

RESOLUTION NO. 4380

A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO AN AGREEMENT ENTITLED “INTERLOCAL AGREEMENT FOR CREATING MONTANA FIREFIGHTERS TESTING CONSORTIUM – AMENDED AND RESTATED” WITH CERTAIN CITIES AND FIRE DISTRICTS IN THE STATE OF MONTANA.

WHEREAS, the City of Miles City desires to enter into an agreement with certain Montana fire department organizations for the joint testing of potential employment candidates;

AND WHEREAS the provisions of Title 7, Chapter 11, Part 1, MCA, permit public agencies to contract with other public agencies for the provision of services;

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

1. The Interlocal Agreement for Montana Firefighters Testing Consortium – Amended and Restated, 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
3. The Mayor of the City of Miles City is hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of said Agreement and bind the City of Miles City thereto.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 27TH DAY OF OCTOBER, 2020.



John Hollowell, Mayor

ATTEST:



Lorrie Pearce, City Clerk

**INTERLOCAL AGREEMENT
FOR CREATING
MONTANA FIREFIGHTERS TESTING CONSORTIUM
Amended and Restated**

This Amended and Restated Interlocal Agreement ("Agreement") is made in the state of Montana by public agencies organized and existing under the laws of the state of Montana and which are signatories to this Agreement ("Members").

RECITALS

WHEREAS, Article VII, Section 7 of the Montana Constitution provides that a local government unit may: (a) cooperate with the exercise of any function, power, or responsibility with, (b) share the services of any officer of facilities with, (c) transfer or delegate any function, power, responsibility, or duty of any officer to one or more other local government units, school districts, the state, or the United States.

WHEREAS, Montana's Interlocal Cooperation Act provides that its purpose is to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other local governmental units on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with the geographic, economic, population, and other factors influencing the needs and development of local communities (Montana Code Annotated § 7-11-102).

WHEREAS, a public agency is any political subdivision, including municipalities, counties, and fire districts (Montana Code Annotated §7-11-103).

WHEREAS, the Members each provide fire protection services and each is responsible for hiring qualified firefighters.

WHEREAS, each Member has its own recruiting and hiring processes, and would otherwise at various times have to conduct expensive and tie-consuming testing.

WHEREAS, the duties of firefighter for each Member, as determined by task analysis, are similar.

WHEREAS, the Members would all benefit in terms of efficiency and economy by consolidating their recruiting and testing efforts for firefighter candidates by establishing a pool of qualified firefighter candidates for consideration in hiring.

NOW THEREFORE, in consideration of the covenants and mutual benefits described herein, the Members agree as follows:

I. DEFINITIONS

- A. **Board of Directors (the Board)**: The whole created by all of the sets of two Member Representatives of each Member; see also Section III (B).
- B. **Candidate**: Any person who has timely paid the application fee and submitted a complete application to take the Test.
- C. **Consortium**: The Montana Firefighters Testing Consortium.

- D. **Test**: The combined physical and written test offered annually by the Consortium.
- E. **Member**: Any public agency, as defined by Montana Code Annotated §7-11-103, including a municipality, fire district, fire service area, local government, or other political subdivision which is both (1) a signatory of this Agreement, or any amended versions thereof, and (2) in compliance with the terms of this Agreement, or any amended versions thereof, and with the membership requirements set forth in the Consortium's bylaws or any subsequent amendments thereof.
- F. **Member Representative**: One of two individuals designated by a Member to represent the Member's interests at meetings of the Consortium.

II. DURATION

The duration of this Agreement shall be perpetual unless terminated by the Members in accord with Section VII (E) below.

III. CREATION OF THE AUTHORITY

- A. Pursuant to the Interlocal Cooperation Act, a public entity, separate and distinct from the parties hereto, is hereby created and shall henceforth be known as the *Montana Firefighters Testing Consortium* ("the Consortium").
- B. The Consortium shall be administered by a joint board of two representatives from each Member ("Member Representatives"). This joint board shall be called the Board of Directors ("the Board"), which shall be responsible for effectuating this Agreement.

IV. PURPOSE

The purpose of this Agreement is to set forth the general and statutorily required term of operation and financing the Consortium, which shall be responsible for the Members' undertaking of a joint testing program for the identification of qualified candidates for consideration in hiring for the position of entry-level firefighter.

V. GOALS

The goals of the Consortium are as follows:

- A. To develop, establish, and modify, as the Board deems necessary, operational policies, protocols, and procedures to achieve the purpose of this Agreement;
- B. To implement and coordinate the financial, operational, and procedural aspects of the Test application and testing processes, procedures, and protocols;
- C. To share in the costs of administering this Agreement and achieving its purpose;
- D. To provide for the consistency of administration of the application and testing processes; and
- E. To create a list of qualified candidates after each testing cycle from which each Member may select candidates to interview and possibly hire for the position of entry-level firefighter.

VI. FINANCING

- A. The Members shall be responsible to share equally in the costs related to this Agreement, including administering and coordinating the Test application and testing processes.
- B. The Board shall be responsible for establishing a budget each fiscal year, which shall run from July 1 through June 30 of the following year.
- C. Sources of funding may include the following:
 - 1. **Dues:** Each Member, as a condition of membership, must pay its initial membership dues and its annual dues.
 - a. The amount each new Member shall be required to pay as its initial membership dues, as well as the amount of the annual dues any Member shall be required to pay, shall be as set from time to time by a simple majority vote of the Board.
 - b. The Board may set reduced initial membership dues and reduced annual dues for Members whose financial circumstances, in the Board's sole discretion, warrant such a reduction.
 - 2. **Fees:** Additional funding of the Consortium is also derived from the Test application fees received from Candidates.
 - 3. The Consortium may also from time to time apply for and receive other sources of revenue, such as grant funds.

VII. TERMINATION

- A. A Member may withdraw from the Consortium and this Agreement by giving the Board 60 days' written notice of the intent to withdraw.
- B. Any Member whose withdrawal would otherwise become effective 30 days or less before the scheduled Test shall not be permitted to withdraw until after the Test is completed, including tear down, and shall be required to participate, assist, and staff the testing in the same manner and effect as if the Member had not submitted notice of the intent to withdraw.
- C. When a Member withdraws, this Agreement shall remain in full force and effect with regard to the remaining Members.
- D. So long as at least two Members remain parties to this Agreement, the Consortium shall continue to operate.
- E. This Agreement may be completely terminated at any time upon the vote of 100% of the Members' governing bodies.
- F. The Consortium shall continue to exist and operate after complete termination, however, for the purpose of retiring any debt, including paying any remaining bills for operational expenses, disposing of all claims, selling all real and personal property in accord with Section VIII (B) herein, and distributing all assets equally, including cash accounts, and performing all other functions necessary to conclude the affairs of the Consortium.
- G. Following complete termination of this Agreement, Members who were Members on the date the vote in favor of terminating the Agreement was made may be required to pay an assessment to the

Consortium, as determined by the Board, to enable final disposition of all remaining balances due for operational expenses and other minor costs of doing business.

VIII. PROPERTY

- A. The real or personal property owned by the Consortium shall be owned proportionally by the Members, regardless of when they become Members. A Member which withdraws from the Consortium foregoes all interest it has in the Consortium's real or personal property so long as the Consortium continues to operate.
- B. In the case of the complete termination of this Agreement in accord with Section VII (E), any real or personal property owned by the Consortium shall be sold at fair market value and the proceeds, if any remain after disposition of all remaining balances due for operational expenses and the other minor costs of doing business, shall be divided equally, distributed, and deposited to the general funds of each of the Members who were Members on the date of the vote in favor of terminating this Agreement was made.

IX. PARTIES TO THIS AGREEMENT

- A. Each Member, as a party to this Agreement, certifies that it intends to and does contract with, for the purposes and to the extent as herein provided, all other parties who are signatories of this Agreement, or may later become signatories of this Agreement.
- B. The addition of any new Member to this Agreement shall constitute an Amendment subject to the requirements of Section XIII.
- C. Each Member further certifies that a Member's voluntary termination of this Agreement as to its own participation as a Member, as well as a Member's involuntary removal as party to this Agreement for failure to meet the Member's Responsibilities, as set forth in Section XI herein, shall not affect this Agreement nor the remaining Members' intentions to work cooperatively to achieve the goals and objectives set forth herein.

X. CONSORTIUM RESPONSIBILITIES AND OBLIGATIONS

- A. The Board will hire an independent consultant to ensure compliance with all requirements of chosen physical abilities test.
- B. The Board will ensure that the written test selected for the Consortium test has been validated for the position of entry level firefighter.
- C. The Board shall purchase and maintain liability insurance with liability limits of \$1,500,000 per occurrence and \$3,000,000 aggregate per policy year. The insurance shall name each Member as an additional insured and shall cover the Board of Directors, Members and their employees, and volunteers. The Board Chairperson shall provide a copy of the current insurance policy to each Member at the beginning of each policy year.
- D. The Board shall adopt bylaws, which shall be consistent with this Agreement and the law, and shall set forth the operational and procedural policies, protocols, and guidelines necessary to implement the Agreement's terms and achieve the Consortium's purpose and goals, including the creation of an Executive Committee, which shall handle the day-to-day business of the Consortium and which

shall have powers as more particularly described in the bylaws. At a minimum, the bylaws shall provide as follows:

1. The Officers of the Consortium shall be a chairperson, a vice-chairperson, a secretary, and a treasurer. The latter two officer positions may be combined and the offices filled by one Member Representative.
2. Officers shall be selected from the Member Representatives, except that the secretary position or the combined secretary-treasurer position may be filled by an independent contractor selected by the Board.
3. A quorum exists when a simple majority of the Member Representatives are present, either in person, by telephonic or other electronic means, such that they can hear, be heard, and meaningfully participate.
4. A vote of a simple majority at a meeting where a quorum is present shall constitute the action of the Board.
5. Minutes shall be taken at all meetings.
6. The treasurer shall provide all necessary administrative and accounting functions for the Board and shall have the custody of and disburse funds. The treasurer may delegate disbursing authority to such persons as may be authorized by the Board to perform the disbursement function.
7. As a deliberative body, the Consortium will follow basic standards of parliamentary procedure in the conduct of all its meetings, and *Robert's Rules of Order* and *Mason's Manual of Legislative Procedure* may be used for general guidance at any meeting.
8. All Board meetings shall be noticed, held, and conducted in compliance with the Open Meeting and Notice statutes of the state of Montana
9. The adoption of the bylaws and any amendments to the bylaws shall be consistent with this Agreement and the law and shall be accomplished by an affirmative written ballot of a simple majority or more of the Member Representatives.
10. Each Member and Member Representative shall receive a copy of the bylaws or any amendments thereof.
11. The Consortium shall abide by all applicable local, state, and federal laws and regulations.

XI. MEMBER RESPONSIBILITIES

Members have the following responsibilities:

- A. To share equally in the cost of accomplishing the Consortium's purpose and goals, including the costs of coordinating and administering the Test.
- B. To provide, at their own expense, personnel to assist in coordinating and administering the Test, including providing personnel to staff both components of the Test.
- C. To confirm that the testing process is locally valid for the position of entry level firefighter.
 1. A confirmation must be completed prior to each test
 2. Each member agency will pay their own costs of this validation.
- D. To promptly pay their annual dues as the board shall set from time to time.
- E. To regularly attend and meaningfully participate in all meetings and every testing event.

- F. Each new Member shall:
 - 1. Undergo a Candidate Physical Ability Test Transportability Study conducted by the Consortium's Human Resources Consultant; and
 - 2. Promptly pay the initial membership fee, as shall be established by the Board.

XII. CONSORTIUM RIGHTS

- A. The Board, in its sole discretion, shall determine the type of testing it will use to identify qualified candidates for consideration for hiring for the position of entry-level firefighter, including the testing processes, procedures, protocols, instruments, and equipment to be used.
- B. The Board, in its sole discretion, shall determine the intervals at which the testing will be offered, the location at which the testing will take place, and the number of candidates it will allow to take part in the testing.
- C. The Board, in its sole discretion, shall determine the number of meetings which are necessary, as well as the date, time, and location of all meetings.
- D. The Board, in its sole discretion, shall determine the amount of annual dues which shall be paid by each Member and the date when due.
- E. The Board shall have the power to contract as needed to carry out the purpose of the Consortium and this Agreement.

XIII. AMENDMENTS

This Agreement may be amended at any time by a vote of a simple majority of the Members. Amendments become effective when the Board receives written confirmation from a simple majority of the Members, through their Member Representatives, that the proper authority within their jurisdiction has approved an amendment.

XIV. EFFECTIVE DATE

This Agreement shall be effective and binding upon a Member when its governing body becomes a signatory hereto.

XV. FILING

- A. In accord with Montana Code Annotated § 7-11-107, this Agreement shall be filed with the county clerk and recorder of the county or counties wherein each Member is situated and with the secretary of state. Upon the amendment of this Agreement, the amended version shall then be recorded as provided herein.
- B. The Board shall designate the person or persons who shall be responsible for the filing of this Agreement and any subsequent amended versions hereof.

XVI. ASSIGNMENT

Members may not assign any right, claim, or interest it may have as a consequence of being a party to this Agreement, and no creditor, assignee, or third party beneficiary of any Member shall have a right, claim, or title to any fund or asset of the Consortium

XVII. EXECUTION

This Agreement shall be executed on behalf of the Member by its chief executive officer or chairperson and attested by its clerk or secretary, as appropriate, upon approval of the Agreement by the Member's governing body. This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same document.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date subscribed hereto:

DATE: 11-12-20

MILES CITY FIRE DEPARTMENT:

By: 
Signature of Approving Authority

Branden M. Stevens
Printed Name of Approving Authority

Its: Fire Chief
Title of Approving Authority

Attest:


Signature of Clerk/Secretary

Lorrie Pearce
Printed Name of Clerk/Secretary

Its: City Clerk
Title of Clerk/Secretary