



# CITY OF MILES CITY AGENDA

*Regular Council Meeting  
Via Zoom.us*

*July 14, 2020  
6:00 p.m.*

During the COVID-19 emergency, City of Miles City-City Council will be meeting by remote means. To attend the meetings by mobile phone, please log on to zoom.us and download the Zoom app from its "Download Center". The meeting information will be posted on the City of Miles City's website at [milescity-mt.org](http://milescity-mt.org). If you would like to receive a personal invite, please email your email address to the City Clerk at the address below with the request. Documents for the meetings can be accessed by calling 874-8602 or emailing [cityclerk@milescity-mt.org](mailto:cityclerk@milescity-mt.org) with the request

## CALL TO ORDER PLEDGE OF ALLEGIANCE ROLL CALL

1. APPROVAL OF COUNCIL MINUTES/COMMITTEE MINUTES

- A. Regular City Council Meeting 06/23/2020
- B. Human Resource Meeting 03/30/2020

2. SCHEDULE MEETINGS

3. REQUEST OF CITIZENS & PUBLIC COMMENT

4. APPOINTMENTS

5. PROCLAMATIONS

6. STAFF REPORTS

Dan Baker- Presentation of buildings that the City has viewed  
Doug Colombik- Introduction of new Sergeant and Detective

7. CITY COUNCIL COMMENTS

8. MAYOR COMMENTS

9. COMMITTEE RECOMMENDATIONS

10. BID OPENINGS

11. BID AWARDS

12. PUBLIC HEARINGS

13. UNFINISHED BUSINESS

- A. RESOLUTION NO. 4329- A Resolution Approving a Park Use Permit Between the City of Miles City, Montana, and the Torez Moto X Club for use of the Miles City Motocross Track at Spotted Eagle
- B. Discussion and approval on Updates for Police Building Prospects and Moving Forward

14. **NEW BUSINESS**

- A. **ORDINANCE NO. 1342- *(First Reading)* An Ordinance adopting Removing Antiquated Building Code Sections**
- B. **RESOLUTION NO. 4330- A Resolution Authorizing the City of Miles City to Enter Into a Janitorial Service Agreement With Dale Petroff d/b/a Dale's Cleaning Service**
- C. **RESOLUTION NO. 4331- A Resolution Authorizing the City of Miles City to Enter Into a Contract With Marilyn Foreman for Janitorial Services for the City Police Department Building**
- D. **RESOLUTION NO. 4332- A Resolution Approving the Work Plan and Budget for Fiscal year 2020-2021 for Business Improvement District No. 101, and Providing of Hearing Thereon**
- E. **RESOLUTION NO. 4333- A Resolution Authorizing the City of Miles City to Enter Into a Main Street Program Grant Contract With the Montana Department of Commerce**
- F. **RESOLUTION NO. 4334- A Resolution Designating City Employees who are Authorized to Acquire Federal Surplus Properties from the State of Montana**
- G. **RESOLUTION NO. 4335- A Resolution Pursuant to §7-6-4006 of the Montana Code Annotated, Authorizing Amendment of Final Budget for FY 2019-2020 to Increase the Budgeted Amount in the Funds for Ambulance, Building Inspector and Lighting District # 173 Unbudgeted Revenues and Expenditures**
- H. **RESOLUTION NO. 4336- A Resolution Authorizing the City of Miles City to Enter Into a Building Inspection Services Contract with Russell Murphy**
- I. **Discussion and Approval on Purchasing Two City Hall Doors**

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



**REQUEST OF CITIZENS & PUBLIC COMMENT**

None

**APPOINTMENTS**

None

**PROCLAMATIONS**

None

**STAFF REPORTS**

**Doug Colombik-** Reported that the COPS grant that was awarded to the City does cover health insurance.

**Branden Stevens-** Introduced Matthew DeJong to Council, and presented him a helmet and shield for recognition of being a confirmed firefighter after a year of being a probationary firefighter.

He reported that there are now twenty-three (23) confirmed COVID-19 cases in Custer County. Also, there were fourteen hundred (1400) residents tested at the fairgrounds last weekend. The eighty residents that showed signs and symptoms of the virus came back negative.

**CITY COUNCIL COMMENTS**

None

**MAYOR COMMENTS**

None

**COMMITTEE RECOMMENDATIONS**

Bid Award- City Hall

- \*\* Councilperson Lott moved to approve Dales Cleaning Service bid for cleaning City Hall, seconded by Councilperson Andrews. The motion passed unanimously.

**BID OPENINGS**

Abate Public Nuisance

One bid was received for \$6,800.00

- \*\* Councilperson Lott moved to accept Jim Thormodsgard Consulting bid, seconded by Councilperson Kassner. The motion passed unanimously.

**BID AWARDS**

None

**PUBLIC HEARINGS**

None

**UNFINISHED BUSINESS**

None

**NEW BUSINESS**

- A. **RESOLUTION NO. 4327- A Resolution Pursuant to §16-48 of the Miles City Code of Ordinances, Establishing Dates, Times and**

**Locations for Discharge of Fireworks Within the City Limits for the Year 2020**

\*\* *Councilperson Andrews moved to approve the Resolution, read by title only, and seconded by Councilperson Kassner. On roll call vote, the motion passed, 7-0. Resolution No. 4327 passed.*

**B. RESOLUTION NO. 4328- A Resolution Establishing the Payment of Out-of-Town EMS Transfers to Part Paid Firefighter & Emergency Care Providers**

\*\* *Councilperson Lott moved to approve the Resolution, read by title only, and seconded by Councilperson Reese. After a short discussion, the motion passed by roll call vote, 7-0. Resolution No. 4328 passed.*

**C. RESOLUTION NO. 4329- A Resolution Approving a Park Use Permit Between the City of Miles City, Montana, and the Torez Moto X Club for use of the Miles City Motocross Track at Spotted Eagle**

\*\* *Councilperson Andrews moved to table the Resolution, and seconded by Councilperson Huber. On roll call vote, the motion passed by unanimous consent, 7-0.*

**D. Discussion on Updates for Police Building Prospects and How to Move Forward**

Items discussed were:

- Deadline for the police to move is January 1, 2021
- It would cost approximately \$26,000 to move City Hall into another building, and probably the same cost to move the Police Department into City Hall
- A straw poll was conducted as to whether the Police Department should move into City Hall. The results were- four (4) Councilpersons needed more information and three(3) Councilpersons did not want to move the police department into City Hall
- General Fund is financially strapped, so the Council needs to decide on what is best for the City, Administrative personnel and the Police
- Miles City Area Economic Development Council representative Elizabeth Patten will contact Julie Emmons from SouthEastern Montana Development Corporation to see if there are any grants that may help the City with financial issues

**E. Discuss and Approve steps to move forward on filling the Building Inspector's position**

Items discussed were:

- The previous Building Inspectors contract was reviewed and recommended to change the contract back to sixty percent (60%) pay to the inspector for total permits sold. Also, a couple of wage figures were changed. There is no set rate for plan reviews and thought that the City should use the twenty five percent (25%) rate that is being used by the State, or whatever the City felt was reasonable
- There was a discussion to combined the Building Inspector with the Fire Inspector. Council felt that it would take to long to get the job description changed and did not want to wait. Also, the combination may add to much of a load and the building inspections may not get completed in a timely manner
- The City could extend the existing contract with Dennis Hirsch for another month if there were no changes. If there were changes made to the contract a special Council meeting could be scheduled.

*\*\* Councilperson Lott moved to post the position as a contract and if nobody responds by June 30<sup>th</sup>, extend Dennis Hirsch's contract for one month, seconded by Councilperson Andrews and passed unanimously.*

**ADJOURNMENT**

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

The meeting was adjourned at 7:08 p.m.

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**Kathy Wilcox, Council President**

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**Lorrie Pearce, City Clerk**

**Human Resources Committee**  
**June 30, 2020**

The **Human Resources Committee** met Tuesday, June 30, 2020, at 4:15 p.m. via Zoom Conferencing. Present were Committee Members Kathy Wilcox, Dwayne Andrews, R. Curtis Reese and Rick Huber. Also present were: PW Director Scott Gray, PU Director Tom Speelmon, Floodplain Administrator Samantha Malenovsky, City Planner Ally Capps, Police Chief Doug Colombik, and Human Resources Officer/Recorder Linda Wilkins.

Chairperson Wilcox called the meeting to order.

1. Requests of Citizens

None

2. Committee Member Comments

None

3. Review/Recommend Job Descriptions:

A. Building Inspector/Code Enforcement

Director Gray commented on the changes made to the job description so that the departments of flood, zoning, planning, fire, any department involved with building and those codes would be followed and contacted along with following ICC rules and restrictions. Committee Member Huber asked about certifications. Director Gray stated the City building inspector handles commercial and residential inspections and if this is not spelled out in the job description the change would be made. Chairperson Wilcox questioned the title because we have another job description with code enforcement officer in it. Gray explained they work together public nuisances are handled by animal control. Chairperson Wilcox asked Officer Wilkins to change the title to Building Inspector / Building Code Enforcement.

*\*\*Committee Member Andrews moved to approve the Building Inspector/Code Enforcement job description language, seconded by Committee Member Reese. The motion passed unanimously, 4-0.*

B. City Court Clerk

Officer Wilkins stated that since there were no representatives of the City Court at the meeting that review should be postponed.

*\*\*Committee Member Andrews moved to table review of the City Court Clerk job description, seconded by Committee Member Huber. The motion passed unanimously, 4-0.*

4. Wage Increase Requests for FY 20-21

Officer Wilkins stated the Mayor was going to be there, but not sure where he was. She did have the wage request letter for the Floodplain Administrator. Chairperson Wilcox asked for the justification from the letter written by Director Gray. Officer Wilkins reiterated points from the letter: procured funds from a FEMA grant, worked with USACE on Section 205 Tongue River Flood study, she has helped to reduce the CRS



rating to a Class 8 reducing flood insurance rates for the citizens. Director Gray recommends a \$2/hour increase in wage. Chairperson Wilcox asked what the wage was on the current wage survey. Officer Wilkins stated there was one job on the survey from Glendive that fits that job description the wage is \$4267.38/month. Administrator Malenovsky's current wage is \$3,672/month a difference of \$600/month which equates to \$3.67/hour. Committee Member Andrews stated everyone wants a raise which is normal, and Administrator Malenovsky does a good job. The game the City has been playing is to match the wage to a job description that is the same, so basically, she is being underpaid. Committee Member Huber stated this should come up at budget time. Committee Member Andrews agreed since we don't know what budget will be, but she is saying there is money in the program to cover. Officer Wilkins stated that 40% of her wage is out of general fund. Chairperson Wilcox said that now is budget time, to wait until after budget is final how do you make a request to change the wage. The increase should be considered while budget meetings are going on. Committee Member Huber asked has it has been presented in budget review. Chairperson Wilcox explained it goes to HR first to get justification for the increase. If the request for increase doesn't qualify why send it to finance. The increase would be \$346/month 40% coming from general fund. Committee Wilcox commented there is justification to qualify for consideration needs to go to finance for determination of available funding

*\*\*Committee Member Wilcox moved to recommend to the finance committee a \$2/hour increase in Administrator Malenovsky's wage, seconded by Committee Member Andrews. The motion passed unanimously, 4-0.*

5. Discuss: Dept Head's request for an additional personal day as PTO

Officer Wilkins explained that this would have to go through a personnel policy change. Administration is not part of a negotiating unit.

*\*\*Committee Member Wilcox moved to remove the item from this agenda and future agendas, seconded by Committee Member Andrews. The motion passed unanimously, 4-0.*

6. Other

Chief Colombik pointed out at the last meeting he had given a salary survey to them that he conducted. The City has fallen behind the average in wages and what he sees with director's pay and it's happening again without a cost of living raise. The City needs to do an accurate survey and keep up with other similar agencies. He would like to see an attempt by the City to try to keep up with administrative staff wages. The directors who protect the city from liability wages are remaining stagnant. Committee Member Andrews stated he makes a good point. Committee Member Huber asked where would all the money come from. Director Gray pointed out that a lot of the different department's wages do not all come from the general fund, and understands being concerned about general fund, but reiterated that wages don't only come out of the general fund. He likes the research that Chief Colombik did and thought the communities he reached out to are comparable to Miles City and thinks it is time for the City to do another survey. Wilcox asked Officer Wilkin's if she presented possible wage increases to the budget committee when they were gathering information. Wilkins stated that she did not.

Chairperson Wilcox outlined 3 steps at this point to be proactive with trying to keep up with other agencies

1. Some consideration of increase would go with chief's survey results now, forward to the budget committee to see if there is anything we can do to bring people up a little bit this fiscal year.

2. Include in our request for HR funds to do a salary survey in the coming fiscal year.
3. Talk more about do we need to work hand in hand with the finance committee and perhaps we need to see what we have for policies in terms of a cost of living increase for staff and department heads alike and perhaps we need to draft something. It is a recurring problem and it is going to continue to be if annual cost of living is not addressed. If performance is adequate maybe not as much as the cost of living, but at least 1 or 2 percent

Chief Colombik has been with the city for 29 years and administration has been left behind while unions have seen consistent increases and contractually have the ability to file grievances and go into arbitration and the Directors are left out wading in the water with no ability to keep up with the cost of living. He would like to see the City take proactive steps. He commented this is the 3<sup>rd</sup> year without any increase and if we go three more years the cost to provide a wage increase could be up to \$9/hour instead of incremental changes over that same time period. He appreciates the committee being open about this subject and taking the right steps.

7. Next Meeting: July 21, 2020 at 4:15 p.m.

8. Adjournment

*\*\*Committee Member Andrews moved to adjourn, seconded by Committee Member Huber. The motion passed unanimously 4-0.*

The meeting was adjourned at 5:15 p.m.

Respectfully submitted,

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Chairperson Kathy Wilcox

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Recorder Linda Wilkins

# Dan Baker's Presentation

- December 18, 2017 Captain Baker emails Mayor Hollowell and asks to discuss the pending VA Acquisition. This stemmed from a public meeting held at the VA.
- Happening concurrently is the issue of the Firehall structural issues.
- City decides to attempt a Public Safety Building to solve both issues.
- January-2018 the SBDC, economic development and city leaders have met repeatedly to discuss options for both the Firehall Building and a building for the P.D. As a result of this it is determined that a PAR must be completed for both planning and budgeting purposes.

## Needs of Police Department Facilities discussed

- Site location-must be centralized for adequate response time.
- Site size of apx. 4k square feet.
- Immediate access to main traffic ways
- Access to city services, infrastructure, water and sewer.
- Located outside of flood plain to accommodate financing and insurance.
- Future growth as an agency
- Considered lease space for other Law Enforcement Agencies generating rent revenue.

## Needs continued...

- Secure impound garage to search vehicles. Preferably on site and unattached from main building.
- Secure evidence vaults containing approximately 1000 sq. ft. of storage. Currently have 800 sq. ft and it's overflowing. Also need a processing area.
- Armorer's room. Currently 150 sq. ft.
- Building security.
- Structure and location advantage.
- Must be ADA compliant.

## Options considered

- It is decided to inquire if the Lynam property would be for sale.
- On May 10, 2018-Lynam Property realtor, Tom Hanel advises city the lot would cost \$390,000.00.The city at this time decides this may be too expensive.
- Property at Pine Hills is discussed at length and eventually toured.
- June 25, 2018-RFQ is published for architecture firm.

- July 18, 2020-Community meeting at MCC. Pine Hills is discussed at length.
- County Commissioners later advise they will not allow annexation thereby ending the Pine Hills School option.
- By this time the RFQ is completed and JGA Architects out of Billings are hired for a Preliminary Architectural Report (PAR).



Multiple buildings and lots around Miles City are considered for this project to include:

- Holy Rosary Hospital lots on Boutelle and South Sewell.
- This option was not considered acceptable as it would place the emergency response to far from the center of the community. Traffic flow was also considered unacceptable and would affect response time.

# Eagles Lodge Building

- Not considered a viable candidate for the following reasons:
- Built in 1910 requiring electrical, mechanical and plumbing services.
- Installation of a fire suppression system.
- Leaking roof.
- Asbestos abatement.
- Parking issues once fire structures built.
- Located in flood plain.

## Garberson Clinic

- Ultimately not considered a viable option when compared with a new public safety building as:
- Located in the Flood Plain.
- Mechanical and Electrical would have to be re-located in the basement.
- Previous water damage.
- Basement would have to be waterproofed to meet code requirements.
- Not ADA compliant.

## Additional sites

- Sherwin Williams building, Milligan hotel.
- Octagon Bank in Plaza owned by Butch Grenz.
- Music shop/Leidholt's building behind cellar casino.
- Boutelle/Old Transmission building.
- Professional Building (519)
- Old wrestling complex.
- Wool House
- Commercial Building on 7<sup>th</sup> St.
- Miles City Clinic
- Marvin Stark's
- City Hall

## Re-occurring theme.

- A reoccurring theme in this search was the cost and expense of making an existing structure meet the requirements of an operating law enforcement building.
- Ultimately the building is being tasked with operating for a purpose it was never intended. Said differently, it's an expensive option that may result in a sub par product.
- The architects advice was to build a purpose built building.

# Unfinished Business

**RESOLUTION NO. 4329**

**A RESOLUTION APPROVING A PARK USE PERMIT BETWEEN THE CITY OF MILES CITY, MONTANA, AND THE TOREZ MOTO X CLUB FOR USE OF THE MILES CITY MOTOCROSS TRACK AT SPOTTED EAGLE.**

**WHEREAS**, the City of Miles City desires to allow The Torez Moto X Club the use of certain park property owned by the City, being the motocross track located at Spotted Eagle park;

**AND WHEREAS**, the terms and conditions of the use of said park property, namely the Miles City Motocross Track, has been reduced to writing, in the form of a Park Use Permit.

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

1. The City adopts the Staff Report attached hereto as Exhibit "A" as findings of fact in support of the granting of this permit.
2. The Park Use Permit between the City of Miles City and The Torez Moto X Club, attached hereto as Exhibit "B", and made a part hereof, is hereby approved and adopted by this Council;
3. The Mayor of the City of Miles City is hereby empowered and authorized to execute said permit 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 14<sup>th</sup> DAY OF JULY, 2020.**

\_\_\_\_\_  
JOHN HOLLOWELL, Mayor

ATTEST:

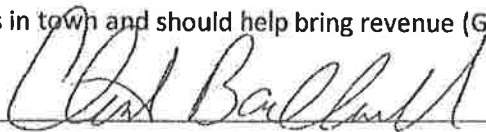
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Lorrie Pearce, City Clerk

# Torez Moto X Club Proposal

Our vision is to reopen Spotted Eagle riding area. It will provide people the opportunity who have interest with riding in Miles City to be able to do so at a designated place. With very limited places to legally ride currently this would provide a safe, controlled, and positive area for families to participate at. We want to rebuild the motocross track, build a mini bike track, and build a BMX track.

- Torez Moto X Club is a nonprofit club. All proceeds and donations go back into the area used.
- The area will be maintained by the club including the road and inside gate parking area.
- Each member will sign a release and waiver to be able to enter and use the area.
- Members will only be able to enter the area through the gate (which is currently not there) with a key card lock system.
- Members will pay an annual fee to offset the costs of up keep of the area. \$175 per year for a family up to 4, \$125 for single membership, \$50 FOR BMX track only use.
- All bikes will have appropriate mufflers systems that keep noise down.
- All riders will be required to wear the appropriate safety gear: helmets, boots, and pants.
- Possibly 1 portable out house other wise use of bathrooms currently on premises.
- No service or shop work will be done on property. For example, if someone gets a flat tire, they will be allowed to change their own tire but it's not considered a service job.
- Club will be responsible for trash cans on the track and members are encouraged to pack in pack out process.
- No buildings or pop up buildings will take place on property anytime during the lease.
- Fund Raisers will be through the club and directed by a club official or party.
- Current fencing is in good shape and will be repaired by club if needed and a second gate will be installed before 1st big water crossing and maintained by the club.
- Providing a multi-purpose riding area for the community of Miles City.

The Lease proposal's time line requested 5 years with a waiver of lease payment, The property is on City land and will be a complete nonprofit operation that has shown a lot of interest from out of town as well as in town and should help bring revenue (Gas, Lodging, Food) to Miles City on a weekly basis.



Date: 5.7.20



**Staff Report to City Council  
Torez Moto X Club proposal;  
Spotted Eagle Recreation Area Park Use Permit request  
Report Date: June 18, 2020**

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## **I. General Information**

**Type of Request:** Request to use land in the city-owned Spotted Eagle Recreation Area for recreational purposes on an ongoing, recurring basis for five years

**Requestor:** Torez Moto X Club, represented by Clint Backlund

**Date of Finance Committee meeting:** June 8, 2020

**Date of City Council meeting:** June 23, 2020

## **II. Introduction/History**

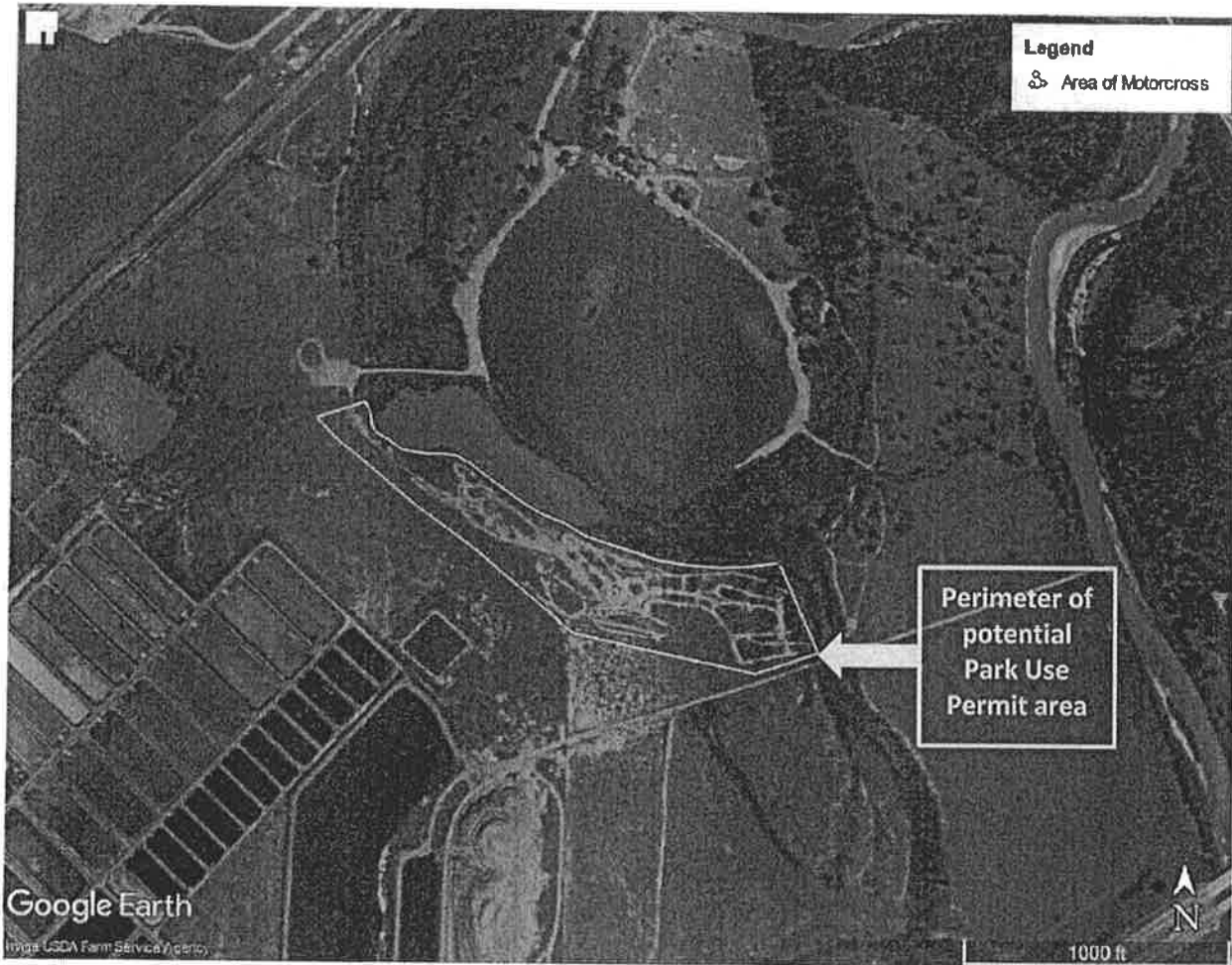
The City of Miles City owns the Spotted Eagle Recreation Area and operates the area as a parks and recreational area under [Chapter 17](#) of the [Miles City Code of Ordinances](#). The Recreation Area is located south of downtown between MT Highway 59 and Interstate 94, outside the city limits. The area of city land comprising the site is approximately 122.7 acres in size, with approximately 23 acres being Spotted Eagle Lake in the central portion of the property, and the rest of which is open space, public park, roads, trails, parking areas, bathroom facilities, a boat ramp, a dock, and a shooting range for a private gun club.

Clint Backlund from Torez Moto X Club recently inquired with the City of Miles City through Ally Capps, City Planner and Lease Administrator, regarding the potential for the Club to lease (at no cost, as proposed) an area of the Recreation Area property that was formerly used as a dirt track for off-road motorcycle riding. Through internal staff discussion, it was determined by city staff that it would be more appropriate for the city to review and administer the potential use of the city-owned property for the motocross track through a Park Use Permit administered under Chapter 17, Parks and Recreation, of the Municipal Code. Further discussion of the Club's proposal may be found in Section V of this report.

The following 'Map 1', made by city staff, shows the approximate area of historic motocross track usage in relation to Spotted Eagle Lake; the area delineated within the yellow boundary south of the lake represents the area staff is reviewing for a potential Park Use Permit.

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**Map 1:** Area map showing the subject portion of the Spotted Eagle Recreation Area south of the lake within the yellow boundary, which represents the area being reviewed for a potential Park Use Permit.



### III. Applicable City Codes/Policies

Because the Recreation Area is located entirely outside the city limits of Miles City, city ordinances typically do not apply except as stated otherwise in City Code. Per Section 1-9 of the City Codes, subsection (1), the application of city regulations is extended beyond the city limits to include the Spotted Eagle Recreation Area, which is one of several specific areas that the city owns, leases and controls which are within three miles of the city limits.

The primary City Codes that apply to the project are those for "Parks and Recreation" found in Chapter 17. The following are the applicable sections and other provisions of Chapter 17 that should be considered with this proposal, along with occasional staff footnotes regarding their applicability.

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**Chapter 17 - PARKS AND RECREATION**

**ARTICLE I. - IN GENERAL**

**Sec. 17-1. - Authority to establish parks and recreational facilities.**

The city council shall have the power and authority to procure, establish, equip, maintain, regulate and operate parks, playgrounds, swimming pools, skating rinks, civic centers, youth centers and other recreational projects and facilities, and combinations thereof. The council shall have power and authority to adopt rules and regulations for the care and operation of such facilities, to establish reasonable and uniform charges for the privilege of their use and to perform such other duties as may be necessary to comply with the laws of the state.

**ARTICLE II. - SUPERINTENDENT OF CITY PARKS**

**Sec. 17-26. - Appointment.**

The mayor shall appoint, with the consent of the city council, a superintendent of city parks<sup>1</sup>. The appointment shall be for a probationary term of one year. If the probationary term of the appointment has been satisfactory, the mayor, with consent of the council, may make the appointment permanent, so long as the appointee is competent and maintains good conduct.

**Sec. 17-27. - Duties.**

It shall be the duty of the superintendent of city parks to supervise the management and control of all parks belonging to the city, including baseball parks, and of all trees and other plants in the parks, subject at all times to such regulations and orders as may be promulgated by the city council.

**ARTICLE III. - COMMUNITY PARKS ADVISORY COUNCIL<sup>2</sup>**

**Sec. 17-46. - Creation.**

There is hereby created, pursuant to the authority of MCA 7-1-317, a community parks advisory council.  
*(Ord. No. 1002, § 1, 4-24-90)*

**Sec. 17-47. - Functions.**

The functions of the community parks advisory council shall be as follows:

(1) To advise the city council as to projects that should be included and funded within a park improvement

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<sup>1</sup> There is no appointed, official 'Superintendent of City Parks'; the Public Works Director directs and oversees the management of city parks and recreation areas.

<sup>2</sup> The Community Parks Advisory Council appears defunct pursuant to Sec. 17-53 (see below).

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district of the city;

(2) To advise the city council as to long range projects and uses of city parks and recreational areas;

(3) To advise the city council as to sources of revenue and use fees for use of city parks and recreational areas;

(4) To advise the city council as to coordination of use of the city parks and recreational areas; and

(5) To advise the city council on such further issues concerning city parks and recreational areas as the city council may from time to time refer to the advisory council.

**Sec. 17-48. - Membership.**

(text omitted)

**Sec. 17-49. - Terms of members.**

(text omitted)

**Sec. 17-50. - Officers.**

(text omitted)

**Sec. 17-51. - Compensation of members; meetings.**

(text omitted)

**Sec. 17-52. - Limitation on powers.**

(text omitted)

**Sec. 17-53. - Duration of existence.**

The community parks advisory council shall cease to exist six years from the date of final passage of the ordinance from which this article is derived, or sooner by act of the city council, unless the existence of such community parks advisory council is extended by affirmative act of the city council.<sup>3</sup>

**ARTICLE IV. - BOAT LAKES AND WATERWAYS**

[Sec. 17-76 through Sec. 79 are omitted because they only apply to boats on waterways]

**Sec. 17-80. - Swimming and wading.**

Swimming and wading, other than as is necessary as a part of waterskiing or watersledding rescue or loading or unloading a motorboat or other watercraft, is prohibited in a boat lake, except swimming and wading is permitted at Spotted Eagle Recreation Area during the dates and times and in the areas

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<sup>3</sup> Staff is unaware of an extension of the community parks advisory council's existence by the City Council; therefore, it appears the advisory council is defunct, as more than six years have passed since final passage of Ord. No. 1002 in April 1990. The staff is therefore providing the advisory functions of the council to the City Council with this report.

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designated by the city council.

**Sec. 17-81. - User fees.**

Pursuant to section 7-16-4103 of the Montana Code Annotated and section 17-1 of the Code of Ordinances of the City of Miles City, there shall be fees for the use of Spotted Eagle Recreation [Area] as follows:

Vehicles (including vehicles with non-motorized boats or watercraft) ..... \$ 2.50  
—Season Pass (if family, can be used for up to two vehicles per family) ..... 25.00  
Vehicles with boat or watercraft ..... 5.00  
—Season Pass ..... 40.00  
Motorcycle ..... 1.00  
Pedestrians ..... 0.50

Said fees shall be charged from the Saturday of Memorial Day weekend through and including the Monday of Labor Day weekend.

**ARTICLE V. - PARK USE PERMITS**

**Sec. 17-100. - Park use permit required.**

Any person or entity desiring to reserved the exclusive use of a park ground, or recreational facility of the city shall apply for and obtain a park use permit from the city for such exclusive use.

**Sec. 17-101. - Application for park use permit.**

Application for a park use permit shall be submitted to the lease administrator of the city, as designated from time to time by the mayor. All applications shall be on a form and in a format as provided by the city.

**Sec. 17-102. - Application review.**

The lease administrator shall review such application and determine whether exclusive use of a part or all of a park ground, recreational facility, or other city facility is reasonable in relationship to the area requested and the requested duration of use, and is required to protect public property or the public health, safety or welfare. The lease administrator shall further review such application to determine whether the requested use conflicts with other applications for exclusive use or anticipated applications for exclusive use of the same park ground, or recreational facility.<sup>4</sup>

**Sec. 17-103. - Issuance of nonrecurring park use permit.<sup>5</sup>**

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<sup>4</sup> See Section IV of this report for discussion of other uses and potential conflicts.

<sup>5</sup> Because the proposed motocross use is ongoing and repeated, the application is being reviewed as a 'recurring' park use permit (see below).

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If the application is for a planned, nonrecurring social occasion such as birthday parties, weddings, or programs, or a nonrecurring recreational activity, does not conflict with another application or anticipated application, and is reasonable in relationship to the area requested and the requested duration of use, the lease administrator may issue a park use permits allowing use of the park area or other recreational facility by one or more persons, to the exclusion of others, during the requested date and time of use, or such reduced time as the lease administrator deems reasonable in relationship to the use requested.

**Sec. 17-104. - Resolution of issues on nonrecurring park use permit.**

If, upon review, the lease administrator determines that the application conflict with another application or anticipated application, or is not reasonable in relationship to the area requested or the requested duration of use, the lease administrator shall meet with the applicant to attempt to resolve such issues. If, upon meeting, such issues are not resolved to the mutual satisfaction of the lease administrator and the applicant, then the issue shall be submitted to the city council who shall determine whether to grant a park use permit and any limitations or revisions as to area and/or duration the permitted use, based upon the best interests of the city and of the public.

**Sec. 17-105. - Issuance of recurring park use permit.**

If the application is for a recurring occasion, or recurring recreational or sport activity, and does not conflict with another application or anticipated application, and is reasonable in relationship to the area requested and the requested duration of use, the lease administrator shall determine insurance requirements and other terms and conditions necessary or advisable for the protection of the best interests of the city, complete, and have the applicant execute a recurring park use permit in the format established from time to time by resolution of the city council.

**Sec. 17-106. - Resolution of issues on recurring park use permit.**

If the application is for a recurring occasion, or recurring recreational or sport activity, and, upon review the lease administrator determine that the application conflicts with another application or anticipated application, or is unreasonable in relationship to the area requested or the requested duration of use the lease administrator shall meet with the applicant and any conflicting applicants or anticipated conflicting applicants and attempt to arrive at a coordinated plan of use or resolution of the area and/or duration of use. If a coordinated plan of use or resolution of the area and/or duration of use is not agreeable to all parties, then the issue shall be submitted to the city council who shall determine either a plan of coordinated use or exclusive use by one or more of the applicants, and any limitations or revisions as to area and/or duration the permitted use, based upon the best interests of the city and of the public.

**Sec. 17-107. - Authorized persons only permitted to enter or remain upon permitted areas or facilities.**

No entity, person or persons other than the entity, person or persons authorized by the park use permit shall enter or remain on the park areas or recreational facility areas designated in the park use permit during the period covered by the permit.

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**Sec. 17-108. - Posting and reservation of permitted areas or facilities.**

Whenever a park use permit for any area of any park ground or recreational facility has been issued, the area permitted may be posted and closed to the use of all persons not associated with that exclusive use during the days and hours of the permitted use. The lease administrator shall have the authority to post reservation notices at park areas or recreational facilities notifying the public that a park area or recreational facility is reserved for exclusive use during a specified time period, pursuant to a park use permit. No person shall disobey any reservation notice posted or issued by the lease administrator relating to the use of any park area or recreational facility identified in the park use permit.

**Sec. 17-109. - Permits not transferable.**

All park use permits issued may only be used by the permit holder and only at the location, dates and times permitted. Park use permits are nontransferable.

**Sec. 17-110. - No right to issuance of permit.**

Nothing herein shall be construed as establishing any right to any person or entity to the issuance of a park use permit, such issuance ultimately being in the sound discretion of the city council.

**Sec. 17-111. - Surrender of possession to permit holder.**

Any person not having a permit for the use of a park facility shall surrender or turn over possession of the park area or recreational facility to any person or entity having possession of a valid park use permit. It shall be unlawful for any person not having a valid park use permit to refuse to or fail to surrender the use of the permitted park area or recreational facility for the duration of the permitted use to any person or entity who has a valid park use permit for such park area or recreational facility during the period of such permitted use.

**Sec. 17-112. - No right to park use permit.**

Nothing herein shall be construed as establishing any right to any person or entity to the issuance of a park use permit, such issuance ultimately being in the sound discretion of the city council.

**Sec. 17-113. - Violation a misdemeanor; penalty.**

Any person violating any provisions of this article shall be guilty of a misdemeanor punishable by a fine not to exceed \$500.00, or imprisonment for a term not to exceed six months, or both.

**Sec. 17-114. - Liability insurance required.**

Liability insurance shall be required for certain uses of city owned property. All policies of liability

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insurance required in this part shall name the City of Miles City, Montana, as an additional insured, on a primary/noncontributory basis.

(1) Prior to the issuance of a park use permit, or any permit for the use of any city owned property, the following insurance requirements shall apply, for each requested use, and based on the hazard level designation set forth in this part:

a. For activities included under hazard level I which will include less than 50 people in attendance, no liability insurance shall be required.

b. For activities included under hazard level I which are anticipated to include 50 or more people, and for activities included under Hazard Level II, proof of liability insurance in the amount of \$500,000.00 per claim, \$1,000,000.00 per occurrence, shall be required.

c. For activities included under hazard level III, proof of liability insurance in the amount of \$750,000.00 per claim, \$1,500,000.00 per occurrence, shall be required.

(2) Liquor liability coverage in the same amount as is required for each hazard designation, but not less than the amount required for hazard level 1 events attended by 50 or more people, shall be required for all events which include the sale or consumption of alcohol, with the exception of host provided alcohol, or privately provided alcohol, consumed at private events which are attended by 50 or fewer people, for which no admission or other fee is paid, and so long as an alcohol variance has been properly obtained from the city.

(3) Property damage coverage in the amount of \$50,000.00 shall be required for all hazard level I events which are anticipated to include 50 or more people in attendance, and for all hazard level II events. Property damage coverage in the amount of \$100,000.00 shall be required for all hazard level III events.

(4) In the event multiple organizations, entities, or vendors will be operating under one permit, each must be covered and show proof of all insurance required herein.

(5) All permittees shall ensure that employees are covered by workers compensation, and may be required to provide proof of the same.

(6) All vehicles which are used on city owned property must be covered by personal or business liability auto coverage.

(7) The following hazard level designations shall be used for determination of required insurance coverages in this part. Any proposed use which is not covered by the following shall be assigned a hazard level designation by the city's lease administrator. The City of Miles City reserves the right to increase the hazard level of an activity based on information received by the city which tends to show that the activity is of a greater risk than that designated below. The City of Miles City may refuse to issue a park use permit, or any permit for the use of city owned property, for an activity for which the city may determine, through its lease administrator, poses too great a risk for public safety, regardless of the hazard level classification of the activity.

a. *Hazard level I:* Antique shows, art festivals/shows, auctions, auto shows, awards presentations, ballets, banquets, bazaars, beauty pageants, bingo games, boat shows, body building contests, business meetings/shows, chamber of commerce events, charity benefits (including auctions/sales), cinemas, civic club meetings, classical music concerts, indoor concerts under 1,500 people, symphony concerts, consumer shows, indoor conventions, craft shows, dance shows (including rehearsals), debutante balls, dinner theaters, drill team exhibitions/competitions, educational exhibitions, electronics conventions, indoor exhibitions/exhibits, indoor expositions, fashion shows, indoor fishing events, flower shows,



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garden shows, graduation ceremonies, gymnastics competitions, harvest festivals, home/housing shows, ice skating shows, instructional classes (non-mechanical), civic club events, lectures, luncheons, indoor meetings, mobile home shows, motion picture theaters, musicals (not including rock music), operas/operettas, organized sightseeing tours, pageants, parties/celebrations (no liquor), picnics, plays, proms, pumpkin patches/corn mazes, recitals (music, dance, piano), religious assemblies, RV shows, scouting jamborees, seminars, speaking engagements, teleconferences, telethons, theatrical stage performances, trade shows (indoor), vacation shows, weddings and receptions wedding photography.

b. *Hazard level II:* Aerobics/jazzercise classes, animal training, block parties/street enclosures, Christmas tree lots/farms, outdoor concerts under 1,500 (except as otherwise addressed herein), corporate events, dances, debuts, dog shows, evangelistic meetings (revivals), outdoor exhibitions, outdoor exposition, outdoor fishing events, food concessions, graduation night (university only, no high school), haunted houses, horse shows, hotel shows, jam and jazz sessions, job fairs, marathons, outdoor meetings, parades, parties/celebrations (with liquor, other than those addressed under hazard I), political rallies, reunions, rummage sales, school band exhibitions/competitions, séances, sidewalk sales, state and county fairs, street fairs, trade shows (outdoors), voter registration.

c. *Hazard level III:* Bounce castles or houses or similar structures or activities, animal shows, bicycle rallies, carnivals (no rides), casino and lounge shows, comedy shows, rock concerts under 5,000, alternative music concerts under 1,500, country western events (no equine), film productions, head of state events, kiddielands (no rides), live entertainment (except as otherwise addressed herein), livestock shows, martial arts events, night club shows, petting zoos, promoters, recreational events, skating parties, ski events/demos, sporting events (indoor, outdoor, baseball, basketball, softball, soccer, tennis, etc.), swimming events, theatrical road shows, union meetings, zoos.

## **ARTICLE VI. - PARK REGULATIONS**

### **Sec. 17-120. - Definitions.**

For purposes of this article, *to camp* means:

- (1) To erect of a tent or shelter of natural or synthetic material, prepare a sleeping bag or other bedding material for use, or park a motor vehicle, motor home, or trailer for the apparent purpose of overnight occupancy;
- (2) To sleep at any time between the hours of 11:00 p.m. and 6:00 a.m. outdoors, with or without bedding, sleeping bag, blanket, mattress, tent, hammock, or other similar protection;
- (3) To sleep at any time between the hours of 11:00 p.m. and 6:00 a.m. in, on, or under any structure or object, any motor vehicle, motor home, or trailer, with or without bedding, sleeping bag, blanket, mattress, tent, hammock, or other similar protection; or
- (4) To establish or maintain outdoors or in, on, or under any structure or thing not intended for human occupancy, at any time between the hours of 11:00 p.m. and 6:00 a.m., a temporary or permanent place for sleeping, by setting up any bedding, sleeping bag, blanket, mattress, tent, hammock, or other sleeping equipment or device or setting up any cooking equipment with the intent to remain in that location overnight.

### **Sec. 17-121. - Camping prohibited.**

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It shall be unlawful for any person to camp in any public park within the city limits.

**Sec. 17-122. - Violation a misdemeanor; penalty.**

Any person violating any provisions of this Article shall be guilty of a misdemeanor punishable by a fine not to exceed \$500.00, or imprisonment for a term not to exceed six months, or both.

#### **IV. Existing Lease Agreements/Park Use Permits**

The Lease Administrator has been unable to locate other Park Use Permits for land uses on the site that could impact or interfere with this proposed use. The shooting range on the north side of Spotted Eagle Lake has been in existence for decades; but no documentation of an agreement with the gun club that uses the property has been found. Given the fact that the two uses are expected to occur on separate portions of the Recreational Area (and the configuration of the shooting ranges and distance between the two uses), no substantial conflicts between the uses are expected, and standard terms of the Park Use Permit include provisions for the city staff to administer and resolve potential conflicts. Other passive uses of the motocross area, such as walking and hiking, could be disrupted during events, a common and expected occurrence when park use permits are issued for recreational uses by single groups.

#### **V. Staff Analysis**

- A. The applicants, the Torez Moto X Club, represented Clint Backlund, submitted their proposal on May 8, 2020 when discussion was for a potential lease agreement. Since that time, staff has reviewed the City Codes and applicable city resolutions that apply to leases of city property, and in consultation with Dan Rice, City Attorney, have determined the potential use of the area would be better reviewed, administered, and authorized as a recurring Park Use Permit under Chapter 17 of the City Codes rather than a long-term lease agreement.
- B. The applicant's proposal is attached as Attachment 1. The proposal outlines how the Club intends to manage the area, minimize impacts, and their fee waiver request.
- C. City Attorney Dan Rice has drafted a Park Use Permit with consultation with city staff, including Planner/Lease Administrator Ally Capps, Public Works Director Scott Gray, and Land Solutions contract planners Joel Nelson and Dave DeGrandpre. The draft permit is attached to this report as Attachment 2 (with multiple exhibits). The draft permit is based on previously-issued permits, so includes standard terms and conditions of the agreement, along with provisions specific to this project and the applicants' proposal. The permit attempts to address Chapter 17 and other applicable sections of City Code. It should be understood that city staff (and the City Attorney) will need to work with the applicants to complete some information contemplated by the draft permit that is yet to be determined.

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D. Regarding fees, the Club is requesting that the city waive any potential fees for the use of the land. The Club is stated to be a nonprofit organization, and the application rationalizes the fee waiver request by indicating the users and activities will result in increased revenue to the city. Whether the City Council is willing to waive any fees associated with the use of the city land is at the discretion of the City Council. Sec. 17-81 outlines user fees for boats, other vehicles (including motorcycles) and pedestrians during the summer season, but fees for organized group uses like this that are to be issued Park Use Permits are not specifically detailed in Chapter 17. Fees are not typically charged for park use permits; but a long term project like this could be assessed lease fees. For instance, Resolution No. 4124 establishes minimum base rent costs for the Industrial Site and other city leaseholds. Said resolution includes the following minimum rentals:

- Tracts with Highway 10 & 12 frontage \$.40 per square foot per year;
- Tracts with paved road frontage \$.025 per square foot per year;
- Tracts with gravel road frontage \$0.20 per square foot per year.
- Rates above these minimal base rates may be charged based on the cost of city services or city owned improvements provided as part of the lease.
- Rates for leases of City owned property outside of the Industrial Site will be evaluated on a case by case basis.

Although this request is not being processed as a long-term lease agreement, because the Park Use Permit would authorize a recurring, long-term use that will effectively preclude most other uses on that portion of the property (at least during active club motocross events), and because the City Council appears to have discretion to assess a fee for the permit's uses, the likely cost of a long-term lease of the project area if administered as a five year lease is worth consideration by City Council. With an estimated area of 596,000 square feet (or ±13.7 acres), and access via a gravel road, a minimum lease rate of \$11,920 per year would be authorized under the lease management resolution for Industrial Site land. Because lease rates outside the Industrial Site are to be evaluated on a case by case basis, and because other factors apply (such as this permit not granting full-time exclusive use, and with no substantial improvements or city water, sewer and similar services), adjustments would likely be made by City Council if the property were offered or negotiated for a long-term lease. However, the figure of \$11,920/year should be a baseline figure for consideration of approximate fees being waived. The City Council also has the option to set a rate for the use of the area, or even a bond to ensure maintenance provisions are complied with, with specific conditions to be met to apply the waiver; thus allowing fees to be assessed if circumstances change, proper maintenance is not being performed, or the conditions for applying the fee waiver are not met.

## **VI. Finance Committee Action**

The Finance Committee was approached about the proposed lease in early 2020, and then was provided an update on June 8<sup>th</sup> after staff began discussion of the project as a Park Use Permit. The Finance Committee was not provided a staff report or thorough analysis, but did recommend to City Council to

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approve a park permit for a 5 year term. Because presently, park permits do not have fees, it is the recommendation of the Finance Committee that this permit should not incur any charges either.

## **VII. City Council Action**

The City Council could approve, deny or table the proposed Park Use Permit per the draft permit (Attachment 2) prepared by the City Attorney. The following are the potential actions that the City Council could take to approve or deny:

### **A. Approval:**

Approval of the Park Use Permit for a five year period commencing July 1, 2020, and terminating June 30, 2025. This permit shall be renewable for one additional three year period at the mutual consent of both parties to the permit. Use of this permit shall be year round during the permit term, which shall become effective July 1, 2020 and payable by June 30, 2020 (if any fees are required). The permit would be subject to the stated terms of the agreement to be completed by city staff, the City Attorney, and approved and signed by the City Council at a future date. The City Council may include additional conditions or terms, including an imposition of use permit fees that may also be subject to waivers by City Council.

### **B. Denial:**

Should Council decide not to agree to the Park Use Permit, the City Council may deny the request, take other action, or outline what additional information is needed.

## **VIII. Staff Recommendation**

After review of the proposal and applicable City Codes and policies, staff recommends that the City Council adopt this staff report as findings of fact and approve the Park Use Permit and agreement as prepared by the City Attorney and attached to this report, subject to the following modifications:

- Add to Exhibit A: General map of Permit Use Area (may use a city-prepared map, such as Map 1 of this report or other as approved by city staff)
- Add to Exhibit F: **“Daily cleanup** of the track and other common areas within the permitted area will be required and the obligation of the permittee.”
- Add to Exhibit H: **“Permittee is responsible for obtaining any other government permits and approvals for the use of the property and associated activities. Miles City reserves the right to withhold the permit if the permittee is unable to furnish evidence that a potential other government approval or permit is required for the project or associated activities.”**

In addition, city staff, City Attorney, or City Council reserves the right to require additional provisions to promote the purpose of the agreement, to clarify administrative provisions, or outline regulatory or statutory requirements.

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**IX. List of Attachments**

Attachment 1: Proposal by the applicants entitled "Torez Moto X Club Proposal"

Attachment 2: Draft "PARK USE PERMIT" prepared by the City Attorney

Attachment 3: Draft Resolution to approve the permit prepared by the City Attorney

**PARK USE PERMIT**

**THIS AGREEMENT**, effective 1st day of July, 2020, by and between **CITY OF MILES CITY, MONTANA**, a municipal corporation, of 17 South Eighth Street, Miles City, Montana, 59301, hereinafter called "**City**", and the

**TOREZ MOTO X CLUB**, of Miles City, Montana, 59301, hereinafter called "**Permittee**".

1. **DESCRIPTION of PERMITTED PREMISES.** The City hereby grants to the Permittee permission to occupy and use for the purposes stated herein, that certain real property (hereinafter "**permitted premises**") located in Miles City, Custer County, Montana, as set forth in Exhibit "A", attached hereto and made a part hereof.

2. **PERMIT TERM.** The term of this permit shall be for a five year period commencing July 1, 2020, and terminating June 30, 2025. This permit shall be renewable for one additional three year period at the mutual consent of both parties to the permit.

Use of this permit shall be year round during the permit term.

3. **PERMIT FEE.** The Permittee agrees to pay the City as a fee for this permit those amounts set forth in Exhibit "B", attached hereto and made a part hereof, on or before those dates set forth in said Exhibit "B". All fees shall be paid in the name of the City of Miles City and shall be remitted through the City Clerk of the City of Miles City, Montana. In addition to the cash fees provided herein, Permittee, as additional consideration for this permit, shall perform those obligations set forth in Exhibit "B" as "Other Consideration" on or before the due dates provided in said Exhibit for their performance.

4. **USE OF PREMISES BY PERMITTEE.** Permittee shall use the premises permitted hereunder for the purposes set forth in Exhibit "C", attached hereto and made a part hereof, and shall not change the use thereof without the prior written consent of the City.

5. **RETAINED USES OF CITY.** City (or such other parties that the City permits) is allowed, without diminution of fees, to use and occupy the premises for other events, activities, functions, or uses during the term of this Permit that do not unduly conflict or interfere with the Permittee's reasonable use of the premises as set forth in Exhibit "C". City, or its permittees, shall notify the Permittee of such events or uses in advance, provided, however, as to any uses listed on Exhibit "C" as "*Specific Reserved Uses of City or its Permittee*", such uses are hereby reserved to the City without any further notice to Permittee. Attached hereto as Exhibit "D", is Permittee's list of its scheduled events for the term of this Permit. Dates for which no events are scheduled on Exhibit "D" shall be presumed as available for other uses by the City, or its permittees.

City retains the right of access to the permitted premises at all times for any purpose, including, but not limited to, inspection as to Permittee's compliance with the terms of this

permit, construction, repair, alteration, remodel, or removal of improvements, and such maintenance of existing improvements as the City may desire.

6. **POSSESSION AND CONTROLLED ACCESS.** The Permittee shall be entitled to possession of the permitted premises at the commencement of the term of this Permit, subject to the retained uses of the City and its permittees, and Permittee shall immediately surrender possession upon termination of the term of this Permit, or upon earlier termination as otherwise provided for in this Permit. The Permittee shall control and limit access to the park to the club's members, and shall ensure that all members adhere to the club's safety rules. Permittee shall prohibit club members from operating motorcycles and ATVs on adjacent City owned property, and restrict such use to the confines of the park.

7. **CONSTRUCTION OF IMPROVEMENTS.** Permittee shall not construct any improvements upon the permitted premises, nor alter, remodel, or remove any existing improvements upon the permitted premises without the express written consent of the City.

In the event that the Permittee desires to construct, alter, remodel or remove any improvement, Permittee shall submit to the City either written plans showing the proposed construction, alteration, or remodel or a written description of the construction, alteration or remodel, and shall secure the written approval of the plans or basic written description by the City prior to the beginning of construction, alteration, remodel or removal.

In the event that the City approves such construction, alteration, remodel, or removal, in writing, Permittee shall not make any contract for construction, alteration, remodel, repair, or removal on, in, of or to the permitted premises, or any part thereof, for any work to be done or materials to be furnished on or to the permitted premises, or any part thereof, without providing in such contract or agreement that no lien of mechanics or materialmen shall be created or shall arise against the permitted premises or the buildings or other improvements at any time located thereon. All persons furnishing any work, labor or materials, as well as all other persons whatsoever shall be bound by this provision and the notice therefrom and after the date of this Permit, and notice is hereby given that no mechanic's lien, materialman's lien, or any other encumbrance made by or obtained against Permittee or its interest in the permitted premises or the building or improvements thereon shall in any manner or degree effect the title or interest of the City in such land and building and improvements thereon. To that end, Permittee agrees that it will not make any contract or agreement, either oral or written, for any labor, services, fixtures, materials or supplies in connection with construction, demolition, altering, repairing or improving the permitted premises without providing in such contract or agreement that the contractor shall waive all rights to a construction lien, and waive all right of any subcontractor's construction liens, by reason of furnishing any labor, services and materials under such contract or contracts whether written or oral, and that a copy of such contract or contracts, shall, upon execution, be immediately furnished to the City.

All alterations, additions and improvements made by Permittee pursuant to this section shall belong to the City and shall remain with the permitted premises upon termination of this Permit, whether by expiration or default. Provided, however, that, so long as Permittee is not in

default under the terms of this Permit, Permittee shall be permitted to remove business and trade fixtures upon termination of the Permit if such removal can be made without damage to the permitted premises. Such removal shall be made within fourteen (14) days of expiration of this Permit or the vacating of the permitted premises by Permittee, whichever occurs first. Items not removed within such fourteen (14) day period shall become the property of the City at the expiration of such period without any offset or other compensation to Permittee. At the option of the City, the City may remove such property and store it at the risk and expense of the Permittee and sell such property for such removal and storage charges.

8. **TAXES.** Permittee shall pay all taxes and assessments, if any, upon any personal property of Permittee kept or utilized upon the permitted premises and shall pay any sales, use, or ad valorem tax, or similar tax or assessment, imposed upon any activities of Permittee conducted upon the permitted premises.

9. **UTILITIES.** Permittee, during the term of this permit, shall pay those utilities set forth in Exhibit "E", attached hereto and made a part hereof. City shall not be obligated to provide or pay for any utilities to or upon the permitted premises, such provision and payment being in the sole discretion of the City.

10. **REPAIRS AND MAINTENANCE.** Permittee shall perform, at its expense, during the term of this Permit, those maintenance and repair obligations set forth in Exhibit "F", attached hereto and made a part hereof. In addition to the items set forth in Exhibit "F", Permittee shall perform at its expense, or shall reimburse City for City's materials and labor, for any repairs necessitated by the negligent or intentional acts of Permittee, its officers, directors, members, employees, agents, guests, customers, participants, or invitees.

City may undertake, in its sole discretion, such repairs or maintenance of the permitted premises that are not the obligation of the Permittee hereunder, but the City is under no obligation or duty to conduct any repairs or maintenance of the permitted premises.

11. **NUISANCE.** Permittee shall not conduct any activities upon the permitted premises that are prescribed by the laws of the United States, the State of Montana or local ordinance or the rules of any regulatory agencies of either the United States, State of Montana or City of Miles City. Permittee will not conduct any activities upon the permitted premises that would constitute either a private or public nuisance or waste or which interfere with the quiet and peaceful enjoyment of the adjoining property of the City.

12. **HAZARDOUS MATERIALS.** Permittee will not apply, use, store or dispose of any substance in, upon or beneath the permitted premises that would constitute an environmental hazard and would impose a cleanup obligation upon the owners of the permitted premises under any local, state or federal laws or regulations.

13. **INSURANCE.** Permittee, at Permittee's expense, shall, at all times during the term of this Permit, maintain in effect a policy of public liability insurance with policy limits of at least those set forth in Exhibit "F" attached hereto and made a part hereof. The City shall be



named as an additional named insured on each such policy of insurance. Such policy of insurance shall be maintained with an insurance company licensed to do business in the State of Montana with an A.M. Best rating of at least "A". Permittee shall provide to the City at the commencement of the permit term satisfactory evidence of the existence of such policy of insurance and shall, during the term of this permit, upon reasonable request of the City, provide to the City evidence of the continued existence of such policy of insurance and the entire policy of insurance.

14. **INDEMNIFICATION.** Permittee agrees to indemnify, defend and hold harmless the City from any and all loss, damages, claims and/or liability occasioned by, arising out of, or resulting from any tortious or negligent act of Permittee, its officers, directors, members, employees, agents, guests, customers, participants, or invitees.

15. **ASSIGNMENT.** This permit is personal as to the Permittee and may not be assigned or sub permitted by Permittee without the prior written consent of the City.

16. **VIOLATION OF PERMIT.** Upon failure of Permittee to carry out any material provision of this permit, the City shall serve written notice upon the Permittee specifying the violation. The Permittee shall have ten (10) days to correct the violation and, if the violation is not corrected as charged the City may, at its option, either correct the violation and collect the cost from the Permittee, or cancel this permit and collect damages caused by the violation from the Permittee. In the event that the City elects to cancel this permit, Permittee agrees to immediately redeliver possession of the permitted premises to the City.

17. **NOTICES.** Any notice hereunder shall be in writing and may be delivered personally or by registered or certified mail with postage prepaid. Notice shall be deemed complete when deposited in a United States Post Office addressed to the City at the following address:

City of Miles City  
Public Works Director  
P.O. Box 910  
Miles City, Montana 59301

and to the Permittee at the following address:

Torez Moto X Club  

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Miles City, Montana 59301

If either party changes their address then they shall give written notice to the other party of the change of address. Any notice given under this contract shall be deemed complete when deposited in a United States post office.

18. **INSPECTION; DISCLAIMER OF WARRANTIES.** Permittee has inspected the permitted premises and has made its independent investigation and evaluation of the suitability

of the permitted premises for the uses by Permittee permitted hereunder and is not relying upon any warranties, representations, promises, or information by or from the City in this regard. The City does not warrant, represent, inform or promise that the premises permitted hereunder are suitable for the uses for which permission is granted under this permit or for any other uses of Permittee.

19. **COMPLIANCE WITH A.D.A.** Permittee agrees, at all times during the term of this permit, to comply with the provisions of the Americans with Disabilities Act as they may apply to Permittee.

20. **NONDISCRIMINATION.** Permittee agrees, at all times during the term of this permit, not to discriminate any person in its permitted uses hereunder, or its utilization of the permitted premises, on the basis of race, creed, color, religion, national origin, sex, marital status, mental or physical handicap, except as permitted by law or applicable regulation.

21. **SPECIAL PERMIT PROVISIONS.** Permittee shall at all times comply with the additional provisions contained in Exhibit "H", attached hereto and made a part hereof.

22. **ENTIRE AGREEMENT AND MODIFICATION.** This Agreement constitutes the entire agreement of the parties and supersedes all prior negotiations, agreements and memoranda. This Agreement may be modified only by written instrument executed by all parties to the Agreement.

23. **BINDING EFFECT.** This agreement shall be binding upon the heirs, successors and assigns of the parties hereto. Nothing herein shall be construed as waiving or otherwise modifying the prohibition against assignment or sub permitting contained herein.

24. **BINDING AUTHORITY.** Permittee hereby represents and warrants that the person executing this Agreement on behalf of Permittee has full authority to bind the Permittee to the terms and conditions of this permit and does so bind Permittee, and that all organizational actions necessary have been undertaken by Permittee to authorize such person to bind Permittee.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the date first above set forth.

CITY OF MILES CITY

By: \_\_\_\_\_  
Mayor

TOREZ MOTO X CLUB:

By: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT "A"**  
**DESCRIPTION OF PERMITTED PREMISES**

Miles City Motocross Track at Spotted Eagle

**EXHIBIT "B"**  
**PERMIT FEES**

**Cash Fees:**

The sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) per year, payable in advance, upon the execution of this permit, and on each anniversary thereof.

**EXHIBIT "C"**  
**PERMITTED USES OF PERMITTED PREMISES**

During the term of the permit, Permittee shall use the permitted premises for the following uses: *Motocross and ATV riding, and uses incidental*

**EXHIBIT "D"**  
**SCHEDULE OF EVENTS**

The City may require that the Permittee create an activity schedule at any point during the duration of this permit, however, no schedule is being required at the time of approval of this permit.

**EXHIBIT "E"**  
**UTILITIES**

During the term of this Permit, Permittee shall pay for all utilities upon the permitted premises and used by them.

*(Note: All utilities that Permittee is required to pay under this Exhibit, shall be maintained in an account solely in the name of Permittee, unless otherwise designated herein or by separate written agreement of the City.)*

**EXHIBIT "F"**  
**REPAIR AND MAINTENANCE OBLIGATIONS OF PERMITTEE**

Permittee shall be responsible for maintaining the track and all common areas, as well as fencing, gates, roads, parking areas, and all other improvements. If portable toilet facilities are brought to the premises, they shall be maintained in a safe and sanitary manner. Permittee is authorized to install a second gate near the first large water crossing when accessing the park.

**Daily cleanup** of the track and other common areas within the permitted area will be required and the obligation of the permittee.

**EXHIBIT "G"**  
**INSURANCE LIMITS**

**INSURANCE LIMITS:**

|                        |             |
|------------------------|-------------|
| Each occurrence        | \$1,500,000 |
| Fire damage            | \$ 300,000  |
| Medical                | \$ 5,000    |
| Personal & Adv Injury  | \$1,000,000 |
| Products - Comp/Op/Agg | \$1,000,000 |

*(See attached insurance cover sheet)*

**EXHIBIT "H"**  
**SPECIAL PERMIT PROVISIONS**

All excavation activities must include contact with **Call Before You Dig** prior to construction of any type.

## Lorrie Pearce

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**From:** Brandon Janshen <brandon.janshen@gmail.com> on behalf of Brandon Janshen  
**Sent:** Thursday, July 9, 2020 12:42 PM  
**To:** Doug Colombik  
**Cc:** Dan Baker; John Hollowell; Austin Lott; dogwisper67; K Wilcox; Lorrie Pearce; bjanshen@sdiarch.com  
**Subject:** Re: Police Building Research Follow Up

some of my comments below in blue.

General note for existing buildings: all will likely include some hefty renovations for ADA (has to be at least 20% of the construction budget unless we can make the public/personnel areas compliant for less than that).

On Thu, Jul 9, 2020 at 11:52 AM Doug Colombik <[dcolombik@milescity-mt.org](mailto:dcolombik@milescity-mt.org)> wrote:

Price and square footage information on the buildings we have looked at:

1. 15 N. 8th Street (Leidholt building). \$205,000. 4158 square feet. This SF includes the 'garage' space which divides the building; also comes with the e. side lot that will provide ~10 on-site parking.
2. Boutelle Building on Bridge Street (old transmission shop). \$650,000 for building and lot. \$375,000 just for building. Waiting on lease information and square footage from Zach Zignego. from Google Earth, I have the two-story area as 4,000 SF per floor with the main level extending another 5,200 SF which is primarily garage space ... ~13,200 SF total ... In my conversations with Zach, it's my understanding that there is a direct purchase option, a lease option (as-is which would require tenant improvements), and a build-to-suit lease option (higher monthly cost, but no upfront cost).
3. Old Citizen Bank Building (Butch Grenz owner). Butch will do a contract for Deed for 20 years, no down payment, and a monthly payment of \$2,000 a month. Square foot 6240 main level and basement. I'm guessing the \$2,000/month would require upfront costs for tenant improvements. Caveat for the Contract for Deed: prevailing wage rates will still apply regardless of who does the improvements.
4. Marvin Stark building on N 7th. Marvin is putting numbers together and will get back with those numbers by the end of tomorrow. Cannot remember the square footage of this when we toured it but it would be big enough for PD. I was under the impression that only the front e. end of the building was available for lease which is ~2,600 SF (main level, not including basement) including shared facilities (break room and restrooms?) with the shop. If Marvin is looking at selling the entire building, that's ~6,000 SF (main level, not including basement) ... if the s. lot(s) are included, that's an added bonus. Some folks were excited that it has an elevator -- that's a freight elevator and won't suffice for public ... also, the s. side ramp isn't ADA compliant.
5. 419 N. 7th Street Wool House Gallery building. \$339,000. 20,610 square feet. This is a good option, but it's A LOT of SF and will require some access improvements for ADA and egress. Same thing with the existing elevator - freight only.
6. 2000 Clark Miles City Clinic building. \$149,000. 6695 square feet. The L-shaped layout and central corridors make things a little funky for remodel, but the SF number indicates it's possible. ~10 on-site parking.
7. 519 Main Street 519 Club building. \$600,000. 14,696 square feet. I would love to see this building thrive again, but it'll take a lot of \$\$\$\$ to renovate.
8. 517 N. 7th Street (TFW?) commercial business and building. \$500,000. 4800 square feet. I don't readily see this as a viable option for any scenario. building is mostly uninsulated, various floor levels, and divided by a large, pull-through garage bay.
9. Milligan building old hotel and Sherwin Williams. \$225,000 is what the initial price we received was last week. Large square footage but unknown exact number. I would love to see this building thrive again, but it'll take a lot of \$\$\$\$ to renovate.
10. City Hall Are there existing plans of this building? If so, can I get them and scan them?
11. Old wrestling complex, sounds like it is currently in the process of being purchased. That's my understanding, too.

We have to remember that several of these buildings have roof damage, water damage or previous water issues and are so old that there would be major costs in the clean up. That will be discussed on the 15th.

What the police department needs are:

1. Parking for at least 8 patrol cars in addition to public parking
2. Building security.
3. Offices: Chief, Captain, Detective, Sergeant office, Officers work area office, conference room, interview room, 1-2 restrooms, armorer's room (150 square feet), storage rooms, evidence room (at least 1000 square feet), processing room for evidence, impound garage.
4. Ideal location for response, not on the far edge of one side of town.
5. ADA compliant.
6. Ideally extra room for DCI, MHP and Adult Probation to help offset the costs

Mid-Rivers has given us an estimated cost of \$7,094.64 for purchasing new phones and all the work with the routers, phone lines etc. There is also a monthly option we received for \$182.65. What that sounds like is we rent the equipment plus pay for the monthly service. For the IT and all the computers, Morrison and Mairele has not got back to us but have told us it would not be that difficult to install everything. Captain Baker and I are estimating costs for phones, all the IT and routers etc to be in the \$15,000 range for a move. The actual moving would be done by the officers, like we have done twice previously moving from the EOC to the VA, then the VA outbuilding to the office where we are at now.

Last, here is a breakdown on dates of most of the meetings, phone conference calls and building tours Captain Baker and I have been involved in along with council members and others starting back in early 2018. This includes the public meeting held at MCC in July 2018.

4/23/18, 4/30/18, 5/7/18, 5/14/18, 5/30/18, 6/13/18, 6/21/18, 7/9/18, 7/18/18, 8/8/18, 8/15/18, 8/29/18, 9/5/18, 9/18/18, 10/15/18, 12/20/18, 1/2/19, 1/8/19, 1/17/19, 3/5/19, 1/28/19, 11/13/19, 6/11/20, 7/1/20

# New Business

**ORDINANCE NO. 1342**

**AN ORDINANCE ADOPTING REMOVING ANTEQUATED BUILDING CODE SECTIONS.**

WHEREAS, the State of Montana Building Codes Program has adopted administrative rules to adopt new building codes, and directed the City of Miles City to adopt the same. The City Council previously updated said Building Codes in Ordinance 1337, however, two additional sections are properly removed from the City Code, as the City of Miles City does not enforce the model energy code, or federal accessibility standards, beyond the provisions which exist in the building codes approved by the State of Montana for adoption by the City. The codes properly enforced by the City of Miles City are limited to the following: the International Building Code, the International Residential Code, the International Existing Building Code, and the International Swimming Pool and Spa Code;

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

**Section 1.** Section 5-76 is REPEALED.

**Section 2.** Section 5-101 is REPEALED.

**Section 3.** This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this 14<sup>th</sup> day of July, 2020.

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

ATTEST:

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

**FINALLY PASSED AND ADOPTED** this 28<sup>th</sup> day of July, 2020.

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

ATTEST:

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



**RESOLUTION NO. 4330**

**A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO A JANITORIAL SERVICE AGREEMENT WITH DALE PETROFF d/b/a DALE'S CLEANING SERVICE.**

*WHEREAS*, the City of Miles City desires to contract for janitorial services for the cleaning of certain City owned buildings;

*AND WHEREAS* after publishing a notice of requests for proposals, Dale Petroff d/b/a Dale's Cleaning Service was one of two low bidders for provision of janitorial services for the City Hall building located at 17 S. 8<sup>th</sup> Street, Miles City, Montana, and has been selected by the City to provide such services;

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

1. The Janitorial Service Agreements attached hereto as Exhibit "A" is hereby approved and adopted by the 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, THIS 14<sup>TH</sup> DAY OF JULY, 2020.**

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

ATTEST:

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

## JANITORIAL SERVICE AGREEMENT

**THIS AGREEMENT** entered into this 1<sup>st</sup> day of July, 2020 by and between **THE CITY OF MILES CITY**, a political subdivision of the State of Montana, of 17 South Eighth Street, Miles City, Montana 59301, hereinafter referred to as "*the City*" and Dale Petroff of Dale's Cleaning Service, hereinafter referred to as "*Contractor*";

**IT IS HEREBY AGREED** between the parties as follows:

1. **LOCATION AT WHICH SERVICES ARE TO BE PROVIDED.** Contractor will provide janitorial services, as further specified herein, for the City at the location set forth in Exhibit "A", *Location*, attached hereto and made a part hereof.

2. **SERVICES TO BE PROVIDED.** Contractor will provide at such location those janitorial services set forth in Exhibit "B", *Services to Be Provided*, attached hereto and made a part hereof, with the frequency set forth in such Exhibit "B". Services shall be provided by Contractor during those hours or days specified in Exhibit "B" to this Agreement.

Contractor shall perform all services hereunder timely, competently and in full compliance with the schedule attached hereto as Exhibit "B".

3. **TERM OF AGREEMENT; EARLY TERMINATION ON 30 DAYS NOTICE.**  
The term of this agreement shall be for a period commencing on the 1st day of July, 2020, and terminating at midnight on the 30th day of June, 2021. This lease shall automatically renew for four (4) additional one year terms, unless earlier terminated by written notice of either party. Either party may terminate this agreement by thirty (30) days advanced written notice of termination to the other party.

4. **COMPENSATION.** The above services shall be provided by Contractor to the City

at the above location for the sum of seven hundred and no/100 dollars (\$700) per month, payable by the City to Contractor within (30) days after the last day of each month for which service is provided hereunder. If service is provided for only a portion of a month, then such monthly sum shall be prorated by the number of days for which service was provided to the City by Contractor during such month, divided by the number of days for which service is to be provided in each month under Exhibit "B" to this Agreement.

5. ***NO ADDITIONAL COMPENSATION.*** Contractor shall not receive any additional compensation for travel, per diem, subsistence expenses, or any other expenses, all such expenses having been included in the rates set forth in paragraph 4, above.

6. ***PERSONNEL, EQUIPMENT AND SUPPLIES.*** Contractor, at Contractor's expense, shall supply all personnel, equipment and supplies necessary to carry out the scope of work under this Agreement. The City will supply toilet paper, paper towels and waste receptacle bags.

7. ***HAZARDOUS MATERIALS.*** In providing services hereunder, Contractor shall not utilize any supplies or materials that are a Hazardous Material, as defined herein, or that would impose a cleanup obligation on behalf of the City under any federal, state or local law or regulation. Contractor shall not discharge, leak, emit, or permit to be discharged, leaked, or emitted, any Hazardous Material into the atmosphere, ground, sewer system, or any body of water. As used herein, the term "Hazardous Material" means:

- a. Any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder;
- b. Any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder;

c. Any substance which is or becomes regulated by any federal, state, or local governmental authority.

Contractor agrees that it shall be fully liable for all costs and expenses related to the use, storage, and disposal of Hazardous Material used or brought upon the location by the Contractor, and the Contractor shall give immediate notice to the City of any violation of the provisions of this Section. Contractor shall defend, indemnify, and hold harmless the City from and against any claims, demands, penalties, fines, liabilities, settlements, damages (including, but not limited to all damages for injury to person and/or property) cleanup expense, and all other costs or expenses (including, without limitation, attorneys' and consultant fees, court costs, and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to the presence, disposal, contamination, release of any such Hazardous Material by Contractor, its agents or employees, which is on, from, or affects soil, water, vegetation, buildings, personal property, persons, animals, or otherwise.

**8. SECURITY; DUTY OF CONTRACTOR TO CONTROL ACCESS.** The City will provide Contractor a key or keys to access the location at which services are to be provided hereunder. Contractor shall keep such key or keys secure at all times so as to prevent unauthorized access to such location and shall not make copies of, nor permit any other person to make copies of, such keys.

Contractor shall access the location at which services are to be provided only for the purposes of providing such services and only at the times set forth in Exhibit "B" to this Agreement. While accessing such location, Contractor shall not authorize, permit or allow any person other than an employee of Contractor actually providing services under this Agreement to access the location where services are to be provided.

Contractor shall, at the inception of this Agreement, provide to the City a written list of names of the persons who are providing services to the City under this Agreement and shall

immediately update such listing in the event that new or different persons are providing services to the City under this Agreement. No person, other than persons named in the written listing provided by Contractor to the City, shall be allowed by Contractor to access the location while Contractor is providing services under this Agreement.

Unless otherwise instructed by the City, in writing, Contractor shall keep all doors to the location at which services are to be provided locked during periods which services are being provided by Contractor hereunder and shall assure that all doors are locked when leaving the location.

**9. *INDEPENDENT CONTRACTOR STATUS OF CONTRACTOR; PROOF OF WORKERS' COMPENSATION COVERAGE OR EXEMPTION CERTIFICATE.*** Contractor is an independent contractor under this Agreement and is not the employee or agent of the City. Contractor, its officers, agents and employees, shall not hold themselves out as, nor represent themselves to be, employees or agents of the City. Contractor shall provide Workers' Compensation insurance coverage on all of its employees engaged in providing services under this Agreement, unless specifically exempted by law, and shall pay all payroll taxes, including FICA, Medicare, and unemployment, for its employees providing services hereunder. Contractor, prior to commencing work under this Agreement, shall provide to the City a certificate of insurance from the insurer providing Workers' Compensation insurance to Contractor. If Contractor claims exemption from providing Workers' Compensation insurance under Montana law, Contractor shall provide the City with a copy of its independent contractor exemption certificate issued by the Montana Department of Labor and Industry pursuant to §39-71-417 MCA.

**10. *NONDISCRIMINATION.*** In compliance with §49-3-207 MCA, all hiring by Contractor shall be on the basis of merit and qualification, and Contractor, in the performance of

this Agreement, shall not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

11. **INDEMNIFICATION.** Contractor shall indemnify, defend and hold the City harmless from all liabilities and claims incurred in performance of the services provided hereunder.

12. **INSURANCE REQUIREMENTS.** During the term of this Agreement, Contractor shall maintain in full force and effect a policy of commercial general liability insurance providing coverage for negligence, errors and omissions of Contractor in such amounts as set forth in Exhibit "C", *Insurance Requirements*, attached hereto and made a part hereof. Contractor shall provide the City with certificates of insurance for such complying insurance coverage at the inception of this Agreement, and thereafter, upon reasonable demand, satisfactory evidence of the existence and continued existence of such insurance coverage. All such policies of insurance shall require at least ten (10) days advanced written notice by the insurer to the City prior to any cancellation, termination or lapse of such insurance coverage.

13. **PROHIBITION OF ASSIGNMENT OR SUBCONTRACTING.** This Agreement is personal as to Contractor and may not be assigned by Contractor, or subcontracted in any manner, without the prior written consent of the City.

14. **DEFAULT.** In the event that Contractor fails to timely and competently provide services, within the scope of services set forth in Exhibit "B", or otherwise fails to perform or violates any of the other terms and conditions of this Agreement, the City may give Contractor written notice of such default, detailing the nature of the default, and Contractor shall have fifteen (15) days from the date of such notice to correct the default. If Contractor does not fully correct the default within fifteen (15) days of the date of giving of such notice, the City may, without further notice, terminate this Agreement and it shall have no further force and effect.

Notice shall be served upon Contractor by certified mail, return receipt requested, addressed to Contractor at:

Dale's Cleaning Service  
2709 Leighton Blvd #3  
Miles City, MT 59301

Notice shall be deemed given as of the date of its deposit into the United States Mail. The failure or forbearance of the City to give notice of default shall not constitute a waiver of further defaults by Contractor. Nothing herein shall be construed as limiting the right of the City to terminate this Agreement for cause, without notice of default, in the event of repeated defaults noticed by the City to Contractor.

15. **MODIFICATION.** This Agreement constitutes the entire Agreement of the parties and supersedes all prior negotiations and understandings of the parties. This Agreement may be modified only by written instrument executed by all parties.

16. **LITIGATION.** In the event that it becomes necessary for either party to institute legal proceedings to enforce any of the terms of this Agreement, then the prevailing party in such proceedings shall be entitled to recover from the non-prevailing party all costs and expenses incurred in such proceedings, including reasonable attorney's fees.

17. **VENUE.** This Agreement shall be construed under the laws of the State of Montana and any action upon this Agreement shall be venued in Custer County, Montana.

18. **TIME OF THE ESSENCE.** Time is of the essence of this Agreement.

19. **BINDING EFFECT.** This Agreement is binding upon and inures to the benefit of the parties, their successors and assigns. The terms of this Agreement may be enforced individually by the member facilities of the Network receiving services under this Agreement.

20. **CAPACITY; PROOF OF GOOD STANDING.** The signators to this Agreement represent and warrant that they have the legal capacity and authority to bind the entities which

are the parties to this Agreement. If Contractor is a corporation or limited liability company, at time of execution of this Agreement Contractor shall provide to City a Certificate of Existence for such entity issued by the Montana Secretary of State. If Contractor is operating under an assumed business name, at time of execution of this Agreement Contractor shall provide to City a Certificate of Fact issued by the Montana Secretary of State evidencing registration of such assumed business name.

**EXECUTED** this 14<sup>th</sup> day of July, 2020

CITY OF MILES CITY, MONTANA

By: \_\_\_\_\_  
Its Mayor

Contractor

By: \_\_\_\_\_

Title: \_\_\_\_\_



**EXHIBIT "A"**

**LOCATION**

Contractor shall provide the City janitorial services, as specified in Exhibit "B", at the following location(s):

City Hall, 17 South 8<sup>th</sup> Street, Miles City, MT 59301

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Initialed for identification:

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City

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Contractor

**EXHIBIT "B"**

**SERVICES TO BE PROVIDED AND FREQUENCY**

**The following schedule applies to all areas (offices) at the City Hall Building.**

| <b>Description of Services:</b>  | <b>Frequency:</b>                      | <b>Day/Time to be Provided:</b>                            | <b>Other:</b>  |
|--|--|--|--|
| Empty trash receptacles  | Two times per week                     | After 5pm on weekdays and no time restrictions on weekends |  |
| Clean & sanitize all restrooms   | Three times per week                   | Same   |  |
| Vacuum all carpeted areas  | Two times per week                     | Same   |  |
| Clean front entry door & all other glass doors (both sides)  | Two times per week                     | Same   |  |
| Dust Mop uncarpeted floors<br>Damp Mop Uncarpeted floors   | One time per week<br>One time per week | Same   | Damp mop uncarpeted floors when mud is present (could be twice a week) |
| Clean windows inside   | Quarterly                              | Same   |  |
| Dust Blinds  | Quarterly                              | Same   |  |
| Prepare & wax any uncarpeted floors (minimum quarterly), clean garbage cans, clean/dust chairs, dust door sills and pictures. Dust and/or wash walls annually. | As needed, bi-annually<br>or yearly    | Same   |  |

Initialed for identification

\_\_\_\_\_

City

\_\_\_\_\_

Contractor



**RESOLUTION NO. 4331**

**A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO A CONTRACT WITH MARILYN FORMAN FOR JANITORIAL SERVICES FOR THE MILES CITY POLICE DEPARTMENT BUILDING.**

*WHEREAS*, the City of Miles City issued its request for proposals (RFP 2020-01) for janitorial services for certain City facilities;

*AND WHEREAS* Marilyn Forman, of Miles City, Montana, submitted a proposal for janitorial services for the Police Department building pursuant to RFP 2020-01;

*AND WHEREAS*, the City Council has determined that the proposal of Marilyn Forman for janitorial services for the Police Department building is the proposal most beneficial to the City of Miles City;

*AND WHEREAS* the City of Miles City and Marilyn Forman have agreed to mutually acceptable terms and conditions for the provision of janitorial services for the Police Department building, a copy of which Janitorial Service Agreement is attached hereto as Exhibit "A", and made a part hereof,

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

1. The Janitorial Service Agreement between the City of Miles City, Montana and Marilyn Forman, attached hereto as Exhibit "A", and made a part hereof, is hereby approved and adopted by this Council.

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

3. The Mayor of the City of Miles City is hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of said Janitorial Service Agreement and bind the City of Miles City thereto.

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 14TH DAY OF JULY, 2020.**

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John Hollowell, Mayor

ATTEST:

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Lorrie Pearce, City Clerk

## JANITORIAL SERVICE AGREEMENT

**THIS AGREEMENT** entered into this 1st day of July, 2020 by and between **THE CITY OF MILES CITY**, a political subdivision of the State of Montana, of 17 South Eighth Street, Miles City, Montana 59301, hereinafter referred to as "*the City*" and Marilyn Forman of MMF Cleaning, hereinafter referred to as "*Contractor*";

**IT IS HEREBY AGREED** between the parties as follows:

1. **LOCATION AT WHICH SERVICES ARE TO BE PROVIDED.** Contractor will provide janitorial services, as further specified herein, for the City at the location set forth in Exhibit "A", *Location*, attached hereto and made a part hereof.

2. **SERVICES TO BE PROVIDED.** Contractor will provide at such location those janitorial services set forth in Exhibit "B", *Services to Be Provided*, attached hereto and made a part hereof, with the frequency set forth in such Exhibit "B". Services shall be provided by Contractor during those hours or days specified in Exhibit "B" to this Agreement.

Contractor shall perform all services hereunder timely, competently and in full compliance with the schedule attached hereto as Exhibit "B".

3. **TERM OF AGREEMENT; EARLY TERMINATION ON 30 DAYS NOTICE.**  
The term of this agreement shall be for a period commencing on the 1st day of July, 2020, and terminating at midnight on the 30th day of June, 2021. This lease shall automatically renew for four (4) additional one year terms, unless earlier terminated by written notice of either party. Either party may terminate this agreement by thirty (30) days advanced written notice of termination to the other party.

4. **COMPENSATION.** The above services shall be provided by Contractor to the City at the above location for the sum of three hundred fifty and no/100 dollars (\$350) per month,

payable by the City to Contractor within (30) days after the last day of each month for which service is provided hereunder. If service is provided for only a portion of a month, then such monthly sum shall be prorated by the number of days for which service was provided to the City by Contractor during such month, divided by the number of days for which service is to be provided in each month under Exhibit "B" to this Agreement.

5. ***NO ADDITIONAL COMPENSATION.*** Contractor shall not receive any additional compensation for travel, per diem, subsistence expenses, or any other expenses, all such expenses having been included in the rates set forth in paragraph 4, above.

6. ***PERSONNEL, EQUIPMENT AND SUPPLIES.*** Contractor, at Contractor's expense, shall supply all personnel, equipment and supplies necessary to carry out the scope of work under this Agreement. The City will supply toilet paper, paper towels and waste receptacle bags.

7. ***HAZARDOUS MATERIALS.*** In providing services hereunder, Contractor shall not utilize any supplies or materials that are a Hazardous Material, as defined herein, or that would impose a cleanup obligation on behalf of the City under any federal, state or local law or regulation. Contractor shall not discharge, leak, emit, or permit to be discharged, leaked, or emitted, any Hazardous Material into the atmosphere, ground, sewer system, or any body of water. As used herein, the term "Hazardous Material" means:

- a. Any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder;
- b. Any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder;
- c. Any substance which is or becomes regulated by any federal, state, or local

governmental authority.

Contractor agrees that it shall be fully liable for all costs and expenses related to the use, storage, and disposal of Hazardous Material used or brought upon the location by the Contractor, and the Contractor shall give immediate notice to the City of any violation of the provisions of this Section. Contractor shall defend, indemnify, and hold harmless the City from and against any claims, demands, penalties, fines, liabilities, settlements, damages (including, but not limited to all damages for injury to person and/or property) cleanup expense, and all other costs or expenses (including, without limitation, attorneys' and consultant fees, court costs, and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to the presence, disposal, contamination, release of any such Hazardous Material by Contractor, its agents or employees, which is on, from, or affects soil, water, vegetation, buildings, personal property, persons, animals, or otherwise.

8. ***SECURITY; DUTY OF CONTRACTOR TO CONTROL ACCESS.*** The City will provide Contractor a key or keys to access the location at which services are to be provided hereunder. Contractor shall keep such key or keys secure at all times so as to prevent unauthorized access to such location and shall not make copies of, nor permit any other person to make copies of, such keys.

Contractor shall access the location at which services are to be provided only for the purposes of providing such services and only at the times set forth in Exhibit "B" to this Agreement. While accessing such location, Contractor shall not authorize, permit or allow any person other than an employee of Contractor actually providing services under this Agreement to access the location where services are to be provided.

Contractor shall, at the inception of this Agreement, provide to the City a written list of names of the persons who are providing services to the City under this Agreement and shall immediately update such listing in the event that new or different persons are providing services

to the City under this Agreement. No person, other than persons named in the written listing provided by Contractor to the City, shall be allowed by Contractor to access the location while Contractor is providing services under this Agreement.

Unless otherwise instructed by the City, in writing, Contractor shall keep all doors to the location at which services are to be provided locked during periods which services are being provided by Contractor hereunder and shall assure that all doors are locked when leaving the location.

**9. *INDEPENDENT CONTRACTOR STATUS OF CONTRACTOR; PROOF OF WORKERS' COMPENSATION COVERAGE OR EXEMPTION CERTIFICATE.*** Contractor is an independent contractor under this Agreement and is not the employee or agent of the City. Contractor, its officers, agents and employees, shall not hold themselves out as, nor represent themselves to be, employees or agents of the City. Contractor shall provide Workers' Compensation insurance coverage on all of its employees engaged in providing services under this Agreement, unless specifically exempted by law, and shall pay all payroll taxes, including FICA, Medicare, and unemployment, for its employees providing services hereunder. Contractor, prior to commencing work under this Agreement, shall provide to the City a certificate of insurance from the insurer providing Workers' Compensation insurance to Contractor. If Contractor claims exemption from providing Workers' Compensation insurance under Montana law, Contractor shall provide the City with a copy of its independent contractor exemption certificate issued by the Montana Department of Labor and Industry pursuant to §39-71-417 MCA.

**10. *NONDISCRIMINATION.*** In compliance with §49-3-207 MCA, all hiring by Contractor shall be on the basis of merit and qualification, and Contractor, in the performance of this Agreement, shall not discriminate on the basis of race, color, religion, creed, political ideas,



sex, age, marital status, physical or mental disability, or national origin.

11. **INDEMNIFICATION.** Contractor shall indemnify, defend and hold the City harmless from all liabilities and claims incurred in performance of the services provided hereunder.

12. **INSURANCE REQUIREMENTS.** During the term of this Agreement, Contractor shall maintain in full force and effect a policy of commercial general liability insurance providing coverage for negligence, errors and omissions of Contractor in such amounts as set forth in Exhibit "C", *Insurance Requirements*, attached hereto and made a part hereof. Contractor shall provide the City with certificates of insurance for such complying insurance coverage at the inception of this Agreement, and thereafter, upon reasonable demand, satisfactory evidence of the existence and continued existence of such insurance coverage. All such policies of insurance shall require at least ten (10) days advanced written notice by the insurer to the City prior to any cancellation, termination or lapse of such insurance coverage.

13. **PROHIBITION OF ASSIGNMENT OR SUBCONTRACTING.** This Agreement is personal as to Contractor and may not be assigned by Contractor, or subcontracted in any manner, without the prior written consent of the City.

14. **DEFAULT.** In the event that Contractor fails to timely and competently provide services, within the scope of services set forth in Exhibit "B", or otherwise fails to perform or violates any of the other terms and conditions of this Agreement, the City may give Contractor written notice of such default, detailing the nature of the default, and Contractor shall have fifteen (15) days from the date of such notice to correct the default. If Contractor does not fully correct the default within fifteen (15) days of the date of giving of such notice, the City may, without further notice, terminate this Agreement and it shall have no further force and effect. Notice shall be served upon Contractor by certified mail, return receipt requested, addressed to

Contractor at:

Marilyn Forman  
58 Pony Lane  
Miles City, MT 59301

Notice shall be deemed given as of the date of its deposit into the United States Mail. The failure or forbearance of the City to give notice of default shall not constitute a waiver of further defaults by Contractor. Nothing herein shall be construed as limiting the right of the City to terminate this Agreement for cause, without notice of default, in the event of repeated defaults noticed by the City to Contractor.

15. **MODIFICATION.** This Agreement constitutes the entire Agreement of the parties and supersedes all prior negotiations and understandings of the parties. This Agreement may be modified only by written instrument executed by all parties.

16. **LITIGATION.** In the event that it becomes necessary for either party to institute legal proceedings to enforce any of the terms of this Agreement, then the prevailing party in such proceedings shall be entitled to recover from the non-prevailing party all costs and expenses incurred in such proceedings, including reasonable attorney's fees.

17. **VENUE.** This Agreement shall be construed under the laws of the State of Montana and any action upon this Agreement shall be venued in Custer County, Montana.

18. **TIME OF THE ESSENCE.** Time is of the essence of this Agreement.

19. **BINDING EFFECT.** This Agreement is binding upon and inures to the benefit of the parties, their successors and assigns. The terms of this Agreement may be enforced individually by the member facilities of the Network receiving services under this Agreement.

20. **CAPACITY; PROOF OF GOOD STANDING.** The signators to this Agreement represent and warrant that they have the legal capacity and authority to bind the entities which are the parties to this Agreement. If Contractor is a corporation or limited liability company, at

time of execution of this Agreement Contractor shall provide to City a Certificate of Existence for such entity issued by the Montana Secretary of State. If Contractor is operating under an assumed business name, at time of execution of this Agreement Contractor shall provide to City a Certificate of Fact issued by the Montana Secretary of State evidencing registration of such assumed business name.

**EXECUTED** this 14<sup>th</sup> day of July, 2020.

CITY OF MILES CITY, MONTANA

By: \_\_\_\_\_  
Its Mayor

Contractor

By: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT "A"**

**LOCATION**

Contractor shall provide the City janitorial services, as specified in Exhibit "B", at the following location(s):

Police Department, 210 S. Winchester, Miles City, Montana

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Initialed for identification:

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City

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Contractor

**EXHIBIT "B"**

**SERVICES TO BE PROVIDED AND FREQUENCY**

**The following schedule applies to all areas (offices) at the Police Building.**

| <b>Description of Services:</b>                             | <b>Frequency:</b>    | <b>Day/Time to be Provided:</b>                            | <b>Other:</b> |
|---|----------------------|--|---------------|
| Empty trash receptacles                                     | Three times per week | After 5pm on weekdays and no time restrictions on weekends |               |
| Clean & sanitize all restrooms                              | Three times per week | Same   |               |
| Vacuum all carpeted areas                                   | Three times per week | Same   |               |
| Clean front entry   | Three times per week | Same   |               |
| Dust &/or Damp Mop floors                                   | Three times per week | Same   |               |
| Clean windows inside  | Quarterly            | Same   |               |
| Dust Blinds   | Quarterly            | Same   |               |
| Clean garbage cans, clean/dust chairs and bottoms of desks. | As needed or yearly  | Same   |               |

Initialed for identification

\_\_\_\_\_  
City

\_\_\_\_\_  
Contractor

**EXHIBIT "C" INSURANCE  
REQUIREMENTS**

Contractor shall provide insurance coverage pursuant to Section 3 of the Janitorial Services Contract in the following amounts:

Personal Injury:                      \$250,000.00 per person

\$500,000.00 per occurrence

Property Damage:                    \$100,000.00 per occurrence

Initialed for identification:

\_\_\_\_\_

City

\_\_\_\_\_

Contractor

## **RESOLUTION NO. 4332**

### **A RESOLUTION APPROVING THE WORK PLAN AND BUDGET FOR FISCAL YEAR 2020-2021 FOR BUSINESS IMPROVEMENT DISTRICT NO. 101, AND PROVIDING FOR HEARING THEREON**

*WHEREAS*, the City of Miles City by Ordinance 1202 established Business Improvement District No. 101;

*AND WHEREAS*, §7-12-1132 MCA requires the trustees of such business improvement district to annually submit to the City Council of the City of Miles City, for its approval, a work plan and proposed budget for the ensuing fiscal year;

*AND WHEREAS*, on June 25, 2020, the trustees of said District did submit to the City Council their proposed work plan for FY 2020-2021;

*AND WHEREAS*, the City Council has considered and approves of such work plan and proposed budget, and desires to finally approve the same, following a public hearing as required by §7-12-1132(3) MCA

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

Upon hearing and full consideration, the City Council of the City of Miles City hereby approves the work plan and proposed budget of Business Improvement District No. 101 for FY 2020-2021, attached hereto as Exhibit "A" and made a part hereof.

**BE IT FURTHER RESOLVED** that pursuant to §7-12-1132(3) MCA, a public hearing shall be held on the above proposed approval on the 14<sup>th</sup> day of July, 2020, at 6:00 p.m. in the Council Chambers at City Hall, 17 S. Eighth Street, Miles City, Montana. The City Clerk shall cause notice of such hearing to be published in the Miles City Star, in accordance with §15-10-203 MCA, at least 2 times with at least 6 days separating each publication. Such publication shall be placed in a portion of the newspaper other than that portion utilized for legal and classified advertisements.

**SAID RESOLUTION READ AND PUT UPON ITS FINAL PASSAGE THIS 14<sup>TH</sup> DAY OF JULY, 2020.**

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

ATTEST:

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

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 28<sup>TH</sup> DAY OF JULY 2020.**

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

ATTEST:

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



Exhibit A

TBID 2021

**BEGINNING BALANCE: \$30,900.00**

Tournament Support: \$12,000.00

Advertising: \$15,000.00

Local Event Support: \$20,000.00

Convention Support: \$3,000.00

Insurance: \$2,140.00

Recruitment: \$1,500.00

Dues: \$1,350.00

Legislative: \$840.00

Miscellaneous: \$320.00

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**TOTAL EXPENDITURES: \$56,150.00**

**TOTAL COLLECTIONS: \$40,150.00**

**ENDING BALANCE: \$14,900.00**

**This Breakdown is for Fiscal Year 2021**

Most categories are self-explanatory, but some do need explaining.

**Insurance:** will be less of an expense this year do to the fact we no longer need General Liability Insurance Only Directors and Officers Insurance.

**Dues:** We belong to MLHA and Tourism Matters. Both organizations lobby for our protection. I am a board member from the east for Tourism Matters and we spent hours lobbying against placing our funds into the State General Fund.

**Legislative:** This offsets bills incurred in my (9) trips to the legislature to testify on our behalf. All with Board Approval

**Miscellaneous:** This was a web site charge that didn't fit in any other category.

**RESOLUTION NO. 4333**

**A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO A MAIN STREET PROGRAM GRANT CONTRACT WITH THE MONTANA DEPARTMENT OF COMMERCE CONTRACT# MT-MMS-20-007**

*WHEREAS*, the City has applied for a Main Street Program Grant with the Montana Department of Commerce to assist in funding the creation of a Tax Increment Finance District in Miles City, Montana;

*AND WHEREAS* a grant in the amount of \$10,000.00 has been awarded to the City of Miles City, and an agreement has been provided to the City by the Montana Department of Commerce in order to accept said grant.

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

1. The City hereby accepts the \$10,000.00 grant from the Montana Department of Commerce, and the Mayor of the City of Miles City is hereby empowered and authorized enter into the Montana Department of Commerce Main Street Program City of Miles City Contract, attached hereto as Exhibit "A," on behalf of the City of Miles City and bind the City of Miles City thereto; and

2. The Mayor of the City of Miles City is hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of said award and bind the City of Miles City thereto.

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 14<sup>th</sup> DAY OF JULY 2020.**

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John Hollowell, Mayor

ATTEST:

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Lorrie Pearce, City Clerk

Exhibit A

**MONTANA DEPARTMENT OF COMMERCE  
MAIN STREET PROGRAM  
CONTRACT #MT-MMS-20-007**

This agreement ("Contract") is entered into by the City of Miles City, Montana ("Grantee") and the Montana Department of Commerce ("Department").

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

**Section 1. PURPOSE**

The purpose of this Contract is to provide funding to the Grantee for community revitalization activities approved by the Department under the Montana Main Street Program ("MMS" or "Program").

**Section 2. AUTHORITY**

This Contract is issued under authority of Title 90, Chapter 1, Part 1 of the Montana Code Annotated ("MCA").

**Section 3. APPLICATION INCORPORATED BY REFERENCE**

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

**Section 4. ACCEPTANCE OF PROGRAM REQUIREMENTS**

- (a) The Grantee will comply with all applicable local, state, and federal laws as well as all applicable regulations, ordinances, and resolutions now in effect or as may be amended during the term of this Contract. Grantee will comply with all administrative directives and procedures that may be established or amended by the Department for the Program, including the most current version of the *MMS Program Guidelines*.
- (b) The Grantee agrees that all contracts and subcontracts entered into for the completion of the activities described in Section 6 will require such contractors, subcontractors, and subrecipient entities to also comply with all requirements placed on the Grantee in paragraph (a) of this Section.
- (c) The Grantee agrees to repay to the Department any funds advanced under this Contract that the Grantee, its contractors, subcontractors, or subrecipient entities, or any public or private agent or agency to which it delegates authority to carry out portions of this Contract, expends in violation of the terms of this Contract, the

statutes, and regulations governing the Program or any applicable local, state, or federal requirements.

- (d) The Grantee acknowledges and agrees that neither the funding of the Project under this Contract nor any review of the final deliverables by the Department constitutes the Department's approval or endorsement of the contents of such.

**Section 5. EFFECTIVE DATE AND TIME OF PERFORMANCE**

- (a) This Contract shall take effect upon execution by the parties and will terminate on March 31, 2022 or upon approval of Grantee's Project completion report by the Department, whichever is later, unless otherwise terminated in accordance with this Contract.
- (b) All authorized expenses to be reimbursed must be incurred by the Grantee between February 5, 2020 and December 31, 2021. All requests for reimbursement must be submitted to the Department within ninety (90) days after December 31, 2021.
- (c) The activities to be performed by the Grantee will be completed according to the implementation schedule set forth in Exhibit A. The Grantee may modify the implementation schedule set forth in Exhibit A only with prior written approval of the Department.
- (d) The Grantee will procure its primary contractor to complete the Project within six (6) months of the execution of this Contract or the Contract will terminate unless the Department determines, in its sole discretion, that Grantee has demonstrated substantial progress towards procuring a contractor.
- (e) The Department may grant an extension to this Contract upon request by the Grantee if the Department determines, in its sole discretion, that the Grantee has demonstrated progress toward completion of the Project, has engaged in a good faith effort to comply with the duties, terms, and conditions of this Contract, and that the failure to comply with any of those services, duties, terms, or conditions resulted from circumstances beyond the Grantee's control. A written request for an extension must be submitted at least sixty (60) days prior to March 31, 2022.

**Section 6. SCOPE OF WORK**

The Grantee will complete the Project and administer this Contract as set forth in the Grantee's application for Program assistance, including any amendments, approved by the Department. The Grantee will use Program funds for the following major components of the Project:

- Preliminary conference call with the Department prior to beginning the Project to confirm Project components;
- Development of a Façade Improvement Program Guidelines, and;
- Implementation of a Façade Improvement Program for the Miles City historic commercial district

### **Section 7. BUDGET**

- (a) The total amount to be awarded to the Grantee under this Contract shall not exceed \$10,000.
- (b) A copy of the Project budget is attached as Exhibit B and specifically incorporated herein by this reference. Any changes to the budget as proposed and incorporated within this Contract require a written request to and approval by the Department.
- (c) Any authorized funds not expended under this grant by the later date referenced in Section 5(b) or otherwise accounted for in accordance with the provisions of this Section will revert to the Department and will be used to finance other Program projects.

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

- (a) The Grantee agrees to create and maintain records supporting the services covered by this Contract, including but not limited to, financial records, supporting documents, and such other records as are required by law or other authority, for a period of five (5) years after either the termination date of the Contract or the conclusion of any claim, litigation, or exception relating to the Contract taken by the State of Montana or third party, whichever is later. These records will be kept in the Grantee's offices in Miles City, Montana.
- (b) The Grantee shall provide the Department, Montana Legislative Auditor, or their authorized agents access to any records necessary to determine contract compliance.

### **Section 9. LIAISONS**

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

**For the Department:**  
**Keegan Hall (or successor)**  
**Program Specialist, MDOC**  
**301 S. Park Ave.**  
**P.O. Box 200523**  
**Helena, MT 59620-0523**  
**406-841-2818**  
**Keegan.hall@mt.gov**

**For the Grantee:**  
**Ally Capps (or successor)**  
**Planner, Miles City**  
**P.O. Box 910**  
**Miles City, MT 59301**  
**406-874-8613**  
**Mcplanner@milescity-mt.org**

## **Section 10. METHOD OF REIMBURSEMENT**

- (a) The Department will not release any Program funds to the Grantee until the Grantee has obtained firm commitments for all other financial resources to be involved in the Project, as defined in Section 6 and Exhibit B. The Grantee may not expend or obligate any Program funds, other than for administrative purposes, until the Department determines that this condition has been satisfied.
- (b) The Department agrees that, if and when the funds described in paragraph (a) of this Section are available, the Department will authorize the Grantee to request reimbursement from funding awarded for the Project.
- (c) The Department agrees to reimburse the Grantee for eligible Project costs incurred on or after the date identified in Section 5(b) upon the successful completion of activities set forth in Section 6. All reimbursements must be supported by adequate documentation provided by the Grantee, and require Department approval of the Grantee's request for reimbursement. In requesting reimbursement, the Grantee will follow the instructions supplied by the Department.
- (d) Unless previously agreed to in writing by the Department, the Department will not reimburse Grantee for any costs related to the land acquisition, construction, construction inspection, or contingency line items in Exhibit B until Grantee demonstrates all applicable permits for the project have been obtained as required in Section 4(c).
- (e) The Department will not reimburse the Grantee for any costs incurred prior to the date identified in Section 5(b), any expenses not included in Exhibit B or an approved adjustment thereto, any ineligible expenses as set forth in the most current version of the *MMS Program Guidelines*, or any expenses not adequately supported by the Grantee's records.
- (f) As set forth in Section 17, if the Grantee fails to or is unable to comply with any of the terms and conditions of this Contract any costs incurred will be the Grantee's sole responsibility.
- (g) The Department is allowed fifteen (15) working days to process a request for

reimbursement once adequate supporting documentation has been received by the Department. The Grantee shall provide banking information before or at the time of Contract execution in order to facilitate electronic funds transfer payments.

- (h) If the Grantee changes one of its sources of funding or the cost of the Project increases after the Grantee has obtained the firm commitment of non-Program funds, the Department may, at its discretion, suspend the distribution of Program funds until the Grantee obtains a firm commitment of funds for the full Project budget.
- (i) The Department may reduce the Grantee's amount of Program funds provided by this Contract if actual Project expenses are lower than projected by the Grantee in Exhibit B or the Grantee obtains a greater amount of grant funds from other sources than as presented in the Project application.
- (j) If the Department determines that the Grantee has failed to satisfactorily carry out its responsibilities under this Contract or has breached the terms of this Contract, the Department may withhold reimbursement to the Grantee until such time as the Department and the Grantee agree on a plan to remedy the deficiency.
- (k) Requests for reimbursement for contracted or subcontracted services must include appropriate documentation demonstrating compliance with contract requirements.
- (l) The Grantee may not use monies provided through this Contract as payment for Project costs that are reimbursed from other sources.
- (m) The Department, in its sole discretion, may allow the Grantee to amend Section 6. The Department will review the following: likelihood to expend all grant funds prior to the deadline in Section 5(b); progress toward completion of the Project; good faith effort to comply with any of the duties, terms, and conditions of this Contract; and the failure to comply with any of those services, duties, terms, or conditions resulted from circumstances beyond the Grantee's control. A written request for an amendment to Section 6 must be submitted at least sixty (60) days prior to the termination date of this Contract.

**Section 11. REPORTING REQUIREMENTS**

- (a) Project Progress Reports: During the term of this Contract the Grantee will submit Project progress reports to the Department in conjunction with each request for reimbursement. These reports will describe the status of the activities set forth in Section 6, including, at a minimum, the percentage completed, costs incurred, funds remaining, and projected completion date. Additionally, the report must



provide documentation supporting each claim for expenses to be reimbursed, describe any significant problems encountered in carrying out the Project, and the scope of any necessary modifications the Grantee is requesting in the Project scope of work, budget, or implementation schedule. The Department, at its sole discretion, may decline to honor any request for reimbursement if the required project progress report has not been submitted to or approved by the Department.

- (b) Project Completion Report: Upon completion of the Project, the Grantee will submit a final Project completion report for Department approval. The Project completion report will describe the total costs incurred for the Project, identify the final completion date, and summarize any significant problems encountered in carrying out the Project. Upon approval of the Project completion report, the Department will issue a notice of Project close-out.

## **Section 12. PROJECT MONITORING**

The Department or any of its authorized agents may monitor and inspect all phases and aspects of the Grantee's performance to determine compliance with Section 6 of this Contract, the proper use of funds, and other technical and administrative requirements of this Contract, including the adequacy of the Grantee's records and accounts. The Department may advise the Grantee of any specific areas of concern and provide the Grantee opportunity to propose corrective actions acceptable to the Department.

## **Section 13. NOTICE**

All notices required under the provisions of this Contract must be in writing and delivered to the parties' liaisons identified herein either by first class mail or personal service.

## **Section 14. REFERENCE TO CONTRACT**

The Contract number must appear on all invoices, reports, and correspondence pertaining to the Contract.

## **Section 15. ASSIGNMENT, TRANSFER AND SUBCONTRACTING**

- (a) The Grantee may subcontract any portion of this Contract to accomplish the completion of the Project. However, Grantee accepts responsibility for the adherence to the terms of this Contract by such contractors, subcontractors, or subrecipient entities and by any public or private agents or agencies to which it delegates authority to carry out any portion(s) of this Contract. The Grantee may not otherwise assign or transfer any portion of this Contract without the express written consent of the Department.

- (b) The Grantee's assignment, transfer, or subcontract of this Contract or any portion thereof neither makes the Department a party to that agreement nor creates any right, claim, or interest in favor of any party to that agreement against the Department. No contractual relationships exist between any subcontractor, assignee, or transferee and the Department.
- (c) The Grantee must immediately notify the Department of any litigation concerning any assignment, transfer, or subcontract of this Contract or any portion thereof.

## **Section 16. CONTRACT AMENDMENT**

This Contract may not be enlarged, modified, or altered without a written agreement signed by all parties to the Contract.

## **Section 17. TERMINATION OF CONTRACT**

This Contract may only be terminated in whole or in part as follows:

- (a) Termination Due to Loss or Reduction of Funding: The Department, at its sole discretion, may terminate or reduce the scope of this Contract if any funding sources are eliminated or reduced for any reason. If a termination or modification is required, the Department may, if sufficient Program funds are available, compensate the Grantee for eligible services rendered and actual, necessary, and eligible expenses incurred as of the revised termination date. The Department will notify the Grantee of the effective date of the termination or modification of this Contract and, if a reduction in funding is required, provide the Grantee with a modified Project budget amount.
- (b) Termination for Cause with Notice to Cure Requirement: The Department may terminate this Contract for failure of the Grantee, its contractors, subcontractors, or subrecipient entities to perform or comply with any of the services, duties, terms, or conditions contained in this Contract after giving the Grantee written notice of the stated failure. The written notice will demand performance of the stated failure within a specified period of time not less than thirty (30) days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.
- (c) Effect of Termination: In the event of termination due to the Grantee's, its contractors', subcontractors', or subrecipient entities' failure to perform or comply with any of the services, duties, terms, or conditions of this Contract, any costs incurred will be the responsibility of the Grantee. However, at its sole discretion, the Department may approve requests by the Grantee for reimbursement of eligible expenses incurred. The Department's decision to authorize payment of any costs incurred or to recover expended Program funds will be based on a consideration of the extent to which the expenditure of those funds represented a

good faith effort of the Grantee to comply with any of those services, duties, terms, or conditions of this Contract, and on whether the failure to comply with any of those services, duties, terms, or conditions resulted from circumstances beyond the Grantee's control.

### **Section 18. COMPLIANCE WITH APPLICABLE LAWS**

- (a) The Grantee, in performance of work under the Contract, must 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, the Patient Protection and Affordable Care Act ("ACA"), and Executive Order No. 12-2015, *Amending and Providing For Implementation of the Montana Sage Grouse Conservation Strategy*. Any subletting or subcontracting by the Grantee subjects subcontractors to the same requirements.
- (b) In accordance with Section 49-3-207, MCA and Executive Order No. 04-2016, the Grantee agrees that the hiring of persons to perform the Contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, sex, pregnancy, childbirth or medical conditions related to childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status.
- (c) The ACA requires a Grantee, if Grantee is an applicable large employer under the ACA, to provide healthcare coverage for its employees, who provide services for the State and work for thirty (30) or more hours per week. This coverage must also cover the eligible employee's dependents under the age of 26. The coverage must meet the minimum essential coverage, minimum value, and affordability requirements of the employer responsibility provisions of the ACA under Section 4980H, and otherwise satisfy the requirements of the ACA Section 4980 H if provided by the State.

### **Section 19. ACCOUNTING, COST PRINCIPLES, AND AUDITING**

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

administration, expenditure of monies, and delivery of services provided through this Contract.

## **Section 20. AVOIDANCE OF CONFLICT OF INTEREST**

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

## **Section 21. COMPLIANCE WITH WORKERS' COMPENSATION ACT**

Grantees are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with Sections 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 the Grantee nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the Contract. Proof of compliance and renewal documents must be sent to the Department within thirty (30) days of Contract execution.

## **Section 22. OWNERSHIP AND PUBLICATION OF MATERIALS**

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

## Section 23. INSURANCE

- (a) General Requirements: Grantee must maintain and assure that its representatives, assigns, and subcontractors maintain for the duration of the Contract, at their own cost and expense, liability insurance against claims for injuries to persons or damages to property, including contractual liability, that may arise from or in connection with the performance of the duties and obligations in the Contract by Grantee, its agents, employees, representatives, assigns, or subcontractors. This insurance must cover such claims as may be caused by any negligent act or omission. The State, its officers, officials, employees, and volunteers must be covered as additional insureds for all claims arising out of the use of grant proceeds provided by the State of Montana.
- (b) General Liability Insurance: At its sole cost and expense, Grantee must purchase occurrence coverage with minimum combined single limits of \$1 million per occurrence and \$2 million aggregate per year, or as established by statutory tort limits of \$750,000 per claim and \$1,500,000 per occurrence as provided by a self-insurance pool insuring counties, cities, or towns, as authorized under Section 2-9-211, MCA.
- (c) Professional Liability Insurance: Grantee shall assure that any representatives, assigns, and subcontractors performing professional services under this Contract purchase occurrence coverage with combined single limits for each wrongful act of \$1,000,000 per occurrence and \$2,000,000 aggregate per year. *Note: if "occurrence" coverage is unavailable or cost prohibitive, the contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the Contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three (3) year tail for claims that are filed after the cancellation or expiration date of the policy.*
- (d) General Provisions: All insurance coverage must be with a carrier licensed to do business in the State of Montana and with a Best's rating of at least A-, or by a public entity self-insured program either individually or on a pool basis as provided by Title 2, MCA. All certificates and endorsements must be received by the Department prior to beginning any activity provided for under the Contract. Grantee must notify the Department immediately of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc. The Department reserves the right to request complete copies of Grantee's insurance policy, including endorsements, at any time.

## Section 24. HOLD HARMLESS AND INDEMNIFICATION

The Grantee agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such,

harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Grantee's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed, omissions of services, or in any way resulting from the acts or omissions of the Grantee and/or its agents, employees, representatives, assigns, or subcontractors under this Contract.

**Section 25. DEFAULT**

Failure on the part of either party to perform the provisions of the Contract constitutes default. Default may result in the pursuit of remedies for breach of contract as set forth herein or as otherwise legally available, including but not limited to damages and specific performance.

**Section 26. DEBARMENT**

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

**Section 27. FORCE MAJEURE**

Neither party will be 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, bombs, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the non-performing party, so long as such party is using its best efforts to remedy such failure or delays.

**Section 28. SEPARABILITY**

A declaration by any court, or any other binding legal forum, 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 dependent.

**Section 29. ARBITRATION**

Unless otherwise agreed to in writing or provided for by law, arbitration is not available to the parties as a method of resolving disputes that would arise under the Contract.

**Section 30. NO WAIVER OF BREACH**

No failure by the Department to enforce any provisions hereof after any event of breach will be deemed a waiver of its rights regarding that event, or any subsequent event. No

express failure of any event of breach will be deemed a waiver of any provision hereof. No such failure or waiver will be deemed a waiver of the right of the Department to enforce each and all the provisions hereof upon any further or other breach on the part of the Grantee.

**Section 31. JURISDICTION AND VENUE**

This Contract is governed by the laws of Montana. The parties agree that any litigation concerning this Contract must be brought in the First Judicial District in Lewis and Clark County, State of Montana and each party must pay its own costs and attorney fees.

**Section 32. INTEGRATION**

The Contract contains the entire agreement between the parties. No statements, promises, or inducements of any kind made by either party or the agents of either party, not contained herein or in a properly executed amendment hereto are valid or binding.

IN WITNESS OF THE TERMS SET OUT ABOVE, the parties hereto have caused this Contract to be executed.

**CITY OF MILES CITY:**

|                       |           |
|-----------------------|-----------|
| <u>John Hollowell</u> | 6/26/2020 |
| John Hollowell, Mayor | Date      |

**ATTEST:**

\_\_\_\_\_  
Lorrie Pierce, City Clerk

**APPROVED AS TO FORM:**

Daniel Rice  
Dan Rice, Attorney

**MONTANA DEPARTMENT OF COMMERCE:**

|   |              |
|---|--------------|
| <br>_____<br>Jennifer H. Olson, Administrator<br>Community Development Division | <br><br>Date |
|---|--------------|

**EXHIBIT A**  
**Implementation Schedule**

| <b>TASK</b>  | <b>QUARTERS, 2020</b> |                    |                    |                    | <b>QUARTERS, 2021</b> |                    |                    |                    |
|--|-----------------------|--------------------|--------------------|--------------------|-----------------------|--------------------|--------------------|--------------------|
|  | <u>1st<br/>JFM</u>    | <u>2nd<br/>AMJ</u> | <u>3rd<br/>JAS</u> | <u>4th<br/>OND</u> | <u>1st<br/>JFM</u>    | <u>2nd<br/>AMJ</u> | <u>3rd<br/>JAS</u> | <u>4th<br/>OND</u> |
| <b><u>PROJECT START-UP</u></b>                       |                       |                    |                    |                    |                       |                    |                    |                    |
| Contract (City and DOC)                              |                       | <b>X</b>           |                    |                    |                       |                    |                    |                    |
| <b><u>PROCUREMENT OF PROFESSIONAL ASSISTANCE</u></b> |                       |                    |                    |                    |                       |                    |                    |                    |
| Prepare and Publish RFP                              |                       | <b>X</b>           |                    |                    |                       |                    |                    |                    |
| Select designer and develop contract                 |                       | <b>X</b>           |                    |                    |                       |                    |                    |                    |
| Execute agreement with professional                  |                       | <b>X</b>           |                    |                    |                       |                    |                    |                    |
| <b><u>PROJECT IMPLEMENTATION</u></b>                 |                       |                    |                    |                    |                       |                    |                    |                    |
| Complete design                                      |                       |                    | <b>X</b>           |                    |                       |                    |                    |                    |
| Bid for construction                                 |                       |                    | <b>X</b>           |                    |                       |                    |                    |                    |
| Select and contract with contractor                  |                       |                    | <b>X</b>           |                    |                       |                    |                    |                    |
| Construction   |                       |                    | <b>X</b>           |                    |                       |                    |                    |                    |
| <b><u>PROJECT CLOSE OUT</u></b>                      |                       |                    |                    |                    |                       |                    |                    |                    |
| Submit Final Document                                |                       |                    | <b>X</b>           |                    |                       |                    |                    |                    |
| Project Completion Report/Final Request for Funds    |                       |                    |                    | <b>X</b>           |                       |                    |                    |                    |
| Contract End Date                                    |                       |                    |                    |                    | <b>2022</b>           |                    |                    |                    |



EXHIBIT B  
Budget

|                     | <b>SOURCE:<br/><i>MMS</i></b> | <b>SOURCE:<br/><i>Miles City<br/>URA</i></b> | <b>SOURCE:<br/><i>Miles City<br/>HP Office</i></b> | <b>TOTAL</b>    |
|---------------------|-------------------------------|--|--|-----------------|
| <b>Construction</b> | <b>\$10,000</b>               | <b>\$10,000</b>                              | <b>\$2,000</b>                                     | <b>\$22,000</b> |

State of Montana  
Surplus Property Program  
P O Box 200137  
Helena, MT 59620-0137  
(406) 431-3104

RESOLUTION

4334

(For Surplus Program Use)

Donee #: \_\_\_\_\_

Approved to acquire:

State: Yes No

Federal: Yes No

BE IT RESOLVED THAT: City of miles city  
(Print Legal Name of Applicant Organization)

STREET ADDRESS: 17 S. 8<sup>th</sup> ST City: miles City MT 59301

MAILING ADDRESS: PO Box City: miles City MT 59301

PHONE NUMBER: 406-234-3462 FAX NUMBER: 406-234-1093

E-MAIL ADDRESS: cityclerk@milescty-mt.org

by its Governing Board (or) by the Chief Administration Officer, if not governed by a board, shall obligate the Applicant and its funds to the extent necessary to comply with the TERMS and CONDITIONS listed on the reverse side of this form. **The employee(s) whose name(s) and signature(s) appears on this document is (are) authorized to acquire federal and/or state surplus property from the State of Montana Surplus Property Program for the above Applicant.**

BE IT FURTHER RESOLVED THAT this certified copy of the Resolution shall be submitted to the State of Montana, Surplus Property Program and the same remain in effect until written notice is given to the Surplus Property Program to change or rescind said Resolution.

**CERTIFICATION:** I, John Hollowell hereby certify that I am the  
(Chairman of the Board (or) Administrative Officer)

Mayor of the City of miles City  
(Title) (Full Legal Name of Governing Board)

of the above applicant that the foregoing is

- (1) a true and correct copy of the Resolution adopted be the vote of the majority of said board present at a duly-convened
- (2) meeting of the said board on the 14<sup>th</sup> day of July, 2020 at which a quorum was present.

OR

- (2) an executive action taken by me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

SIGNATURE: \_\_\_\_\_  
(Chairman of the Board (or) Administrative Officer)

**AGENTS AUTHORIZED TO ACQUIRE SURPLUS PROPERTY AND THEIR SIGNATURES**

| TYPE OR PRINT NAME:       | SIGNATURE (required): | DEPARTMENT:         | EMAIL ADDRESS: |
|---------------------------|-----------------------|---------------------|----------------|
| 1. <u>John Hollowell</u>  | _____                 | <u>Mayor</u>        | _____          |
| 2. <u>Tom Speelman</u>    | _____                 | <u>PU Director</u>  | _____          |
| 3. <u>Scott Gray</u>      | _____                 | <u>PW Director</u>  | _____          |
| 4. <u>Doug Colombik</u>   | _____                 | <u>Police Chief</u> | _____          |
| 5. <u>Branden Stevens</u> | _____                 | <u>Fire Chief</u>   | _____          |
| 6. <u>horie Pearce</u>    | _____                 | <u>City Clerk</u>   | _____          |

7. Sonja Woods Library Director

8. Jeff Langkau Airport Director

## FEDERAL SURPLUS PROPERTY TERMS AND CONDITIONS

### (A) THE DONEE CERTIFIES THAT:

1. It is a public agency; or a nonprofit educational or public health institution or organization, exempt from taxation under Section 501 of the Internal Revenue Code of 1954; within the meaning of Section 203(J) of the Federal Property and Administrative Services Act of 1949, as amended and the regulations of the Administrator of General Services.

2. If a public agency; the property is needed and will be used by the recipient for carrying out or promoting for the residence of a given political area one or more public purposes, or, if a nonprofit tax-exempt institution or organization, the property is needed for and will be used by the recipient for educational or public health purposes, and including research for such purpose. The property is not being acquired for any other use or purpose, or for sale or other distribution; or for permanent use outside the state, except with prior approval of the state agency.

3. Funds are available to pay all costs and charges incident to donation.

4. This transaction shall be subject to the nondiscrimination regulations governing the donation of surplus personal property issued under Title VI of the Civil Rights Act of 1964; Title VI, Section 606, of the Federal Property and Administrative Services Act of 1949, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972, as amended; and Section 303 of the Age Discrimination Act of 1975, as amended.

### (B) THE DONEE AGREES TO THE FOLLOWING FEDERAL CONDITIONS:

1. All such items of property shall be placed in use for the purpose(s) for which acquired within one year of receipt and shall be continued in use for such purpose(s) for one year from the date the property was placed in use. In the event the property is not so placed in use, or continued in use, the donee shall immediately notify the state agency and, at the donee's expense, return such property to the state agency, or otherwise make the property available for transfer of disposal by the state agency, provided the property is still usable as determined by the state agency.

2. Such special handling or use limitations as are imposed by General Services Administration (GSA) on any item(s) of property listed hereon.

3. In the event the property is not so used or handled as required by (B)(1) and (2), title and right to the possession of such property shall at the option of GSA revert to the United States of America and upon demand the donee shall release such property to such person as GSA or its designee shall direct.

### (C) THE DONEE AGREES TO THE FOLLOWING CONDITIONS IMPOSED BY THE STATE AGENCY APPLICABLE TO ITEMS WITH A UNIT ACQUISITION COST OF \$5,000 OR MORE AND PASSENGER MOTOR VEHICLES, REGARDLESS OF ACQUISITION COST, EXCEPT VESSELS 50 FEET OR MORE IN LENGTH AND AIRCRAFT:

1. The property shall be used only for the purpose(s) for which acquired and for no other purpose(s).

2. There shall be a period of restriction which will expire after such property has been used for the purpose(s) for which acquired for a period of 18 months from the date the property is placed in use, except for such items of major equipment, listed hereon on which the state agency designates a further period of restriction.

3. In the event the property is not used as required by (C) (1) and (2) and federal restrictions (B)(1) and (2) have expired then title and right to the possession of such property shall at the option of the state agency revert to the State of Montana and the donee shall release such property to such person as the state agency shall direct.

### (D) THE DONEE AGREES TO THE FOLLOWING TERMS, RESERVATIONS, AND RESTRICTIONS:

1. From the date it receives the property listed hereon and through the period(s) of time the conditions imposed by (B) and (C) above remain in effect, the donee shall not sell, trade, lease, lend, bail, cannibalize, encumber, or otherwise dispose of such property, or remove it permanently, for use outside the state, without the prior approval of GSA under (B) or the state agency under (C). The proceeds from any sale, trade, lease, loan, bailment, encumbrance, or other disposal of the property, when such action is authorized by GSA or by the state agency, shall be remitted promptly by the donee to GSA or the state agency, as the case may be.

2. In the event any of the property listed hereon is sold, traded, leased, loaned, bailed, cannibalized, encumbered, or otherwise disposed of by the donee from the date it receives the property through the period(s) of time the conditions imposed by (B) and (C) remain in effect, without the prior approval of GSA or the state agency, the donee, at the option of GSA or the state agency, shall pay to GSA or the state agency, as the case may be, the proceeds of the disposal or the fair market value or the fair rental value of the property at the time of such disposal, as determined by GSA or the state agency.

3. If at any time, from the date it receives the property through the period(s) of time the conditions imposed by (B) and (C) remain in effect, any of the property listed hereon is no longer suitable, usable, or further needed by the donee for the purpose(s) for which acquired, the donee shall promptly notify the state agency, and shall, as directed by the state agency, return the property to the state agency, release the property to another donee or another state agency or a department or agency of the United States, sell, or otherwise dispose of the property. The proceeds from any sale shall be remitted promptly by the donee to the state agency.

4. The donee shall make reports to the state agency on the use, condition, and location of the property listed hereon, and on other pertinent matters as may be required from time to time by the state agency.

5. At the option of the state agency, the donee may abrogate the conditions set forth in (C) and the terms, reservations, and restrictions pertinent thereto in (D) by payment of an amount as determined by the state agency.

### (E) THE DONEE AGREES TO THE FOLLOWING CONDITION, APPLICABLE TO ALL ITEMS OF PROPERTY LISTED HEREON:

1. The property acquired by the donee is on an "as is," "where is" basis, without warranty of any kind.

2. Where a donee carried insurance against damages to or the loss of property due to fire or other hazards and where loss of or damage to donated property with unexpired terms, conditions, reservations, or restrictions occurs, the state agency will be entitled to reimbursement from the donee out of the insurance proceeds, of an amount equal to the unamortized portion of the fair value of the damaged or destroyed donated items.

### (F) TERMS AND CONDITIONS APPLICABLE TO THE DONATION OF AIRCRAFT AND VESSELS (50 FEET OR MORE IN LENGTH) HAVING AN ACQUISITION COST OF \$5,000 OR MORE, REGARDLESS OF THE PURPOSE FOR WHICH ACQUIRED, AND FIREARMS (REGARDLESS OF ACQUISITION COST).

1. The donation shall be subject to the terms, conditions, reservations, and restrictions set forth in the Conditional Transfer Document executed by the authorized donee representative.

(G) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE TO THE DEPARTMENT OR TO THE STATE AGENCY, SAID AGENCY SHALL HAVE THE RIGHT AND AUTHORITY TO WITHHOLD FURTHER TRANSFERS OF GOVERNMENT SURPLUS PROPERTY TO OUR INSTITUTION IF WE FAIL AT ANY TIME TO (A) ABIDE BY THE ABOVE TERMS AND CONDITIONS AND (B) PROMPTLY PAY JUST SERVICE AND HANDLING CHARGE FEES ASSESSED BY THE STATE AGENCY.

STATE SURPLUS PROPERTY PROGRAM  
Federal Surplus Property Program  
18 West Custer  
Helena, Mt. 59620-0137  
Phone (406) 444-9921

STATE OF MONTANA

ASSURANCE OF COMPLIANCE WITH GSA REGULATIONS UNDER TITLE VI OF  
THE CIVIL RIGHTS ACT OF 1964, AS AMENDED; SECTION 606 OF TITLE  
VI OF THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF  
1949, AS AMENDED; SECTION 504 OF THE REHABILITATION ACT OF  
1973, AS AMENDED; TITLE IX OF THE EDUCATION AMENDMENTS  
OF 1972, AS AMENDED; AND SECTION 303 OF THE AGE  
DISCRIMINATION ACT OF 1975, AS AMENDED.

*City of Miles City*

(Full legal name of applicant organization (hereafter called the donee))

hereby agrees that the program for or connection with any property is donated to the donee will be conducted in compliance with, and the donee will comply with and will require any other person (any legal entity) who through contractual or other arrangements with the donee is authorized to provide services or benefits under said program to comply with, all requirements imposed by or pursuant to the regulations of the General Services Administration (41 CFR 1016.2) issued under the provisions of title VI of the Civil Rights Act of 1964, as amended, Section 606 Title VI of the Federal Property and Administrative Services Act of 1949, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments of 1972, as amended and Section 303 of the Age Discrimination Act of 1974, as amended, to the end that no person in the United States shall on the grounds of race, color, sex, age, national origin, or that no otherwise qualified handicapped person shall solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the donee received Federal assistance from the General Services Administration; and Hereby Gives Assurance That it will immediately take any measure necessary to effectuate this agreement.

The donee further agrees that this agreement shall be subject in all respects to the provisions of said regulations; that this agreement shall obligate the donee for the period during which it retains ownership or possession of any such property; that the United States shall have the right to seek judicial enforcement of this agreement; and, this agreement shall be binding upon any successor in interest of the donee and the word "donee" as used herein includes any such successor in interest.

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
(Chairman of the Board (OR) Chief Administrative Officer)

**RESOLUTION NO. 4335**

**A RESOLUTION PURSUANT TO §7-6-4006 OF THE MONTANA CODE ANNOTATED, AUTHORIZING AMENDMENT OF FINAL BUDGET FOR FY 2019-2020 TO INCREASE THE BUDGETED AMOUNT IN THE FUNDS FOR AMBULANCE, BUILDING INSPECTOR AND LIGHTING DISTRICT # 173 UNBUDGETED REVENUES AND EXPENDITURES.**

*WHEREAS*, the City of Miles City wishes to amend the budget for Fiscal Year 2019-2020 to increased appropriations as a result of several unanticipated expenditures related to the Ambulance Fund, Building Inspector Fund and Lighting District # 173 Fund as permitted by §7-6-4006 MCA;

*AND WHEREAS*, such amendment of the final budget will result in an overall increase in appropriation authority within multiple funds,

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

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

The appropriations and revenue for the Final Budget for Fiscal Year 2019-2020 shall be increased in the following amount:

1. Increased revenue in the amount of \$ 71,424, in unanticipated revenue from the Building Inspectors Fund) in fund No. 2394-323010
2. Increased appropriations in the amount of \$13,122 in unanticipated expense for Professional Services in fund No. 2394-018-420531-350
3. Increased appropriations in the amount of \$13,122 in unanticipated expense for Contractual Repairs in fund No. 2394-018-420531-360
4. Increased Revenue in the amount of \$262,720 in unanticipated revenue received in fund No. 5510-342026 from additional funding from Ambulance charges
5. Increased appropriations in the amount of \$262,720 in unanticipated expense in the Ambulance fund No. 5510-010-420730-811 for contractual Allowances
6. Increased appropriations in the amount of \$10.00 in unanticipated expense in the LTG District # 173 fund No. 2480-047-430263-360

BE IT FURTHER RESOLVED that a public hearing shall be held on the above proposed amendment to the Final Budget for Fiscal Year 2019-2020 on the 14<sup>th</sup> day of July, 2020, at 6:00 p.m. in the City Council Chambers at City Hall, Miles City, Montana. The City Clerk shall cause notice of such hearing to be published in the Miles City Star, in accordance with §7-1-4128 MCA, at least 2 times with at least 6 days separating each publication.

SAID RESOLUTION READ AND PUT UPON ITS FINAL PASSAGE THIS 14<sup>TH</sup> DAY OF JULY, 2020.

\_\_\_\_\_  
JOHN HOLLOWELL, Mayor

ATTEST:

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

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 28<sup>TH</sup> DAY OF JULY, 2020.

\_\_\_\_\_  
JOHN HOLLOWELL, Mayor

ATTEST:

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

**RESOLUTION NO. 4336**

**A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO A BUILDING INSPECTION SERVICES CONTRACT WITH RUSSELL MURPHY.**

*WHEREAS*, the City of Miles City desires to enter into a Building Inspection Services Contract with building inspector Russell Murphy;

*AND WHEREAS* the obligations of the parties under said agreement have been reduced to writing, and are in the best interest of the City of Miles City for enforcement of City building codes;

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

1. The "City of Miles City Building Inspection Services Contract," attached hereto as Exhibit "A", and made a part hereof, is hereby approved and adopted by this Council.
2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said Agreement on behalf of the City of Miles City and bind the City of Miles City thereto; and

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 14<sup>th</sup> day of July, 2020.**

---

John Hollowell, Mayor

ATTEST:

---

Lorrie Pearce, City Clerk

## **CITY OF MILES CITY BUILDING INSPECTION SERVICES CONTRACT**

This agreement entered into on this, 14<sup>th</sup> day of July, 2020, and effective as of July 1, 2020, between the CITY OF MILES CITY, a municipal corporation of the State of Montana, hereby called the "City," and RUSSELL MURPHY of 232 Kircher Creek Road, Miles City, Montana, herein called "Inspector."

### **SECTION ONE: Contract for Inspection Services**

Pursuant to §50-60-304(3) MCA, City hereby contracts with Inspector for the performance of enforcement of its building codes, including the review and granting of building permits, building permit inspections, and enforcement of all rules and regulations for the construction, alteration, removal, demolition, and equipment used in the construction, location, and maintenance of buildings within the City of Miles city as prescribed by the Uniform Building Code, and other similar codes adopted by reference in Section 5 of the Miles City Code of Ordinances.

### **SECTION TWO: Compensation**

City shall pay Inspector for services rendered hereunder according to the following schedule:

a) For all projects, in which a fee is collected, the Inspector shall receive sixty percent (60%) of the gross amount of the fee. For purposes of this subsection, "projects, in which a fee is collected" includes all activities incidental to applying for, determining, receiving, and securing a building permit, and specifically includes inspections, attendance at all board of appeals hearings, court proceedings, or any other meetings, pertaining to the ultimate issuance of a building permit. If a building permit is not ultimately issued, then such time is compensated under subsection (b) below.

b) For all other projects, the sum of \$18.00 per hour for work outside the scope of building permit issuance and inspections. Other projects include services required for acting as the code enforcement officer under Section 5 of the Miles City Code of Ordinances. Inspector shall provide his own vehicle for travel and performance of his services hereunder.

c) Inspector will make arrangements with the City to review all projects by no later than Wednesday of each week and agrees to accomplish the undertaking and completion of those projects within a reasonable time frame after receipt. In the event the Inspector is not available by Wednesday of each week, alternative arrangements for review of projects may be made through mutual agreement of the parties.

### **SECTION THREE: Non-Assignability; Personal Performance**

Both parties recognize that this contract is one for personal services and neither it, nor the duties of Inspector hereunder, may be transferred, assigned, delegated or subcontracted by Inspector without the prior written consent of the City. All services hereunder shall be personally performed by Inspector and not by any employee or agent of inspector.



#### **SECTION FOUR: Monthly Reports and Claims**

Inspector will submit a written report concerning the status of building permits and other work projects, together with his monthly claim for services, prior to the first regular meeting of the City Council in each month.

For each construction of a new residential property, Inspector will fully complete and sign the Residential Construction Inspection check list, attached hereto as Exhibit "A" and made a part hereof. For each residential property remodel project, Inspector will complete and sign the Residential Construction Inspection check list (Exhibit "A") for all applicable components of the remodel. For each construction of a new commercial property, Inspector will fully complete and sign the Commercial Construction Field Inspection check list, attached hereto as Exhibit "B" and made a part hereof. For each commercial property remodel project, Inspector will complete and sign the Commercial Construction Field Inspection check list (Exhibit "B") for all applicable components of the remodel. A copy of each signed Residential Construction Inspection check list or Commercial Construction Field Inspection check list completed by the Inspector shall be delivered by the Inspector to the City's Director of Public Works, its Mayor, and to the owner of the project inspected.

#### **SECTION FIVE: Independent Contractor**

For purpose of Montana Worker's Compensation Law, and all other purposes, it is understood that the Inspector is an independent contractor and is not the employee or agent of the city. Inspector shall not hold himself out as, nor represent himself to be, an employee or agent of the City.

As a condition precedent to any obligations of City under this Contract, Inspector shall obtain and file with the City an independent contractor certification from the Montana Department of Labor and Industry, in compliance with §39-71-417.

Inspector will perform services hereunder in compliance with all applicable Montana laws and regulations, but inspector will determine when and where to perform the work, the methods for performance of the work, the tools and equipment to use, and the order and sequence of work.

Inspector will provide his own tools, equipment, facilities and materials, and other costs of doing business for the performance of the work. City, at City's expense, will provide Inspector with building permit forms satisfactory to the City.

Inspector will pay his own Social Security and Medicare Taxes and all other necessary and reasonable expenses involved with the operation of his business. In the event the amount earned in a calendar year exceeds Six Hundred Dollars (\$600), the City will issue an IRS Form 1099. Inspector will provide the City Clerk with a completed and signed Form W-9 at the inception of this Contract.

## **SECTION SIX: Qualifications**

Inspector represents and warrants that he has sufficient qualifications and all required licenses and certifications, if any, to legally serve in the capacity as a building inspector for the City under Title 50, Chapter 60, Part 3, MCA. The City will purchase and make available to inspector all code books and instructional materials required to perform the services hereunder. Inspector shall pay all membership dues needed to maintain his certification by the international Conference of Building Officials.

## **SECTION SEVEN: Duties**

In addition to services as Building Inspector, the Inspector will provide additional services as a code enforcement officer as set forth under the Miles City Code of Ordinances, other than under Chapter 15, Nuisances. The contractor represents and warrants that he has reviewed Chapters 5, 20 and 24 of the Code of Ordinances of the City of Miles City and he is able and qualified to serve in that capacity. Compensation for the position as code enforcement officer is set forth in Section Two, subsection (b) of this agreement.

## **SECTION EIGHT: Termination and Renewal**

This agreement shall remain in effect from its effective date until June 30, 2021 and may be renewed under the same terms and conditions for additional consecutive one-year terms through June 30th of succeeding years upon mutual agreement of the parties. Provided, however, the Mayor of the City may terminate this contract, with advice and consent of the City Council, upon thirty (30) days advance written notice to Inspector. In the cases of misconduct, malfeasance, or non-performance by the Inspector, this contract may be terminated by City, immediately, without prior notice.

## **SECTION NINE: Nondiscrimination; Compliance with Governmental Code of Fair Practices.**

Inspector shall comply fully with the Montana Governmental Code of Fair Practices (Title 49, Chapter 3 MCA) and, in the performance of this contract, all hiring by Inspector shall be on the basis of merit and qualifications and there may not be discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing this contract.

## **SECTION TEN: Insurance and indemnity**

At all times during the terms of this Contract, Inspector shall maintain a policy or policies of insurance, insuring Inspector against general liability and errors or omissions, on an occurrence basis, in a sum of not less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) per claim and One Million Five Hundred Thousand Dollars (\$1,500,000.00) in aggregate, with the City of Miles City named in each policy of insurance as an additional insured. Each policy of insurance shall provide that it is primary coverage over any insurance coverage maintained by the City of Miles City. At the commencement of this contract, and upon reasonable request of the City thereafter, Inspector shall provide to the City Clerk conforming certificates of insurance, including

any endorsements necessary to include the City as a named insured under such policy of insurance. Each such certificate shall provide that the insurer will provide to the City at least ten (10) days prior notice before terminating, non-renewing, or materially altering the provisions, coverage or limits of liability of such policy of insurance.

Inspector shall assume, indemnify, defend and hold the City harmless from any and all claims and damages arising out of Inspector's performance of services hereunder.

**SECTION ELEVEN: Completeness of Agreement**

This document contains all the terms and conditions of this agreement and any alteration or variations of the terms of this agreement shall be Void unless made in writing and signed by all the parties. There are no other understandings, representations or agreements, written or verbal, not incorporated herein.

**SECTION TWELVE: Effective Date; Ratification by City Council**

This agreement shall become effective upon its signature by Inspector, Inspector's compliance with all conditions precedent hereunder, and ratification of this agreement by the City Council of the City of Miles City.

CITY:

INSPECTOR:

By: \_\_\_\_\_  
John Hollowell, Mayor

\_\_\_\_\_  
RUSSELL MURPHY

Attest:

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

# **RUSSELL G. MURPHY**

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232 Kircher Creek Rd. • Miles City • Montana • 59301. • rgmurphyco@gmail.com

## **OBJECTIVE**

To serve as a knowledgeable Building Inspector for the City of Miles City, Montana

## **EDUCATION**

Custer County District High School, Miles City, Montana (August 2005 to 2008) ~ 3.4 GPA

Casper College, Casper, Wyoming (August 2008 to May 2011) ~ 3.7 GPA

- *Associates of Applied Science in Construction Technology* May 2010
- *Associates of Science in Construction Management* May 2011

## **CERTIFICATIONS**

ICC Commercial Building Inspector, 2016

Lead Certification, University of North Dakota, 2011

30 hr. OSHA Certification, Casper College, 2009

## **PROFESSIONAL EXPERIENCE**

2016-PRESENT, CITY BUILDING INSPECTOR, COLSTRIP, MT

- Provide the knowledge and skill to fulfill the intent of the Code, and provide the minimum requirements for a reasonable level of public safety and health.
- Oversee the entire progress of a project, from issuing permits to granting a certificate of occupancy.

2013- 2016, JACKSON CONTRACTOR GROUP, MISSOULA, MT HEADQUARTERS,  
MILES CITY BRANCH

- Coordinated and addressed daily tasks and concerns with JCG supervisors, project managers, project engineers, along with numerous sub-contractors on every project
- Thoroughly read and interpreted blue prints to address the scope of work presented
- Maintained a schedule for daily projects
- Coordinated with coworkers and sub-contractors to ensure projects were completed thoroughly
- Preserved a perfect safety record for entire duration (1,000+ hours)

2012 - 2013, S-H CONSTRUCTION, ZANE SOLOMAN, MILES CITY, MT

- Updated customers on the progress of projects, offered insight and experience to the project, and demonstrated strong commitment to the success of each project
- One-on-one communication with each customer, adequately addressing concerns, responding promptly with reliable solutions and willingness to meet the needs of each customer and project

2010 – 2011, WYOMING COMMUNITY DEVELOPMENT AUTHORITY (WCDA), CASPER,  
WY

- Construction Manager and Asset Manager Assistant
- Assessed houses for health and safety issues regarding housing and building code

- Communicated effectively and efficiently with diverse contractors for bids and negotiations
- Managed year-round upkeep on 100 + vacant houses across the state of Wyoming

**PROFESSIONAL PREPARATION**

**MEMBERSHIPS**

- |  |              |
|--|--------------|
| • ICC REGION II Board of Directors: Secretary      | 2017-2018    |
| • ICC REGION II Board of Directors: Treasurer      | 2018-2019    |
| • ICC REGION II Board of Directors: Vice President | 2019-Present |
| • ICC Montana Chapter                              | 2016-Present |

**CONFERENCES**

- Participated in the Shadow Program at the ICC ABM in Columbus, Ohio



INDEPENDENT CONTRACTOR PROGRAM



# Montana Department of LABOR & INDUSTRY

04/27/2020-04/26/2022 Building Inspector

04/27/2020-04/26/2022 General Contractor

END OF OCCUPATION LIST

## INDEPENDENT CONTRACTOR EXEMPTION CERTIFICATE

IC#: 330054IC

### Certificate Holder:

RUSSELL G MURPHY  
232 KIRCHER CR RD  
MILES CITY, MT 59301

The certificate holder has sworn to the Department of Labor and Industry that this person is:

\*engaged in an independently established trade, occupation, profession, or business; and  
\*free from control and direction by hiring agents over the performance of the person's services, both under contract and in fact, when working as an Independent contractor

The named certificate holder has waived all rights and benefits under the Workers' Compensation Act of Montana and is not required to be personally covered by workers' compensation insurance while working as an independent contractor in the occupation(s) listed above.

See back for important information

1. The certificate has important information on the back. If making copies to provide to hiring agents, please copy both the front and back of the certificate and provide both sides to the hiring agent. You may make copies as needed. The status can be verified by visiting our website at [www.mtcontractor.com](http://www.mtcontractor.com) or by calling our office at 406-444-7734.
2. Please notify our office of changes to your information, including changes to your address, phone number, business name and structure, and any occupations you may wish to add or remove. Failure to keep your information current may result in the revocation of your ICEC.
3. The wallet card below is provided as a way for you to conveniently identify yourself as an ICEC holder to Department of Labor representatives. It should not be given to hiring agents as proof of independent contractor status because the full occupation descriptions are not displayed. North American Industry Classification System (NAICS) codes have been assigned based on the occupation descriptions you submitted and are for Department reference only. The NAICS codes alone do not represent the occupation(s) you are approved for as an Independent Contractor. Full occupation descriptions are displayed on the certificate and can be verified by visiting our website at [www.mtcontractor.com](http://www.mtcontractor.com).

INSTRUCTIONS: Fold at perforations then tear card out. Fold card in half at score.

### INDEPENDENT CONTRACTOR EXEMPTION CARD

RUSSELL G MURPHY  
232 KIRCHER CR RD  
MILES CITY, MT 59301  
IC#: 330054IC

This wallet card is provided as a way for you to identify yourself as an ICEC holder to Montana Department of Labor representatives. Assigned NAICS codes are for department reference only. For full occupation descriptions refer to the certificate.

### Exempt Occupations Valid Until: 04/26/2022

541350 Building Inspector  
238990 General Contractor



Item 9. Notification under this Policy

(Notification pursuant to Clause IX. shall be given to:

(a) (Notification pursuant to Clause IX. shall be given to:

JaVA Underwriting LLC

P.O. Box 477100

Chicago, IL 60647 And

312.651.4118 (facsimile)

[submissions@javaunderwriting.com](mailto:submissions@javaunderwriting.com)

TransEleven Claims Managers, Inc

5900 South Lake Forest Drive, Suite 300

McKinney, TX 75070

844.281.2811 (facsimile)

[mailto:newclaimreporting@trans11claims.com](mailto:mailto:newclaimreporting@trans11claims.com)

(b) All other notices under this Policy shall be given to:

JaVA Underwriting LLC

1003 N. Damen Ave.

Chicago, IL 60622

Tel: 312.651.4109

Fax: 312.651.4118

Item 10. Professional Services:

Home Inspectors for others for a fee

Item 11. Endorsements Effective at Inception:

F00057(05/08); SL001(10/19); EO0026(08/16); EO0727(08/11); FATCA12(19); LMA3100(09/10);

LMA9059(09/13); NMA1331(04/61); NMA45(06/10); NMA464(01/38); NMA1256(03/60);

NMA1168(06/10); NMA1477(02/64); NMA1998(04/86); NMA2342(11/88); NMA2840(01/00);

NMA2918(08/01); OFAC1(11/16); F00058(05/08);

The Underwriters have caused this Policy to be signed and attested by its authorized officers, but it shall not be valid unless also signed by another duly authorized representative of the Insurer.



Authorized Representative

1/14/2020

Date





## Commercial Building Inspector



Candidate ID: ICC00248501

Name: Russell Murphy

Date: 4/30/2016

Address: 295 Bitterroot Road

Miles City MT 59301

### EXAMINATION RESULT: **PASS**

Congratulations! You have passed the above-named examination. Your wallet card will be forwarded to you by ICC within six weeks from the last day of the month in which you tested. This certification is current for three years.

You may request a wall certificate from ICC as well. This certificate will be provided at no cost to you, if you request it within 90 days of your exam. Only one wall certificate per exam passed will be provided to you at no charge. For more information on requesting a wall certificate, go to [www.iccsafe.org/inspector](http://www.iccsafe.org/inspector).

It is extremely important that you notify Pearson VUE and ICC of any changes in name and/or address to avoid the possibility of your wallet card and/or certificate not being received. There may be an additional fee if a certification is re-issued due to a misspelled name or incorrect address. Please note that name changes may require additional information.

**For exams taken in the U.S:** Please contact Pearson VUE at 800-275-8301 and ICC at [certexam@iccsafe.org](mailto:certexam@iccsafe.org).

**For international exams:** Please go to [www.pearsonvue.com/icc/cert/contact/](http://www.pearsonvue.com/icc/cert/contact/).

The authenticity of this score report can be validated by using Pearson VUE's Online Score Report Authentication found at:

[www.PearsonVUE.com/authenticate](http://www.PearsonVUE.com/authenticate)  
Digital embossing eliminates the possibility of unauthorized embossing of counterfeit score reports.

Registration Number: 298268802

Validation Number: 873787578