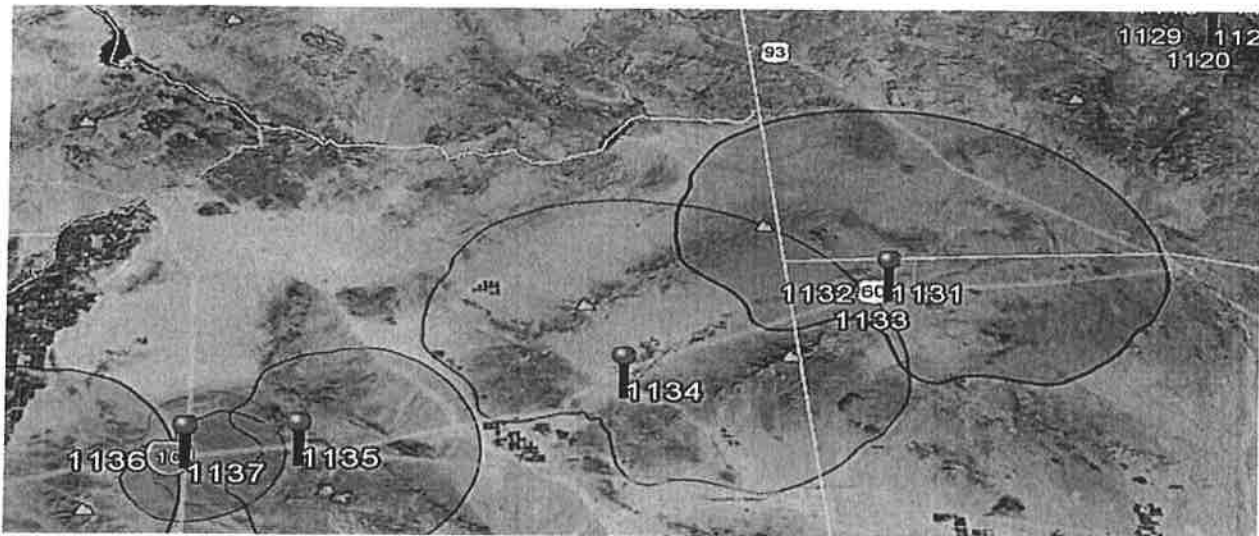
The NCFI also offers a Mobile Device Examiner (MDE) course. The MDE course is a four-week class in Hoover, AL. Just like the BMDI, the course is fully covered in payment by the Secret Service. The course is intensive and is meant to fully train examiners.

The course includes (free of charge) about \$40,000.00 worth of tools and equipment that will create a mobile device examiner lab.

Phone call/Text message mapping.

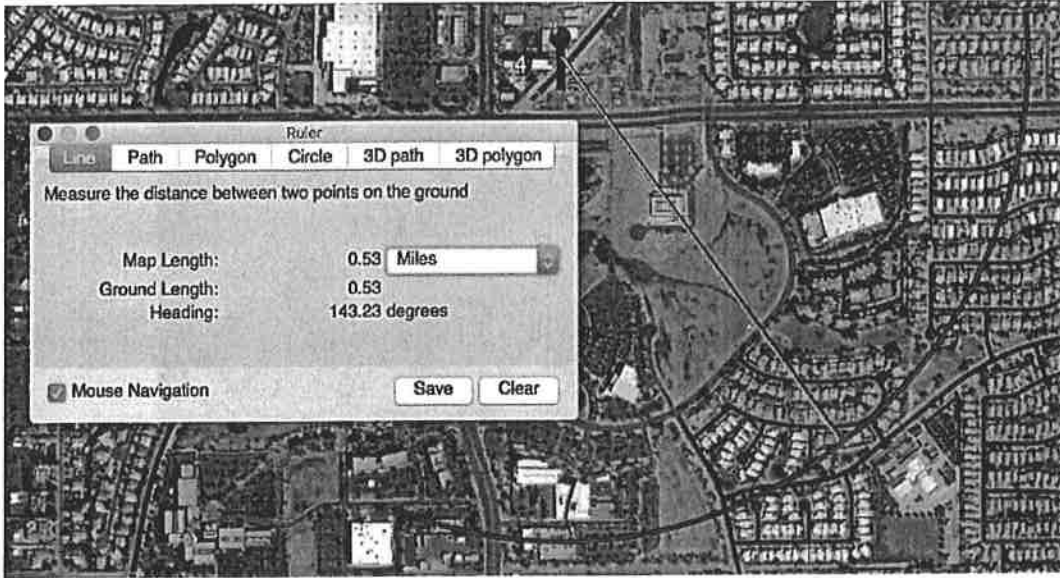


Location tracking – routes of travel.





Distance from tower measurements. Can track location or travel. Useful in gathering additional evidence/video.



Internet data. Can pinpoint locations within meters.





QUOTE:MT19.A0090100

ZetX, Inc  
1900 W Chandler Blvd Ste 15-226  
Chandler, AZ 85224

October 10, 2019

ZETX CONTACT:

**REQUESTING AGENCY:**  
Miles City Police Department

To request an invoice or send a PO  
contact Kari Montano at  
480-378-6823 or  
Kari.Montano@zetx.com

- Ongoing daily/weekly updates
- Unlimited Use & Authorized Users of the TraX Suite to include TraX, LinX, and LIVE
- Authorized User means employees directly employed with the requesting agency listed above as sworn law enforcement officers, crime analysts or dispatchers, unless agreed upon otherwise by ZetX
- CJIS Compliant, Cloud Based platform: (as defined by the US Department of Justice CJISD-ITS-DOC-081040-5.6, which can be found at - [https:// www.fbi.gov/services/cjis/cjis-security-policy-resource-center](https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center))
- Customized Warrants
- Ongoing 24 hour support
- CDR investigative assistance (does not include full case review and consulting)
- Tower dump assistance
- Custom agency search warrants prepared per provider
- TraX mapping analytics expert testimony (does not include travel and per diem)
- All files belong to the agency upon upload into TraX
- Court Presentation Assistance
- Access to bulk phone number look up
- Third party geo-location mapping( Pen Link, JSI, Cellebrite, Covertrack, and more)
- Complimentary weekly and monthly TraX webinars
- Expert testimony: With TraX purchase, ZetX will provide expert testimony for the TraX system at a flat rate of \$1,500.00 per day in court, in addition to travel fees, which is billed to the prosecutor's office or defense attorney. Custodian of records from the phone companies will require at least a 90 days' notice before appearing. ZetX also requires 90 days of notice before appearing for trial. In special circumstances, we will do our best to accommodate a request with less than 90 days notice. ZetX provides basic training and Subject Matter Expert Certifications to detectives and analysts, thereby providing agencies with their own cellular investigators and in-house subject matter experts.
- ZetX offers two types of testimony:
  - 1-Foundational TraX Testimony (Simply ensuring the records get admitted)  
Foundational testimony includes explanation of cellular networks, radio frequency principles, cellular provider records, call mapping, geolocation theory, hearings and responses to scientific standard challenges (Daubert, Frye, Rule 702, Shreck, etc.) and the explanation and application of the ZetX TraX mapping program. We are committed to getting your records admitted and supporting the investigators who will testify to call detail record case relevance.
  - 2-Investigative Case Work and Testimony (Managing the cellular investigation for plea or trial presentation) Billed at a rate of \$100.00 per hour plus daily testimony and travel expenses. Investigative Case Work and Testimony means an agency requires a ZetX Subject Matter Expert for complete case review to include, but not limited to, call detail record investigation, mapping, intelligence analysis, evidence corroboration, creating animations and videos, drive testing, report writing and expert testimony beyond the scope of a peer review or laying the foundation for TraX. If drive testing is required, hourly rates and travel expenses will be applied to billing. Billing for Investigative Case Work will occur regardless of pleas taken, and or when the case goes to trial.

\$2194.00

40 Hour Training: Provides knowledge of cellular technologies by provider with hands on workshops giving students the ability to build complex court room presentations with big data visualization.

Optional Add-On

- 2 discounted training seats at \$500.00/seat with TRAX purchase. Regular price is \$700.00/seat. Seats can be used at class of choice

QUOTE TOTAL

\$2194.00

TraX pricing may rise 10% annually as new updates are introduced. Multi-annual locked in pricing subscriptions are available for final invoicing; contact ZetX for details.  
Valid thru 12/31/2019.

# New Business

**RESOLUTION NO. 4294**

**A RESOLUTION APPROVING A REVISED COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF MILES CITY AND THE LOCAL NO. 600 UNION.**

*WHEREAS*, the City of Miles City (“City”) and the Local No. 600 of the International Association of Fire Fighters AFL-CIO (“Local 600”) have negotiated and desire to enter into a new collective bargaining agreement (CBA), which covers certain City employees who work for the City;

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

1. The Collective Bargaining Agreement between the City of Miles City and the Local 600, attached hereto as Exhibit “A” and made a part hereof, is hereby approved and adopted by the City Council of the City of Miles City.
2. The Mayor of the City of Miles City is hereby authorized and empowered to execute the same, and to bind the 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 26<sup>TH</sup> DAY OF NOVEMBER, 2019.**

\_\_\_\_\_  
John Hollowell, Mayor

ATTEST:

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



# CITY OF MILES CITY

Agenda Item #14.A  
Council Meeting Date: November 26, 2019  
Council Agenda Report

**Item:** Labor Agreement between the City of Miles City and the International Association of Fire Fighters, Local #600 (IAFF Local #600)

**From:** John Hollowell, Mayor

**Initiated By:** Mayor's Office/IAFF Local #600

**Presented By:** John Hollowell, Mayor

**Action Requested:** Ratification of the Proposed Collective Bargaining Agreement with the IAFF Local #600

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**Suggested Motion:**

1. Councilperson moves:  
"I move that the City Council approve the labor agreement between the City of Miles City and the IAFF Local #600, and authorize the Mayor to execute the agreement."
2. Mayor calls for a second, City Council Discussion, public comment, and calls for the vote.

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**Staff Recommendation:**

Staff recommends that the City Council approve the labor agreement between the City of Miles City and the IAFF Local #600.

**Background:**

The current Collective Bargaining Agreement (CBA) with the Miles City Firefighters expired on June 30, 2019. Please find below a summary detailing changes to the proposed agreement.

**Summary of Changes**

**Agreement Term:** 1 Year – July 1, 2019 – June 30, 2020

**Minor Updates throughout the CBA:**

- Grammar, punctuation, spelling
- Reformatted page numbering
- Renumber Table of Contents

**Changes from the previous agreement include:**

Article 3 – Check Off – Deleted prior language. Add language in line with the Janus Decision issued by the Supreme Court.

Article 17 – Added Deferred Compensation – City will contribute 2% of the firefighters base wage if the firefighter is participating in the City sponsored 457(b) plan through Nationwide. Local 600 requested this to compensate for the increase in COLA this year of over 2%.

Articles from Article 17 – Article 30 were renumbered

**Changes to Addendum B – Health Insurance**

Premiums were changed to current rates.

**Alternatives:**

The City Council could reject the proposed changes and direct the Mayor to continue collective bargaining.

**COLLECTIVE  
BARGAINING AGREEMENT**

**between**

**MILES CITY FIRE FIGHTERS Local No. 600**

**International Association of Fire Fighters**

**and**

**THE CITY OF MILES CITY**



**July 1, 2019 through June 30, 2020**

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**Local No. 600, International Association of Fire Fighters, Miles City, Montana**  
**and**  
**The City of Miles City**

This Agreement made between the City of Miles City, hereinafter called the "Employer" and the Miles City Fire Fighters Local #600 of The International Association of Fire Fighters AFL-CIO, hereinafter called the "Union".

WHEREAS the parties have agreed to enter into this Agreement for the purpose of more effectively defining the duties, privileges, working conditions and remuneration, respecting the employment of the Fire Fighters employed by the Employer.

**ARTICLE 1 - RECOGNITION**

This Employer recognizes the Union as the sole exclusive bargaining agent for the purpose of establishing salaries, wages, hours and other conditions of employment for all Union members of the Miles City Fire Department, and also those covered under the provisions of Article 3, but excluding the Chief. The Union recognizes the City of Miles City and any agent it may name as the representative of the City.

**ARTICLE 2 - UNION MEMBERSHIP**

Employees may, at their discretion, become members of the Union. This includes any person currently employed by the Fire Department or any person who becomes a new member of the Fire Department. Employees who elect to not become members of the Union will also be entitled to all benefits and rights of this Agreement subject to the check-off set forth in Article 3.

**ARTICLE 3 - CHECK OFF**

The Union and the Employer acknowledge that being a Union member is a choice individually made. Therefore, the Employer agrees to deduct from the monthly pay of each Firefighter who has signed a payroll deduction card and the Union Opt-In form, a sum certified by the Secretary of the Union as Union dues. Such deductions will be made from the pay of the individual members and the total deducted will be delivered to the Secretary-Treasurer of the Union. If the firefighter does not want to join the Union, she/he will be required to sign the Opt-Out form to which the Union will retain the original and the Employer will keep a copy.

#### **ARTICLE 4 - PROBATION PERIOD**

All new employees will serve a probationary period of 12 months and will have no seniority rights during this period, but will be subject to all clauses of this Agreement. All employees who have worked 12 months, passed the FF1 essentials test, passed the Miles City FF1 test and the final streets test, and who have been duly appointed will be known as permanent employees and the probationary period will be considered part of their seniority time.

#### **ARTICLE 5 - SENIORITY LIST**

The Employer will establish a Seniority List and it will be posted and brought up to date on January 1 of each year and immediately be posted on the Fire Department bulletin board for a period of 30 days, and a copy given to the Secretary of the Union. Any objections to the Seniority List, as posted, will be reported to the Employer not later than 10 days or the list will stand approved as posted. Seniority for the department members shall not take place of rank for orders in the chain of command.

#### **ARTICLE 6 - OFFICERS AND PROMOTIONAL PROCEDURE**

- A. **Slate of Officers:** There will be an Officer, exclusive of the Chief, in charge of each regularly scheduled work shift. Said officer will have, as a minimum, been promoted to the position of Lieutenant commensurate with the requirements of Article 6, Section C of the current Agreement between the Union and the Employer. Vacancies in the position of work shift officer will be filled by the Lieutenant, whenever possible.
  
- B. **Promotional Procedure:** When a permanent vacancy occurs in a position covered by this collective bargaining unit or by virtue of a newly created position, the Chief shall post the opening in the regular places for notices to the employees in the bargaining unit. Promotions will be based on a point system. The person with the greatest number of points will rate the highest score regarding the position open at that time. The composite score will be derived from the following four categories: Seniority, Performance Evaluation, Oral Assessment, and Written Test. The composite score range is 0 to 100 points. All points being equal, the senior person will receive the promotion.
  - 1. **0-20 Points - Seniority:** Each Applicant will score two points for each year of employment with the Fire Department, not to exceed twenty points.
  - 2. **0-40 Points - Performance Rating:** the Evaluation Committee will rate each applicant on their history of Job Performance. The committee will consist of the Chief, Battalion Chief and one member appointed by the Union who is of the rank of Captain or higher. The forms to be used in the Performance rating process will be furnished by the Chief of the Department to all Committee members. After completion of the Performance Rating

process by the committee, an overall score will be obtained by totaling all of the rating scores and dividing by four. The points will then be awarded on a percentage basis. Scores will be explainable and defensible.

3. 0-20 Points - Oral Assessment: The Oral Assessment Panel will consist of the Fire Chief, Battalion Chief and a member appointed by the Union who is of the rank of Captain or higher who has an employment history in a full-time career department that includes firefighting and EMS. Subject topics for assessment scenarios will be announced five days prior to the date of Assessment. Points will be awarded on the appropriateness of answers. All questions will be based on Fire or EMS scenarios, and supervisory skills. Each person will be asked the same questions. Each question will have the same weighted value. The Assessment panel will agree on the point values assessed each question before the assessment begins. All scores will be explained in writing to validate and defend the application of the Oral Assessment. The scores will be given to the Chief.
4. 0-20 Points - Written Competitive Tests. Written competitive test will be used only twice in the promotional procedure, once when testing for the position of Lieutenant, and once when testing for a Chief Officer's position. Promotion to Captain will be from a Lieutenant. The Applicants for Lieutenant will be given a single written test compiled from information contained in the following: the IFSTA Manuals of equal content to those that had made up the applicable Red Manuals referenced in Section(C), subsection (1) of this Article, Department SOPs, Department Working Rules and Regulations, Company Officer Manual, and Incident Command System book. The Applicants for Chief Officer will be given two separate written examinations, each with a maximum possible point value of twenty points. One test will be compiled by the Chief of the Department from material agreed upon by the Chief and the Union, and one test will be of the type purchased from a testing facility. The available points will be awarded on a percentage basis. In order to continue the promotional process, the candidate(s) must score at least 70% correct on the written tests.

C. Eligibility for Promotion: To be eligible for promotion to one or more of the following positions or rank, the following criteria will apply:

1. Required Training Manuals: Completed in order as determined by the Fire Training Officer for promotion are Building Construction for Fire Service, Principles of Vehicle Extrication, Aircraft Firefighting and Rescue, Fire Ground Search and Rescue, Rapid Intervention Teams, Fire Service Hydraulics and Water Supply, Structural Response Strategies and Tactics, Structural Response Truck Company Operations, Fire Inspection and Code Enforcement, and Fire Service Company Officer, or as the manuals listed above may be reconstituted as needed. Certified as FFI, FFII, and Driver-Operator levels.
2. Lieutenant: Five years as a fully paid and full-time member of the Fire Department and be currently certified at FFI, FFII, and Driver-Operator levels, complete the following IFSTA Manuals: Fire Detection and Suppression Systems, Understanding the 16 Fire Life Safety Initiatives, and Fire Service Personal Management within one year of appointment.

3. Captain: Be currently certified as a FFI, FFII, and Driver-Operator completed the following IFSTA Manuals, Command and Control 1 and 2, and Fire Officer 1 and 2.
  4. Battalion Chief: Two years previous Captain's rank, currently certified at the Miles City Fire Officer 1 level, and must complete the IFSTA Chief Officer Manual or equivalent as determined by the FTO and Chief of the Department, within 12 months of acceptance.
  5. Fire Training Officer: Five years as a fully paid and full-time member of the Fire Department and be currently certified at the Miles City Fire Officer I and Miles City Fire Instructor I levels. Obtain Live Fire Instructor and Modern Fire Attack Instructor within two years of appointment.
  6. EMS Officer: Five years as a fully paid and full-time member of the Fire Department. Have a current certification as a State of Montana EMS Lead Instructor within one year (if extenuating circumstances exist, this may be extended). If not currently serving as a shift officer, the EMS Officer shall have completed (or complete within one year of promotion) Fire Instructor I.
  7. Inspector/Deputy Inspector: Five years as a fully paid and full-time member of the Fire Department and be currently certified as Firefighter II. Must complete the International Code Council Fire Inspector 1 Certification for Deputy Inspector and International Code Council Fire Inspector 2 Certification for Inspector. Will complete Fire Investigation Essentials or Fire Inspection Principals 1 within one year of appointment.
- D. Assignment Restriction: The Promotional Positions set forth above, and the work assigned to such positions will not be assigned to or carried out by the Chief or any other employee not covered under this Agreement unless extenuating circumstances exist.
- E. Vacancy Time Limit: A permanent vacancy within the number of employees of the Fire Department, as authorized by Employer for the effective dates of this Agreement, will be filled not later than forty-five calendar days of the occurrence of the vacancy. A vacancy filled through the promotional procedure will be filled not later than forty-five calendar days of the date of the occurrence of the vacancy. In the event that there are insufficient personnel having the necessary requirements to fill promotional vacancies, then selected requirements may be waived subject to agreement between the Union and the Employer.
- F. Exceptions to the Time Limit: Employees both eligible and interested in a position as provided in Article 6, Section C will submit to the testing, rating and seniority scoring procedures set forth in this Agreement. The employee with the highest number of points accumulated will have the first option of filling the vacancy opened. If the Applicant with the highest number of points declines the opening, the employee with the second highest number of points will then have the option of filling the vacancy, but only after the first ranked employee has declined or failed to accept the position after he has been notified in writing five days prior. If both eligible employees decline the vacancy, then the Employer has the option of seeking qualified applicants from outside the Department and the time limits specified in Section (D) above, will begin anew; providing, such applicants meet the qualifications set forth in Section (C) of this Article.

G. Responsibility for Promotions: The Chief of the Department will, during the time limit set forth in this Article, Sections F and G:

1. Determine the eligibility of all employees to be evaluated and notify, in writing, each employee of the same.
2. Procure all written test materials, or make prior arrangements for the tests to be administered by a designated and approved proctor. (Approved by Test Security Agreements or rules of the testing agency.)
3. Administer or cause to have administered the written tests to all qualified Applicants.
4. Procure all performance ratings, including their own, as well as all of the Applicant's Senior Officer's ratings.
5. Calculate points earned by seniority.
6. Compile and summarize the composite scores of all Applicants.
7. Review the ratings and scores with any requesting Applicant with regard to the job opening so they may examine their comparative rating, or see how they could improve in the future.

The Fire Chief will make all promotions expeditiously and in a manner consistent with the requirements of Articles 6 and 7 of this Agreement.

#### **ARTICLE 7 - DISQUALIFICATION**

All appointments and promotions will be made from the ranks, whenever possible, providing the member appointed or promoted is qualified for the position. If the applicant is disqualified by two of the three following: Chief, Human Resources Officer, Battalion Chief, the reasons for such disqualification will be presented in writing to the Secretary of the Union. The decision on any appointment or promotion may constitute a grievance and will be processed in accordance with the provisions of Article 17.

#### **ARTICLE 8 - PERSONNEL REDUCTION**

In the case that the Employer decides to reduce the Fire Department personnel, the employee with the least seniority will be laid off first. No new employee will be hired until all laid off employees have been given the opportunity to return to work. Employees will be called back to work based by seniority.

#### **ARTICLE 9 - SALARIES**

The Fire Department Wage Addendum will be the schedule of wages, payable twice monthly, to the members of the Fire Department and is attached hereto and made a part of this Agreement. The Wage Addendum will be determined through the collective bargaining process between the Employer and the Union.

## **ARTICLE 10 - HOURS OF DUTY**

- A. Civilian Employees: The average weekly hours of duty in a year will not exceed 40. Any hours over the 40 hour work week will be compensated for in wages or time off; except the Employer may summon and keep all personnel on duty during a conflagration or major emergency, including civilian employees. Overtime is addressed in the Wage Addendum.
- B. Shift Personnel: The work schedule will consist of a 24-hour work shift followed by 72 hours off duty. In working the 24-72 schedule, the workweek averages 42 hours per week. The Fire Chief will determine who works on each shift. All shift personnel will work a 28-day cycle, with a maximum of 212 hours, for determination of overtime compensation. Overtime is addressed in the Wage Addendum. For the purposes of interpreting the contract, a 24-hour shift will be deemed to be three working days.
  - 1. Battalion Chief of Operations: Battalion Chief of Operations will work a 42 hour work week, most commonly Monday through Thursday. The hours can be adjusted as needed. The Battalion Chief of Operations is still considered as "shift personnel".

## **ARTICLE 11 - EVENLY DISTRIBUTED OVERTIME**

In the event that a need for overtime should occur in the Fire Department because of vacations, sickness or other unforeseen conditions, overtime pay will be compensated as detailed in the Wage Addendum. Overtime work should be distributed among all employees within the same job classification as equally as possible. When the Battalion Chief is off duty, the Battalion Chief will be included in the overtime rotation.

## **ARTICLE 12 -VACATIONS**

- A. Rate earned: Each full time employee of the Fire Department is entitled to and will earn annual vacation leave credits from the first full pay period of employment. For calculating vacation leave credits, 2,080 hours (52 weeks x 40 hours) will equal one year. Proportionate vacation leave credits will be earned and credited at the end of each pay period. However, employees are not entitled to any vacation leave with pay until they have been continuously employed for a period of six calendar months. Persons regularly employed nine or more months each year, but whose continuous employment is interrupted by the seasonal nature of the position, will earn vacation credits. However, such persons must be employed six qualifying months before they can use vacation credits. In order to qualify, such employees must immediately report back for work when operations resume in order avoiding a break in service. For the purposes of interpreting the Agreement, a 24-hour shift will be deemed to be three working days. Vacation leave credits will be earned in accordance with the following schedule:

1. From one full pay period through 5 years of employment at a rate of 15 working days each year;
2. For each year of service after 5 years through 10 years of employment at the rate of 18 working days each year;
3. For each year of service after 10 years through 15 years of employment at the rate of 21 working days each year;
4. For each year of service after 20 years through 25 years of employment at the rate of 24 working days each year;
5. For each year of service after 25 years of employment at the rate of 27 working days each year.

Permanent part-time employees are entitled to prorated annual vacation benefits if they have regularly scheduled work assignments and normally work at least 20 hours each week of the pay period and have been working the qualifying period.

- B. **Unlawful Termination:** It will be unlawful for an Employer to terminate or separate an employee from their employment in an attempt to circumvent the provision of this paragraph. Should a question arise under this paragraph, it will be submitted to arbitration as provided in Chapter 5, Title 27 M.C.A. unless there is a Collective Bargaining Agreement applicable.
- C. **Accumulation and Selection:** Annual vacation leave may be accumulated to a total not to exceed two times the maximum number of day earned annually as of the last of any calendar year. Selection for vacation periods will be based on seniority. The vacation lists will be posted by October 1, and after October 15, each member will have four calendar days, one of which is a scheduled work shift, to select their vacation period. Any members failing to do so will forfeit their seniority selection choice, and will take whatever remaining vacation period is left. Members may trade vacation periods, all or parts, upon approval of the Fire Chief.
1. Battalion Chief of Operations selection of vacation will be submitted to the Fire Chief with the vacation list. The Battalion Chief's selection shall be in addition to the vacation list and will not affect the other shift member's choices.
- D. **Cash Out:** The City may refuse to cash out accumulated annual leave when the employee is discharged in accordance with 2-18-617(2)(a), MCA.

### **ARTICLE 13 - INJURY**

The Employer will maintain Workers' Compensation Insurance coverage under a plan of insurance approved by the Division of Workers' Compensation of the State of Montana for employees who are injured or disabled during their employment. It is the responsibility of the employee to report such injury or disability that has taken place, and also their responsibility to file an accident report with the Employer.

## ARTICLE 14 - SICK LEAVE

Sick leave, as used in this Agreement, will be defined as absence from work without loss of pay, because of illness or injury.

- A. **Rate earned:** Each full-time employee of the Fire Department is entitled to and will earn sick leave credits from the first full pay period of employment. For calculating sick leave credits, 2,080 hours (52 x 40) hours will equal one year. Proportionate sick leave credits will be earned and credited at the end of each pay period. Sick leave credits will be earned at the rate of 12 working days each year without restriction as to the number of working days he/she may accumulate. For the purpose of interpreting this Article, a 24-hour shift will be deemed to be three working days.
- B. **Accrual:** An employee may not accrue sick leave credits during a continuous leave of absence without pay. Employees are not entitled to be paid for sick leave until they have been continuously employed for 90 days. Upon completion of the qualifying period, the employee is entitled to sick leave credits he/she has earned.
- C. **Prorated Credits:** Permanent part-time employees are entitled to prorated leave benefits if they have a regularly scheduled work assignment and normally work at least 20 hours each week of the pay period, and have worked the qualifying period.
- D. **Full-Time Temporary and Seasonal:** Full-time, temporary and seasonal employees are entitled to sick leave benefits, provided they work the qualifying period.
- E. **Lump Sum Payments:** An employee who terminates employment with the Employer is entitled to a lump-sum payment equal to one-fourth of the pay attributed to the accumulated sick leave. The pay attributed to the accumulated sick leave will be computed on the basis of the employee's current salary or wage. Accrual record keeping and payment of accumulated sick leave credits will be the responsibility of the Employer. When an employee transfers between Departments of the Employer, that employee will not be entitled to a lump sum payment. In such a transfer, the receiving Department will assume the liability for the accrued sick leave credits, and the credits will be transferred with the employee.
- F. **Re-employment:** An employee who receives a lump-sum payment pursuant to this Agreement and who is again employed by the Fire Department will not be credited with any sick leave for which he/she has previously been compensated.
- G. **Administration and Rules:** The Employer will be responsible for the proper administration of sick leave and will promulgate such rules and regulations as it deems necessary to achieve the uniform administration of sick leave and to prevent the abuse thereof. These rules and regulations will apply to all employees of the Department.



- H. Abuse of Sick Leave: Abuse of sick leave is cause for dismissal and forfeiture of the lump-sum payments provided for in this act.
- I. Funeral Leave: Funeral leave will be granted to the employee for the following relatives: spouse, mother, father, brother, sister, children, grandparents, grandchildren and step- relatives of the same relationships. Funeral leave for other relatives can be allowed and charged against the employees sick leave account at the discretion of the Chief of the Department.

#### **ARTICLE 15 - EDUCATIONAL LEAVE**

Educational leave of absence may be granted if properly approved by the Employer, provided that the education to be pursued is in the field consistent with the work assignment of the Employee and provided that the Employee indicates an intention to return to duty with the Employer at the completion of said educational leave.

#### **ARTICLE 16 - INSURANCE**

The following provisions apply regarding group health insurance:

1. Coverage: Pursuant to the laws of the State of Montana, the Employer will provide the same insurance to the employees covered hereunder as to other city employees. (MCA 7- 33-4130)
2. Premium: Contribution: The Employer will contribute toward the monthly health insurance premium for all members and for the categories of dependent coverage as set forth in Addendum "B".
3. Additional Contribution: Provide for collective bargaining or other agreement processes to negotiate additional premium payments beyond the amount guaranteed by subsection (1). Such agreements will be stipulated in Addendum "B".
4. Changes: The Employer reserves the right to effect such changes as in its judgment which are necessary or desirable; however, the effectuation of such changes, if any, will not result in any employee covered hereby in paying a greater proportionate share of the total cost than was paid on the execution date of this Agreement. Furthermore, the Employer must maintain the same level of insured benefits, and deductible cost to the employee, as existed on the execution date of this Agreement, unless changed through the collective bargaining process.

#### **ARTICLE 17 – DEFERRED COMPENSATION**

The City will contribute 2% of a confirmed fire fighter's wage per month for each employee into a deferred compensation 457(b) plan. If an employee leaves employment with the City, then the 457(b) contribution will be discontinued with the employee's final date of employment. Contributions will be made by the City on each employee's behalf into their Nationwide account. If the employee does not have a Nationwide 457(b) plan, the city will not contribute to a 457(b) plan.

## ARTICLE 18 - GRIEVANCE PROCEDURE

- A. Grievance: Only grievances and disputes that involve the violation or interpretation of this Agreement are subject to this Grievance and Arbitration Procedure.
- B. Time Limits: The Grievant and the City shall adhere to the time limits specified in Section (D), Steps 1-5.
- C. Representation: The Grievant shall name his/her Union Representative. The City may select a Representative of its choice.
- D. Procedure: Grievances shall be processed in accordance with the following procedures:

Step 1: Grievant. In the event employee(s) feel they have a grievance, not later than 30 calendar days of the grievance occurrence to notify the Union Grievance Committee, in writing, of their grievance. It will include the following information:

1. Name of Grievant;
2. Date(s), Time(s),
3. Occurrence(s);
4. Nature of the Grievance;
5. Terms of Agreement that are applicable to Grievant;
6. Adjustment sought;
7. Name of Union Representative

Step 2: Grievance Committee: Upon receiving the written and signed document, the Union Grievance Committee will, not later than 20 calendar days from the receipt of the above document, proceed to determine if a grievance exists. If it is determined that no grievance exists, no further action is necessary. If it is determined that a grievance exists or may exist, the committee will present, with or without the employee present, the grievance to the Chief of the Department for adjustment not later than 20 calendar days. This presentation will contain the same information as required in Step #1.

Step 3: Fire Chief: If not later than 20 calendar days from the Chief's receipt of the grievance, no settlement has been reached; the Committee will then submit the grievance document, with or without the employee present, not later than 20 calendar days to the Mayor for adjustment. It will be the obligation of the Union Grievance Committee to carry the said grievance to the next step of these procedures.

Step 4: Mayor: If not later than 20 calendar days from the Mayor's receipt of the grievance document, no settlement has been reached; the Committee may then submit the grievance with or without the employee present, not later than 20 calendar days to the City Council's Grievance Committee for adjustment. It will be the obligation of the Union Grievance Committee to carry the grievance to the next step of these procedures.

Step 5: City Council: The grievance, if not settled in Step 4, may be taken to the Grievance Committee of the City Council. If the City Council does not have a Grievance Committee, the grievance will be submitted to the City Council for the sole purpose of considering the said grievance.

Step 6: Arbitration: If not later than 30 calendar days the grievance has not been settled, it will be the obligation of the Union Grievance Committee to request Arbitration. The Union and the Employer will jointly share the expenses of the Arbitrator.

1. If the parties are unable to mutually agree upon the selection of an Arbitrator, the Union must request from the Department of Labor, Board of Personnel Appeals, a list of seven potential arbitrators from which the Employer and the Union will choose an Arbitrator to decide the matter.
2. The parties select the Arbitrator by alternately striking names, with the parties using a toss of a coin to determine who strikes first. The last person remaining on the list will be the Arbitrator.
3. The Arbitrator will be empowered only to interpret the provisions of this Agreement as they apply to the particular case at issue. The Arbitrator will not have authority to add to, subtract from, alter, amend, or change any term and/or provision of this Agreement.
4. The findings of the Arbitrator will be binding and final upon both of the concerned parties and both parties will jointly share the expense of the Arbitrator.

#### **ARTICLE 19 - DISCIPLINARY PROCEDURES**

- A. **Good Cause:** Non-probationary employees shall be disciplined or discharged for good cause per the definition found at 39-2-903(5), MCA. Discipline should generally be applied at progressive and escalating levels to allow the employee proper notice of misconduct and an opportunity to improve performance. However, progressive discipline is not mandatory. The level or degree of discipline imposed will be appropriately based on the employee's prior record of service, length of service, severity of offense and prior record of discipline.
- B. **Representation:** Rights to representation shall be governed by Weingarten and an employee may have a representative present when the City is announcing a decision regarding discipline and discharge.
- C. **Investigation:** When the Employer removes an employee from the workplace during an investigation, the employee will continue to be paid.
- D. **Personnel File:** The employee and the employee's Union Representative with the employee's authorization will have the right to inspect the full contents of his/her personnel file. No written reprimand or greater disciplinary document may be placed in the personnel file without the employee having been first notified of said complaint and given a copy, with a copy to the

Union. An employee who disagrees with the validity of any complaint added to the file will have the opportunity to challenge said complaint under the Grievance Procedure herein. The employee will be required to sign the written reprimand or other disciplinary action acknowledging that they have read the contents of the document.

- E. Reprimands: The written reprimands will be removed from an employee's personnel file after 180 days from the date said action was finalized provided that no further written reprimands have been issued within the 180 day time period. If another written reprimand has been issued within this time period, then both reprimands will remain in the personnel file for an additional 180 days from the date of the latest written reprimand. In any event, the 180 days may be extended to 365 days, depending upon the seriousness of the circumstances. If another written reprimand has been issued within the 365-day time period, then both written reprimands will remain in the personnel file for up to a maximum of five years before the reprimands will be removed from an employee's personnel file.
- F. Loss of Certification: During the term of this agreement, the membership of the Union shall maintain at a minimum, their highest level of Emergency Care Provider licensure obtained and at their current level of Structure Firefighter Certification. Discipline and eventually discharge may be applied to employees who allow any of these certifications to lapse.

#### **ARTICLE 20 -WORKING RULES**

The Fire Chief will adopt rules for the operation of the Fire Department and the conduct of its employees. Such rules will be subject to the final approval of the Mayor and will not be in conflict with any of the provisions of this Agreement. An up-to-date copy will be given to each new employee. It is agreed that the Fire Chief has the right to recommend discipline or to discharge an employee for good cause, with the consent of the Mayor, providing that such measures are done in accordance with procedures outlined in MCA 7-33-4123 and MCA 7-33-4124. Disciplinary measures may be subjected to grievance and arbitration procedures as outlined in Article 17.

#### **ARTICLE 21 - ABSENTEEISM**

Employees not expecting to work because of an emergency or other justifiable cause, must notify their respective superior officer 30 minutes, or earlier if possible, before scheduled work time. This provision will not be interpreted as condoning repeated absences from work on the part of an employee.

#### **ARTICLE 22 - LABOR REQUIREMENTS**

In justice and fairness to the Employer and the taxpayer, all employees will be required to report to work on time, and will not leave the job early without qualified replacement, and will be prompt in reporting to their assigned duties, and will faithfully perform their duties.

#### **ARTICLE 23 - PAID HOLIDAYS**

A. Legal Holidays: All members, who because of scheduling are required to work on holidays, will be paid double time. Those holidays now include:

1. New Year's Day,
2. Martin Luther King Jr. Day,
3. President's Day,
4. Memorial Day,
5. Independence Day,
6. Labor Day,
7. Columbus Day,
8. General Election Day (in the respective year),
9. Veteran's Day,
10. Thanksgiving Day,
11. Christmas Day.

B. Observance of Holidays Falling on an Employee's Day Off: Any employee of the State of Montana or any county or city thereof, who is scheduled for a day off on a day which is observed as a legal holiday, except Sunday, shall be entitled to receive a day off either on the day preceding or the day following the holiday, whichever allows a day off in addition to the employees regularly scheduled day off. Also refer to Attorney General's Opinion given July 6, 1977. Those firefighters on their day off on any holiday earn eight hours of time off in lieu of taking the holiday off. There are eight combat shift fire fighters off on each of the ten holidays agreed to herein. This is eighty, eight-hour days, and it is agreed to divide this time evenly amongst the fourteen people working combat shifts. This is to be added to each fire fighter's vacation account as four additional hours per month.

#### **ARTICLE 24 - COMPANY STRENGTH**

It is agreed by both parties that at least three fire fighters, exclusive of the Chief and Battalion Chief, will be on duty at all times, and when the number of fire fighters falls below three fire fighters per shift, for reasons of sickness, vacation leave, or any other reason, the Fire Chief will then refer to the overtime schedule as outlined in Article 11 of this Agreement. In the occurrence of an "unscheduled vacancy," which is defined as a vacancy which has been noticed not less than 2 hours prior to the beginning of a shift, the regular overtime protocol shall be followed. If no members are available to fill the

unscheduled vacancy, the Chief may direct the Battalion Chief to fill said vacancy. In the occurrence of an "emergency fill in" vacancy, defined as a vacancy which has been noticed less than two hours prior to the beginning of a shift, or a vacancy occurring during a shift, the Chief may direct the Battalion Chief to fill the vacancy, without following the regular overtime protocol.

#### **ARTICLE 25 - PROTECTIVE CLOTHING & EQUIPMENT**

The Employer will provide and maintain, for each Employee covered hereby, their own protective clothing (turnouts) of good quality and condition. Such clothing will consist of a helmet with face shield, Nomex hood, turnout pants and coat, firefighting boots and gloves. All personal protective firefighting clothing or equipment when purchased will conform to the N.F.P.A. (National Fire Protection Administration) Standard #1500, the Standard for Fire Department Occupational Safety and Health Program, Chapter 5, entitled "Protective Clothing and Protection Equipment". The Employer will replace clothing and/or other personal articles damaged during the performance of duties. It will be the responsibility of any employee having custody of any equipment and property to see that it is properly cared for, kept clean, and returned to its place of storage.

#### **ARTICLE 26 - HEALTH PROTECTION**

- A. Hepatitis B: The Employer will purchase and maintain immunization to protect against exposure to Hepatitis "B" for all employees whose duties with the Department involve possible exposure to this disease.
- B. Biennial Physical Examinations: A mandatory biennial comprehensive physical examination shall be performed at no cost to the employee in accordance with S.O.P.
- C. Use of Tobacco: Employees hired after July 1, 2000 shall not use tobacco products while on MCFD property.

#### **ARTICLE 27 - UNION ACTIVITY PROTECTED**

Except for the right to strike or to participate in any concerted action to withhold services such as work slow-downs, walk-outs, sick-outs, or blue-flu, which are hereby prohibited; and aside from statements intended to diminish the City's ability to efficiently provide public service, all other Union activities are protected and nothing will abridge the right to any duly authorized representative of the Union to present to the citizens issues which effect the welfare of the citizenry.

#### **ARTICLE 28 - LABOR-MANAGEMENT COMMITTEE**

There shall be a Labor-Management Committee consisting of three representatives appointed by the Union and two appointed by the City and the Fire Chief. The Committee will meet at the request of either party. Any topic considered by the Committee may be submitted by either party or the parties together, to the Fire Chief and the Mayor for their consideration and determination.

**ARTICLE 29 - SAVING CLAUSE**

If any provision of this Agreement or the application of such provisions should be rendered or declared invalid by any court action, or by reason of any existing or subsequent legislation, the remaining portions of this Agreement shall remain in full force and effect.

**ARTICLE 30 - TERM**

This Agreement will be for a period of one year and will become effective as of the 1st day of July 2019, and will continue in full force and effect through the 30th day of June 2020. However, either party may give written notice of its desire to modify, amend, or terminate this Agreement to the other party, not less than sixty days prior to the date of expiration of this Agreement or any of the annual renewal dates.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have executed this Agreement on the date herein written.

Dated at Miles City, Montana, this \_\_\_\_ day of \_\_\_\_\_, 2019.

EMPLOYER:

UNION:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
President

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

\_\_\_\_\_  
Secretary

## ADDENDUM A - WAGES

1. July 1, 2019 through June 30, 2020

POSITION	Base Wage	
PROBATIONARY FIREFIGHTER	\$	3,081.26
CONFIRMED FIREFIGHTER	\$	3,237.78
RANKS	% of the Base	
FF1	\$	152.18 4.70%
FF2	\$	203.98 6.30%
Driver Operator	\$	524.52 16.20%
Lieutenant	\$	592.51 18.30%
Captain	\$	709.07 21.90%
Battalion Chief	\$	1,295.11 40.00%
Incentive/Stipend Pay	% of the Base	
EMT	\$	90.66 2.80%
EMT w/All MT State Endorsements	\$	161.89 5.00%
AEMT	\$	239.60 7.40%
Paramedic	\$	291.40 9.00%
Critical Care Paramedic	\$	388.53 12.00%
EMS Training Officer	\$	301.11 9.30%
Fire Training Officer	\$	301.11 9.30%
Inspector	\$	301.11 9.30%
Deputy Inspector	\$	152.18 4.70%
Instructor	\$	22.66 0.70%
Probationary FF - Out of Town Transfers	% of the Base	
EMT	\$	92.44 3%
EMT w/Endorsements & AEMT	\$	123.25 4%
Paramedic	\$	154.06 5%
Critical Care Paramedic	\$	184.88 6%
Confirmed FF Out of Town Transfers	% of the Base	
EMT	\$	97.13 3%
EMT w/Endorsements & AEMT	\$	129.51 4%
Paramedic	\$	161.89 5%
Critical Care Paramedic	\$	194.27 6%



2. Out of Town Transfers: Medical Transfers shall be compensated at a premium based on current ECP licensure of the employee. The first hour of all transfers will be compensated at 1.5 times the hourly rate. Employees facilitating Medical Transfers off duty over a 100 mile radius of the Miles City will be guaranteed a minimum of eight hours pay.
3. Longevity Bonuses: Longevity Bonuses shall be computed at 1.0% per annum times their length of service on the Fire Department as measured from the date the employee was hired to the current date. Longevity bonuses shall be calculated using the base pay and the employee's current rank.
4. Standby Pay
  - a. Standbys for ambulance calls, events, county fire calls, and city fire calls shall be paid at 1½ times the regular salary amount for the first hour, followed by straight time for all additional hours.
  - b. Standbys worked on holidays shall be paid at the regular holiday rate for all holiday hours worked.
  - c. Extra vacation days and sick leave shifts shall be worked at straight time up to the maximum 212 hours under the 7K exemption of the Federal Fair Labor Standards Act.
  - d. The Fire Inspector/Deputy Fire Inspector shall be compensated at their regular hourly rate for those hours worked outside their regular scheduled shift for the purpose of performing inspections. These hours shall be kept to a minimum.
  - e. Civilian employees shall be compensated at 1 ½ times the regular rate for those hours worked after his/her 40-hour workweek.
5. Overtime: All covered employees with the exception of the civilian employees, will be exempt from the 40 hour workweek under the condition of the 7K Exemptions to the Fair Labor Standards Act. Those under this exemption will be on a 28-day work cycle with a maximum of 212 hours of straight time compensated hours. After the maximum hours have been accumulated in the 28-day cycle, all hours over the 212 shall be paid at 1½ time the regular rate of pay. All other provisions for overtime compensation shall remain the same.
6. Clothing Allotment: The clothing allotment for members shall be \$45.00 per month; paid quarterly on March 31, June 30, September 30 and December 31.

## ADDENDUM B – HEALTH INSURANCE

- For contract year 2019 –2020, the monthly health insurance premium contributions will be paid as set forth below. The monthly health insurance premiums contributions will be increased by the amount the City increases its premiums contributions for other City Employees.

<b>Category - Medical Benefits</b>	<b>Employee Cost</b>	<b>Employer Cost</b>	<b>Premium</b>
Single	\$ -	\$ 748.00	\$ 748.00
Employee & Spouse	\$ 748.00	\$ 748.00	\$1,496.00
Employee & Children	\$ 561.00	\$ 748.00	\$1,309.00
Employee & Family	\$ 1,309.00	\$ 748.00	\$2,057.00
<b>Category - Dental Benefits</b>			
<b>Category - Dental Benefits</b>	<b>Employee Cost</b>	<b>Employer Cost</b>	<b>Premium</b>
Single	\$ -	\$ 34.00	\$ 34.00
Employee & Spouse	\$ 34.00	\$ 34.00	\$ 68.00
Employee & Children	\$ 32.00	\$ 34.00	\$ 66.00
Employee & Family	\$ 70.00	\$ 34.00	\$ 104.00
<b>Category - Vision Benefits</b>			
<b>Category - Vision Benefits</b>	<b>Employee Cost</b>	<b>Employer Cost</b>	<b>Premium</b>
Single	\$ -	\$ 8.15	\$ 8.15
Employee & Spouse	\$ 4.85	\$ 8.15	\$ 13.00
Employee & Children	\$ 5.10	\$ 8.15	\$ 13.25
Employee & Family	\$ 13.20	\$ 8.15	\$ 21.35

- Health insurance premiums are subject to review annually and may be changed annually based on current market trends.

**RESOLUTION NO. 4297**

**A RESOLUTION APPROVING AN AFFILIATE/MULTI-LOCATION AGREEMENT WITH IRON MOUNTAIN INFORMATION MANAGEMENT, LLC FOR SHREDDING SERVICES.**

**WHEREAS**, the City of Miles City desires to enter into an affiliate agreement to the Montana Secretary of State's Office's contract with Iron Mountain Information Management, LLC for shredding services.

**AND WHEREAS**, to effectuate such agreement, an "Affiliate/Multi-Location Agreement" with Iron Mountain Management, LLC must be entered into;

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

1. The "Affiliate/Multi Location Agreement" between the City and Iron Mountain Information Management, LLC, for shredding services as an affiliate to the State of Montana's Secretary of State office, as set forth in Exhibit "A", attached hereto and made a part hereof, is hereby approved and adopted by this Council.

2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said Agreement on behalf of the City of Miles City, and bind the City of Miles City thereto.

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, AT A REGULAR MEETING THIS 26<sup>TH</sup> day of NOVEMBER, 2019.**

\_\_\_\_\_  
John Hollowell, Mayor

ATTEST:

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

## Affiliate /Multi-Location Agreement

The site/location identified below agrees to accept the same terms and conditions as outlined in the existing Agreement between Iron Mountain Information Management, LLC ("Iron Mountain") and State of MT Sec of State Office (the "Customer"), which was made effective on April 29, 2014.  
 (Reference existing customer ID RSW68 currently governed by this Agreement)

**Pricing** (Select one of the following options)

Storage and/or services will be performed by Iron Mountain in accordance with the rates established for the above referenced Customer Agreement. Reference existing Fee Schedule or Rate Table ID: RSW68

\* *For Records Management accounts only:*

The Program Startup / Initial Move Rate (if different from master account) is: not applicable/ no IM.  
 per [\[click here\]](#)

Storage and/or services will be performed by Iron Mountain in accordance with the rates listed in the attached Pricing Schedule (Schedule A), which is dated: \_\_\_\_\_

**New Site/Location or Renegotiating Account Information**

Data Protection  Records Management

<b>Designated Location / Company Name</b> <u>City of Miles City</u>	<b>Applicable Account ID's</b> Attach an additional form if there are too many ID's to list in this section	
Service Address Line 1: <u>17 S. 8th St.</u>	<b>DP/Secure Base</b> <i>include complete 5.6 Oracle/Branch #</i>	<b>RM/SKP</b>
Line 2: <u>Miles City, MT 59301</u>		
Customer Contact: <u>Lorrie Pearce</u>		
Contact Phone #: <u>406-874-8602</u>		
Contact Email: <u>cityclerk@milescity-mt.org</u>		
Service Branch: <u>Spokane 44148</u>		
Mileage (one way) from IM Service facility: _____ miles		

Check here if more pages will be attached to identify additional sites/locations

Except as expressly amended above, all other terms and conditions of the Agreement shall remain in full force and effect.

<b>Customer Company Name</b>	<b>Iron Mountain Information Management, LLC</b>		
Individual Signing: <i>(type or print first &amp; last name)</i>		Individual Signing:	
Signature:		Signature:	
Title:		Title:	
Date:		Date:	

# STATE OF MONTANA TERM CONTRACT

Department of Administration  
 State Procurement Bureau  
 165 Mitchell Building  
 PO Box 200135  
 Helena, MT 59620-0135  
 Phone: (406) 444-2575 Fax: (406) 444-2529  
 TTY Users-Dial 711  
<http://sfsd.mt.gov/>

**T.C. #: SPB14-2333J-2**  
**Title: SHREDDING SERVICES - STATEWIDE**  
**This is a non-exclusive contract.**

<b>CONTRACT TERM</b>	FROM	April 29, 2016	<b>CONTRACT STATUS</b>	NEW ()
	TO	April 28, 2017		RENEW (XX) 2 <sup>nd</sup> Renewal 3 <sup>rd</sup> Year
<b>VENDOR ADDRESS</b>	Iron Mountain Secure Shredding Inc. One Federal Street Boston MA 02110		<b>ORDER ADDRESS</b>	Same as Vendor Address
<b>ATTN:</b>	Jennifer DiDomenico		<b>ATTN:</b>	
<b>PHONE:</b>	(610) 495-3585/cell		<b>PHONE:</b>	
<b>FAX:</b>			<b>FAX:</b>	
<b>E-MAIL:</b>	Jennifer.Didomenico@ironmountain.com		<b>E-MAIL:</b>	

**PRICES:** Per contract -- Attachment B: Pricing

**DELIVERY:** NA

**F.O.B.:** NA

**TERMS:** Per contract

**REMARKS:** Amendment #3 (Novation Agreement)

IFB/RFP No.:  
SPB14-2333J

CARRIE SCHELL, CONTRACTS OFFICER

DATE: 11/20/2016

**AUTHORIZED SIGNATURE**

## **SHREDDING SERVICES - STATEWIDE SPB14-2333J-2**

**THIS CONTRACT** is entered into by and between the State of Montana, Department of Administration, State Procurement Bureau, (State), whose address and phone number are PO Box 200135 Helena, MT 59620-0135, (406) 444-2575 and Recall Secure Destruction Services, Inc., (Contractor), whose address and phone number are 180 Technology Parkway Norcross, GA 30092, (770) 776-1000.

### **1. EFFECTIVE DATE, DURATION, AND RENEWAL**

**1.1 Contract Term.** The contract's initial term is upon contract execution through 12 months thereafter, unless terminated earlier as provided in this contract. In no event is this contract binding on the State unless the State's authorized representative has signed it. The legal counsel signature approving legal content of the contract and the procurement officer signature approving the form of the contract do not constitute an authorized signature.

**1.2 Contract Renewal.** The State may renew this contract under its then-existing terms and conditions (subject to potential cost adjustments described below in section 2) in one-year intervals, or any interval that is advantageous to the State. This contract, including any renewals, may not exceed a total of seven years.

### **2. COST ADJUSTMENTS**

**Cost Adjustments Negotiated Based on Changes in Contractor's Costs.** *After the contract's initial term and if the State agrees to a renewal*, the parties may negotiate cost adjustments at the time of contract renewal. Any cost increases must be based on demonstrated industrywide or regional increases in Contractor's costs. The State is not obligated to agree upon a renewal or a cost increase.

### **3. SERVICES AND/OR SUPPLIES**

**3.1 Scope.** Contractor agrees to provide on-site shredding services for the collection and shredding of paper from various state agencies located throughout the state of Montana. Contractor shall furnish all materials, containers, labor, secured vehicles, equipment, and supervision necessary to perform the minimum specifications stated in this contract.

Agencies are responsible for evaluating the types of materials (such as confidential documents or records) designated for destruction and placed into contractor- and agency-provided containers.

#### **3.2 Specifications.**

**3.2.1 Confidentiality of Shredded Material.** Confidentiality of all information is required. Contractor and all personnel shall not inspect, view, peruse, copy, or examine any confidential material or documents designated for shredding. In addition, Contractor and all personnel will not otherwise disclose, release or communicate any confidential information to any third person, individual, organization or entity not employed by the state agency. Should any violation or breach of this provision occur, such will constitute cause for immediate termination of the contract.

Contractor shall maintain confidentiality, at all times, in accordance with best industry standards and in compliance with federal and state laws.

**3.2.2 Statements of Confidentiality.** Contractor personnel designated to work under this contract shall be required to sign a statement of confidentiality guaranteeing non-disclosure of information prior to performing any work. The confidentiality statement shall be designed, implemented, and maintained by the contractor and shall be submitted to the State. Montana Department of Revenue has a specific confidentiality statement that must also be completed by the Contractor (Attachment A) and submitted to the State.

**3.2.3 Service Locations.** For purposes of this contract, the State has been divided into the following seven geographic service locations. Shredding services will be provided for state agencies in these locations.

SERVICE LOCATIONS	CITIES INCLUDED
Glacier (Northwest)	Kalispell, Libby, Missoula
Gold West (Southwest)	Butte, Dillon
Russell (North Central)	Great Falls, Havre, Lewistown
Yellowstone (South Central)	Bozeman, Livingston
Missouri River (North East)	Glasgow, Sidney, Wolf Point
Custer (South East)	Billings, Glendive, Miles City
Capital City	Helena

The State reserves the right to add other locations to the term contract throughout the contract term when doing so is in the State's best interest.

**3.3 Contractor Duties.** Failure to abide by the duties listed in this section may result in contract termination.

**3.3.1 Containers.** Contractor shall supply containers, locking or non-locking, in both 32- and 64-gallon sizes to accommodate paper/records collection at each agency location at no charge to the agency. Contractor shall not limit the number of containers at any particular site.

Quantity, size, and type of containers at each location shall be at individual agency's request. Contractor shall place containers in the locations requested by the agency, provided the placement is in accordance with applicable fire codes. Contractor must be aware of these regulations and supply the agency with the appropriate containers. All containers provided by the Contractor must be clearly marked for their intended use.

Contractor shall retain ownership of its containers. Contractor agrees the State shall not be responsible for any liability incurred by the Contractor or Contractor's personnel arising out of the possession, use, maintenance, delivery, return, and/or collection from the containers provided by the Contractor.

Containers must be designed to prevent theft of materials by reaching in and have a tamper evident locking system. Containers must be made of fire resistant materials. Contractor will supply the agency representative with a key for all locking containers provided. If a key is lost, Contractor will supply a new key at no additional charge to the agency. Any keys replaced after the first initial loss will be subject to a charge by the Contractor.

Contractor shall not be required to provide containers if the shredding service is needed on a "one-time only" basis. Contractor must be willing to accept shredding material in agency-provided containers. Contractor is not responsible for any material intended for shredding left exposed in agency-provided containers or outside of contractor-provided containers prior to Contractor performing shredding services.

**3.3.2 Shredding Equipment.** Contractor shall only use premium, industrial-grade shredders that use cross cut (particle cut) or Hammermill Process or a similar process that meets or exceeds the shredding requirements for on-site shredding of all records, confidential or otherwise. Strip shredding is not acceptable.

All materials must be shredded in such a manner as to make reconstruction as close to impossible as can be accomplished. Using agencies may request the Contractor provide a description of their shredding techniques along with a sample shredded result prior to requesting the Contractor's service.

Contractor must be able to shred or disintegrate any type of paper items, regardless of color, finish (e.g., color photocopies, magazine-weight papers), or size of page. Agencies should not have to remove items such as staples, tape, post-it notes, label tape, rubber bands, most types of paper clips, etc.

**3.3.3 Contractor Personnel.** Contractor shall be responsible for the following requirements regarding all personnel working under this term contract:

- Personnel must, at all times, be wearing an identifying uniform or shirt with Contractor's name on it and have a photo identification badge prominently displayed;
- Contractor shall have available at all times sufficient dependable, trained personnel to provide service to the service locations as described herein;
- If specifically requested by an agency, Contractor shall not use any employee with whom the agency is not satisfied to provide the services specified; and
- Contractor personnel shall be required to sign a statement of confidentiality guaranteeing non-disclosure of information prior to performing any work. (section 3.2.2)

**3.3.4 Invoicing/Payments/Accounts.** Contractor shall establish accounts for each individual agency user. State agencies shall pay within 30 days of receipt of a properly executed invoice. Contractor shall bill each individual user agency directly for services provided.

In addition to billing information, all invoices must also contain, at a minimum, the following information:

- term contract number (SPB14-2333J-2);
- complete agency name to include the agency program, division, bureau etc., name;
- mailing and physical addresses;
- any agency contact name/phone number;
- any other cost centers or other department reference numbers; and
- copy of each signed Certificate of Destruction.

**Contractor will not bill agencies for any additional charges such as container fees, administrative fees, surcharges, etc. unless otherwise approved by the State.**

**3.3.5 Frequency of Service.** Contractor shall provide secure and confidential on-site shredding services either on a regularly, scheduled basis or a "one-time only" basis.

**3.3.6 Contractor "No Show".** Contractor shall notify using agencies immediately when they will not be able to provide shredding services previously scheduled.

**3.3.7 Customer Service Center.** Contractor shall provide a "customer service center" dedicated to servicing this term contract. This customer service center must be reached via a toll-free telephone number and be staffed by qualified service representatives able to address all questions or issues regarding billing, setup of new accounts, scheduling of shredding services, etc. This customer service center will be answered by service representatives during normal hours of business, 8:00 a.m. – 5:00 p.m., local time, Monday through Friday with the exception of state and federal holidays.

**3.3.8 NAID Certification.** NAID certification is not a requirement of this term contract. However, it is the responsibility of the Contractor that all materials handled and processed will be kept confidential and that disposal of all materials will be conducted in a manner that ensures the strictest security and confidentiality of all materials.



### 3.4 Agency Duties.

- a. Each using agency shall designate an agency representative who will assist the Contractor in determining the number and location of containers in addition to serving as agency contact person. The agency representative will also be responsible for all keys issued for locking containers.
- b. Using agencies may wish to establish shredding services either on a regularly scheduled or "one-time only" basis. Date and time for on-site services or for the pickup of containers will be arranged between the using agency and Contractor. Contractor shall not be required to provide containers if the shredding service is needed on a "one-time only" basis. Contractor must be willing to accept shredding material in agency-provided containers.
- c. Agencies must ascertain that all documents/records designated for destruction, **BEFORE** being destroyed, have complied with all applicable retention schedules.
- d. In order to assist with invoicing, the agency representative shall provide Contractor with the complete bill to address which will include the agency program, division, bureau, etc. name, mailing and physical addresses, agency contact name and phone number, and any other cost centers or other department reference numbers needed to appear on the invoice.
- e. Agencies are responsible for providing at least 24 hours' notice to Contractor if scheduled services are not needed for whatever reason.

**3.5 Shredding Services.** Contractor shall provide on-site shredding services during the hours of 8:00 a.m. – 4:30 p.m., Monday through Friday, excluding state and federal holidays. Dates and times for on-site services will be arranged between the using agency and Contractor.

Contractor shall understand and agree that the State requires flexibility in the arrangements and methods for the collection of materials designated for destruction on an agency-by-agency basis. Contractor shall coordinate and work in good faith with each agency in seeking and obtaining the most appropriate service arrangements and methods of collection. Contractor shall provide on-site shredding services on a regularly, scheduled basis and a "one-time only" basis.

#### 3.5.1 On-Site Shredding.

- a. All mobile on-site shredding services shall be completed in a totally secured, self-contained vehicle to handle the agency's most secure and confidential material.
- b. Contractor shall charge by either a 32- or 64-gallon container.
- c. Materials designated for destruction shall be collected and stored by the agency in the containers provided by the Contractor. **EXCEPTION: Contractor shall not be required to provide containers for using agencies if the shredding service is needed on a "one-time only" basis.** If requested, any agency-provided containers shall be returned to the agency after destruction of the contents at no additional charge.
- d. Contractor shall perform all on-site shredding services as close to each using agency's office as possible. Contractor shall transport the materials on carts or other method from each container location to the Contractor's vehicle on-site without assistance from any state agency personnel.
- e. Once Contractor's personnel take possession of materials designated for destruction, the materials shall be securely contained during transfer from agency location to Contractor's vehicle in such a way as to insure no documents/records are lost or mislaid. All materials designated for destruction shall remain secured while in the immediate custody of Contractor's personnel until the shredding process has destroyed them.
- f. At the completion of the on-site shredding process, Contractor shall present a "Certificate of Destruction" to the using agency representative for signature. In addition to providing invoicing information, the Certificate guarantees the using agency that the confidentiality of all materials were maintained from the time of collection until being destroyed and that none of the materials were read or copied by the Contractor or Contractor's personnel prior to destruction. A copy of the Certificate will be retained by the agency. Contractor shall also submit copies of the Certificates with invoices for shredding services provided.

The Certificate of Destruction must contain, at a minimum:

- location and name of the agency for whom the services were provided;
  - date of shredding,
  - number and size of bins emptied;
  - term contract number (SPB14-2333J-2);
  - signature and title of Contractor's employee providing services; and
  - signature of agency representative.
- g. If requested by the agency, Contractor shall allow an agency representative to witness the shredding process.
- h. Contractor shall be responsible for cleanup of the immediate shredding area and ensuring that all loose particles are collected and removed each time shredding services are performed.

#### 4. WARRANTIES

**Warranty of Services.** Contractor warrants that the services provided conform to the contract requirements, including all descriptions, specifications and attachments made a part of this contract. The State's acceptance of services provided by Contractor shall not relieve Contractor from its obligations under this warranty. In addition to its other remedies under this contract, at law, or in equity, the State may, at Contractor's expense, require prompt correction of any services failing to meet Contractor's warranty herein. Services corrected by Contractor shall be subject to all the provisions of this contract in the manner and to the same extent as services originally furnished.

#### 5. CONSIDERATION/PAYMENT

**5.1 Payment Schedule.** In consideration of the on-site shredding services to be provided, the State shall pay Contractor according to the following schedule:

Contractor will charge for shredding per container, whether full or not, in either 32-gallon or 64-gallon sizes per the pricing listed in Attachment B.

**5.2 Withholding of Payment.** In addition to its other remedies under this contract, at law, or in equity, the State may withhold payments to Contractor if Contractor has breached this contract. Such withholding may not be greater than the total value of the subject statement of work or applicable contract.

**5.3 Payment Terms.** Unless otherwise noted in the solicitation document, the State has 30 days to pay invoices, as allowed by 17-8-242, MCA. Contractor shall provide banking information at the time of contract execution in order to facilitate the State's electronic funds transfer payments.

**5.4 Reference to Contract.** The contract number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the contract. If the number is not provided, the State is not obligated to pay the invoice.

**5.5 Fuel Surcharge.** If, during the contract period, the price of fuel increases 20% over the price of fuel in effect at the time Contractor submitted its bid, Contractor may add a fuel surcharge to the billing invoice. The fuel surcharge will be calculated based on the U.S. Energy Information Administration's (EIA) index for fuel prices in the Rocky Mountain area. This information may be found at <http://www.eia.gov/petroleum/gasdiesel/>. The fuel surcharge adjustment will be factored on a Base Price of 3.991. The surcharge is for actual miles driven. Vehicle mileage allowance is five miles per gallon of fuel. The formula for determining the surcharge is:

$$\frac{\text{Number of Miles} \times (\text{Weekly Price} - \text{Base Price})}{\text{Five miles per gallon}}$$

Five miles per gallon

The State may in its sole discretion audit invoices, and Contractor shall promptly provide information as requested to verify mileage. If the price of fuel returns to or below the price as set in Contractor's original bid, the surcharge shall be eliminated.

## **6. COOPERATIVE PURCHASING**

Under Montana law, public procurement units, as defined in 18-4-401, MCA, have the option of cooperatively purchasing with the State of Montana. Public procurement units are defined as local or state public procurement units of this or any other state, including an agency of the United States, or a tribal procurement unit. Unless the bidder/offeror objects, in writing, to the State Procurement Bureau prior to the award of this contract, the prices, terms, and conditions of this contract will be offered to these public procurement units. However, the State Procurement Bureau makes no guarantee of any public procurement unit participation in this contract.

## **7. NON-EXCLUSIVE CONTRACT**

The intent of this contract is to provide state agencies with an expedited means of procuring on-site shredding services. This contract is for the convenience of state agencies and is considered by the State Procurement Bureau to be a "Nonexclusive" use contract. Therefore, agencies may obtain this product/service from sources other than the contract holder(s) as long as they comply with Title 18, MCA, and their delegation agreement. The State Procurement Bureau does not guarantee any usage.

## **8. ACCESS AND RETENTION OF RECORDS**

**8.1 Access to Records.** Contractor shall provide the State, Legislative Auditor, or their authorized agents access to any records necessary to determine contract compliance. The State may terminate this contract under section 16, without incurring liability, for the Contractor's refusal to allow access as required by this section. (18-1-118, MCA)

**8.2 Retention Period.** Contractor shall create and retain all records supporting the shredding services for a period of eight years after either the completion date of this contract or termination of the contract.

## **9. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING**

Contractor may not assign, transfer, or subcontract any portion of this contract without the State's prior written consent. (18-4-141, MCA)

Contractor is responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by Contractor. No contractual relationships exist between any subcontractor and the State under this contract.

## **10. HOLD HARMLESS/INDEMNIFICATION**

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

## **11. REQUIRED INSURANCE**

**11.1 General Requirements.** Contractor shall maintain for the duration of this contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

**11.2 Primary Insurance.** Contractor's insurance coverage shall be primary insurance with respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

**11.3 Specific Requirements for Commercial General Liability.** Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor, products, and completed operations, and the premises owned, leased, occupied, or used.

**11.4 Deductibles and Self-Insured Retentions.** Any deductible or self-insured retention must be declared to and approved by the State. At the request of the State either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, or volunteers; or (2) at the expense of Contractor, Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

**11.5 Certificate of Insurance/Endorsements.** A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages, has been received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. Contractor must notify the State immediately of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

## **12. COMPLIANCE WITH WORKERS' COMPENSATION ACT**

Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with 39-71-401, 39-71-405, and 39-71-417, MCA.

Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither Contractor nor its employees are State employees. This insurance/exemption must be valid for the entire contract term and any renewal. Upon expiration, a renewal document must be sent to the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135.

## **13. COMPLIANCE WITH LAWS**

Contractor shall, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules, and regulations, including but not limited to, the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by Contractor subjects subcontractors to the same provision. In accordance with 49-3-207, MCA, Contractor agrees that the hiring of persons to perform this contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing this contract.

## **14. DISABILITY ACCOMMODATIONS**

The State does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

## **15. REGISTRATION WITH THE SECRETARY OF STATE**

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

## **16. CONTRACT TERMINATION**

**16.1 Termination for Cause.** The State may, by written notice to Contractor, immediately terminate this contract in whole or in part for Contractor's failure to materially perform any of the services, duties, terms or conditions contained in this contract.

**16.2 Termination for Convenience.** The State may, by written notice to Contractor, terminate this contract without cause and without incurring liability to Contractor. The State shall give notice of termination to Contractor at least 30 days before the effective date of termination. The State shall pay Contractor only that amount, or prorated portion thereof, owed to Contractor up to the date the State's termination takes effect. This is Contractor's sole remedy. The State shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

**16.3 Termination for Cause with Notice to Cure Requirement.** Contractor may terminate this contract for the State's failure to perform any of its duties under this contract after giving the State written notice of the failure.

The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

**16.4 Reduction of Funding.** The State must by law terminate this contract if funds are not appropriated or otherwise made available to support the State's continuation of performance of this contract in a subsequent fiscal period. (18-4-313(4), MCA) If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, the State shall terminate this contract as required by law. The State shall provide Contractor the date the State's termination shall take effect. The State shall not be liable to Contractor for any payment that would have been payable had the contract not been terminated under this provision. As stated above, the State shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date the State's termination takes effect. This is Contractor's sole remedy. The State shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

## **17. EVENT OF BREACH – REMEDIES**

**17.1 Event of Breach by Contractor.** Any one or more of the following Contractor acts or omissions constitute an event of material breach under this contract:

- products or services furnished fail to conform to any requirement;
- failure to submit any report required by this contract;

- failure to perform any of the other terms and conditions of this contract, including but not limited to beginning work under this contract without prior State approval or breaching section 22 obligations; or
- voluntary or involuntary bankruptcy or receivership.

**17.2 Event of Breach by State.** The State's failure to perform any material terms or conditions of this contract constitutes an event of breach.

**17.3 Actions in Event of Breach.** Upon the Contractor's material breach, the State may:

- terminate this contract under section 16 and pursue any of its remedies under this contract, at law, or in equity.
- treat this contract as materially breached and, except as the remedy is limited in this contract, pursue any of its remedies under this contract, at law, or in equity.

Upon the State's material breach, the Contractor may:

- terminate this contract after giving the State written notice of the stated failure as provided in section 16; or
- treat this contract as materially breached and, except as the remedy is limited in this contract, pursue any of its remedies under this contract, at law, or in equity.

## **18. FORCE MAJEURE**

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than five working days after the onset. If the notice is not provided within the five-day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this contract, unless the parties mutually agree that the obligation is excused because of the condition.

## **19. WAIVER OF BREACH**

Either party's failure to enforce any contract provisions after any event of breach is not a waiver of its right to enforce the provisions and exercise appropriate remedies if the breach occurs again. Neither party may assert the defense of waiver in these situations.

## **20. CONFORMANCE WITH CONTRACT**

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without the State Procurement Bureau's prior written consent. Product or services provided that do not conform to the contract terms, conditions, and specifications may be rejected and returned at Contractor's expense.

## **21. LIAISONS AND SERVICE OF NOTICES**

**21.1 Contract Liaisons.** All project management and coordination on the State's behalf must be through a single point of contact designated as the State's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed under this contract must be coordinated between the State's liaison and Contractor's liaison.

Bonny Belling is the State's liaison.  
State Procurement Bureau  
PO Box 200135  
Helena, MT 59620-0135  
Phone: (406) 444-2575  
Fax: (406) 444-2529  
Email: [bbelling@mt.gov](mailto:bbelling@mt.gov)

Monte Joyce, Account Manager is Contractor's liaison.  
Recall Secure Destruction Services, Inc.  
2365 South G Street  
Tacoma WA 98405  
Cell/Direct: (253) 426-2956  
Fax: (253) 272-4954  
Email: [monte.joyce@recall.com](mailto:monte.joyce@recall.com)

**21.2 Notifications.** The State's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints must first be directed to the liaison. Notice may be provided by personal service, mail, or facsimile. If notice is provided by personal service or facsimile, the notice is effective upon receipt; if notice is provided by mail, the notice is effective within three business days of mailing. A signed and dated acknowledgement of the notice is required of both parties.

## 22. MEETINGS

**Technical or Contractual Problems.** Contractor shall meet with the State's personnel, or designated representatives, to resolve technical or contractual problems occurring during the contract term or to discuss the progress made by Contractor and the State in the performance of their respective obligations, at no additional cost to the State. The State may request the meetings as problems arise and will be coordinated by the State. The State shall provide Contractor a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted.

Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the contract.

## 23. TRANSITION ASSISTANCE

If this contract is not renewed at the end of this term, if the contract is otherwise terminated before project completion, or if particular work on a project is terminated for any reason, Contractor shall provide transition assistance for a reasonable, mutually agreed period of time after the expiration or termination of this contract or particular work under this contract. The purpose of this assistance is to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees.

The parties agree that such transition assistance is governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The State shall pay Contractor for any resources utilized in performing such transition assistance at the most contract current rates. If the State terminates a project or this contract for cause, then the State may offset the cost of paying Contractor for the additional resources Contractor utilized in providing transition assistance with any damages the State may have sustained as a result of Contractor's breach.

## 24. CHOICE OF LAW AND VENUE

Montana law governs this contract. The parties agree that any litigation concerning this bid, proposal, or this contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (18-1-401, MCA)

## 25. TAX EXEMPTION

The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

26. AUTHORITY

This contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

27. SEVERABILITY

A declaration by any court or any other binding legal source that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually and materially dependent.

28. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT

**28.1 Contract.** This contract consists of 11 numbered pages, Attachments A and B as required, Solicitation SPB14-2333J, as amended, and Contractor's response, as amended. In the case of dispute or ambiguity arising between or among the documents, the order of precedence of document interpretation is the same.

**28.2 Entire Agreement.** These documents are the entire agreement of the parties. They supersede all prior agreements, representations, and understandings. Any amendment or modification must be in a written agreement signed by the parties.

29. WAIVER

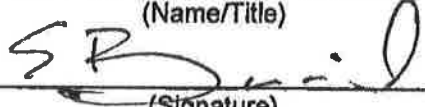
The State's waiver of any Contractor obligation or responsibility in a specific situation is not a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.

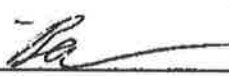
30. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

STATE OF MONTANA  
DEPARTMENT OF ADMINISTRATION  
State Procurement Bureau  
PO Box 200135  
Helena, MT 59620-0135

RECALL SECURE DESTRUCTION SERVICES, INC.  
180 Technology Parkway  
Norcross, GA 30092  
FEDERAL ID # 36-4410289

BY: STEVE BALAMONTE D.A.  
(Name/Title)  
  
(Signature)

BY: BENJAMIN NICHOLSON, CFO  
(Name/Title)  
  
(Signature)

DATE: 29 APRIL 2014

DATE: 4/28/14

Approved as to Legal Content:  
Mike Marmon 4-22-14  
Legal Counsel (Date)

Approved as to Form:  
Donny Belling 4-22-14  
Procurement Officer (Date)  
State Procurement Bureau



<b>ATTACHMENT A: CONTRACTOR FORM FOR CONFIDENTIALITY AND DISCLOSURE OF INFORMATION</b>
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**I. PERFORMANCE**

Information received, processed and maintained by the Montana Department of Revenue (DOR) comes from a variety of sources. DOR and the State of Montana have a responsibility to the public to maintain a high degree of confidence that the information furnished to DOR, and/or the state, is protected against unauthorized use, inspection or disclosure. As a contractor or other person to whom returns or return information is or may be disclosed as authorized by DOR in connection with the processing, storage, transmission and reproduction of tax returns and return information, the programming, maintenance, repair, testing, and procurement of equipment, and/or providing of other services for purposes of tax administration, you have a responsibility to abide by the confidentiality and disclosure laws to assure that confidential taxpayer information is kept secure.

DOR administers several tax laws that stipulate taxpayer confidentiality requirements and disclosure limitations. Before 2007, federal and Montana laws were similar and, in general, provided that knowingly disclosing taxpayer information was unlawful. Both required, in addition, that users take appropriate measures to prevent inadvertent disclosure or unauthorized use of taxpayer information. The 2007 Montana Legislature made unauthorized disclosure of Montana individual income and corporation license tax information a strict liability crime.

You are to access only the data required to accomplish the specific purposes for which you are provided access and only to the extent authorized. You cannot access your own or, unless required to accomplish your specific purpose, another's tax return or personally identifiable tax information. You must not share or discuss the information you access or are provided with to any others except for work-related reasons and, then, only with those in your company or within the DOR who are authorized to access this information. All questions regarding disclosure of taxpayer information should be directed to the Department of Revenue's disclosure officer.

There are various penalties for making an unauthorized disclosure of confidential tax information under Montana law. A person convicted of making an unauthorized disclosure is subject to a fine up to \$500 and disbarment from public office or employment for one year after conviction.

Federal law requires, and DOR has entered into agreements with federal agencies that require, DOR to give certain notices to each contractor or other person to whom returns or return information is or may be disclosed as authorized by DOR in connection with the processing, storage, transmission and reproduction of tax returns and return information, the programming, maintenance, repair, testing, and procurement of equipment, and providing of other services for purpose of tax administration. Federal law also requires these persons to give further written notice to their officers and employees.

In performance of this Contract, the Contractor agrees to comply with and assume responsibility for compliance by its' employees with the following requirements:

1. All work will be done under the supervision of the contractor or the contractor's employees.
2. Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Disclosure to anyone other than an officer or employee of the contractor will be prohibited.

3. All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. All returns and return information disclosed to each officer or employee can be used only for a purpose and to the extent authorized by DOR in connection with the processing, storage, transmission and reproduction of tax returns and return information, the programming, maintenance, repair, testing, and procurement of equipment, and providing of other services for purposes of tax administration. In addition, all related output will be given the same level of protection as required for the source material.
4. The contractor certifies that the data processed or used during the performance of this Contract will be completely purged from all data storage components of its' computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
5. Any spillage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the agency or its' designee. When this is not possible, the contractor will be responsible for the destruction of the spillage or any intermediate hard copy printouts, and will provide the agency or its' designee with a statement containing the date of destruction, description or material destroyed, and the method used.
6. All computer systems processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
7. No work involving Federal tax information furnished under this Contract will be subcontracted without prior written approval of the IRS.
8. The contractor will maintain a list of employees authorized access. Upon request, such list will be provided to the agency and, upon request, to the IRS reviewing office.
9. The agency will have the right to void the Contract if the contractor fails to provide the safeguards described above.

## **II. CRIMINAL/CIVIL SANCTIONS**

1. Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine or as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
2. Each officer or employee of any person to whom returns or return is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer

or employee in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed in IRC section 7213A and 7431.

3. Additionally, it is incumbent upon the Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(l)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individual identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

### III. INSPECTION

The IRS and the agency shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this Contract. On the basis of such inspection, specific measures may be required in cases where the contractor is found to be noncompliant with the contract safeguards.

As a condition for obtaining access to tax returns, tax return information, and confidential and proprietary information, I represent that I have read and understand the foregoing confidentiality statement and Contract and agree to abide by the laws related to their protection and disclosure.

\_\_\_\_\_  
Contractor Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Company

\_\_\_\_\_  
Position

**ATTACHMENT B:  
PRICING**

Contractor will charge for shredding per container, whether full or not, in either 32-gallon or 64-gallon sizes.

	<b>Cities Included</b>	<b>Container size</b>	<b>Quantity</b>	<b>Price per each container</b>
<b>Glacier (Northwest)</b>	Kalispell, Libby, Missoula	32 gallon	1-5	\$7.00
		32 gallon	6 or >	\$7.00
		64 gallon	1-5	\$11.00
		64 gallon	6 or >	\$11.00
<b>Gold West (Southwest)</b>	Butte, Dillon	32 gallon	1-5	\$7.00
		32 gallon	6 or >	\$7.00
		64 gallon	1-5	\$11.00
		64 gallon	6 or >	\$11.00
<b>Russell (North Central)</b>	Great Falls, Havre, Lewistown	32 gallon	1-5	\$7.00
		32 gallon	6 or >	\$7.00
		64 gallon	1-5	\$11.00
		64 gallon	6 or >	\$11.00
<b>\$</b>				
<b>Yellowstone (South Central)</b>	Bozeman, Livingston	32 gallon	1-5	\$7.00
		32 gallon	6 or >	\$7.00
		64 gallon	1-5	\$11.00
		64 gallon	6 or >	\$11.00
<b>Missouri River (North East)</b>	Glasgow, Sidney, Wolf Point	32 gallon	1-5	\$7.00
		32 gallon	6 or >	\$7.00
		64 gallon	1-5	\$11.00
		64 gallon	6 or >	\$11.00
<b>Custer (South East)</b>	Billings, Glendive, Miles City	32 gallon	1-5	\$7.00
		32 gallon	6 or >	\$7.00
		64 gallon	1-5	\$11.00
		64 gallon	6 or >	\$11.00

	<b>Cities Included</b>	<b>Container size</b>	<b>Quantity</b>	<b>Price per each container</b>
<b>Capitol City</b>	Helena			
		32 gallon	1-5	\$7.00
		32 gallon	6 or >	\$7.00
		64 gallon	1-5	\$11.00
		64 gallon	6 or >	\$11.00



## Service Directory – Secure Destruction Services

### Recall Customer CARE

Contact: 866-Recall-6 (866-732-2556)

[Sds.care.na@recall.com](mailto:Sds.care.na@recall.com)

Contact for the following:

- Scheduling extra pick ups
- Requesting additional bins
- Frequency Inquiries
- Changes to an existing account: contact info

### Recall Accounts Receivable:

Contact: 866-Recall-6 (866-732-2556) Option 1

Contact for the following:

- Invoice Inquiries
- AR changes

### \*\*Account Manager, Monte Joyce

Contact: 253-426-2956

[monte.joyce@recall.com](mailto:monte.joyce@recall.com)

Contact for the following:

- Setting up new locations
- Issues requiring escalation
- Contract Inquiries

### Regional Sales Manager, Hussein Nagli

Contact: 206-883-8937

[husein.nagli@recall.com](mailto:husein.nagli@recall.com)

Contact for the following:

- Escalation beyond Account Management

### Operations Manager, Doug McFarlane

Washington, Oregon and MT service area

Contact: 253-437-5101

[doug.mcfarlane@recall.com](mailto:doug.mcfarlane@recall.com)

Contact for the following

- Operational questions

**\*\*Initial Point of Contact for this contract.**