



CITY OF MILES CITY AGENDA

*Regular Council Meeting
City Council Chambers
and online at zoom.us*

*July 13, 2021
6:00 p.m.*

CALL TO ORDER PLEDGE OF ALLEGIANCE ROLL CALL

1. **APPROVAL OF COUNCIL MINUTES/COMMITTEE MINUTES**

- | | |
|------------------------------------|------------|
| A. Regular City Council Meeting | 06/22/2021 |
| B. Public Safety Committee Meeting | 06/10/2021 |
| C. Human Resources Meeting | 06/10/2021 |
| D. Flood Control Committee Meeting | 06/28/2021 |
| E. Finance Committee Meeting | 06/29/2021 |

2. **SCHEDULE MEETINGS**

3. **REQUEST OF CITIZENS & PUBLIC COMMENT**

4. **APPOINTMENTS**

- Donna Faber – Health Board
- David Ritter – Conservation Board

5. **PROCLAMATIONS**

6. **STAFF REPORTS**

7. **CITY COUNCIL COMMENTS**

8. **MAYOR COMMENTS**

9. **COMMITTEE RECOMMENDATIONS**

- Human Resources Committee recommends approving the creation of a Fire Marshal Officer for the City of Miles City
- Flood Control Committee recommends approving variance request on 93 Penny Circle

10. **BID OPENINGS**

11. **BID AWARDS**

12. **PUBLIC HEARINGS**

13. **UNFINISHED BUSINESS**

14. **NEW BUSINESS**

A. **APPROVE PITNEY BOWES LEASE AGREEMENT RENEWAL**

B. **RESOLUTION NO. 4419 – A RESOLUTION AUTHORIZING THE CITY OF**

MILES CITY TO ENTER INTO AN INTERGOVERNMENTAL TRANSFER AGREEMENT FOR MEDICAID SUPPLEMENT PAYMENT PURPOSES CONTRACT WITH THE STATE OF MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

- C. **ORDINANCE NO. 1349 – (*First Reading*) AN ORDINANCE AMENDING SECTION 22-175 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY WITH RESPECT TO ANGLE PARKING.**

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

REGULAR COUNCIL MEETING June 22, 2021

6:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, June 22, 2021, in the City Hall Conference Room at City Hall, 17 S. 8th Street, Miles City, Montana. Mayor John Hollowell called the meeting to order. Council Members present were Ken Gardner, Elizabeth Patten, Rick Huber, Kathy Wilcox, Steve Palmeri and Stacy Broell. Excused were Council Member Brant Kassner and Dwayne Andrews.

Also present were City Attorney Dan Rice, Public Works Director Scott Gray, Police Chief Doug Colombik, Fire Chief Branden Stevens, Planner In Training Ally Capps, Fire Battalion Chief Sarah Lewin, Firefighter Brad Davis, Public Utilities Director Tom Speelmon and Human Resources Officer/Minute Recorder Linda Wilkins.

PLEDGE OF ALLEGIANCE

Mayor Hollowell led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

City Council Minutes: 5/11/21

** *Councilperson Huber moved to approve the minutes of the Regular Council Meeting of May 11, 2021, subject to any changes, and seconded by Councilperson Patten. The motion **passed** by unanimous consent, 6-0.*

Human Resources Committee Minutes: 6/03/2021

** *Councilperson Patten moved to approve the minutes of the Human Resources Committee Meeting of June 3, 2021, subject to any changes, and seconded by Councilperson Wilcox. The motion **passed** by unanimous consent, 6-0.*

SCHEDULE MEETINGS

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

Flood Control Committee, June 28, 2021, 6:00 pm
Special Council Meeting, June 29, 2021, 6:30 pm
Finance Committee, June 29, 2021, 6:00 pm
Human Resources Committee, July 8, 2021 4:15 p.m.

REQUEST OF CITIZENS & PUBLIC COMMENT

None

APPOINTMENTS

Solid Waste Board

Council Member

Steve Palmeri volunteered.

***Councilperson Wilcox moved to appoint Steve Palmeri to the Solid Waste Board, seconded by Councilperson Patten. The motion passed by unanimous consent, 6-0.*

PROCLAMATIONS

None

STAFF REPORTS

None

CITY COUNCIL COMMENTS

Councilperson Palmeri requested permission to be absent from Council July 7 – 23, 2021.

***Councilperson Wilcox moved to grant permission for Steve Palmeri's absence, seconded by Councilperson Patten. The motion passed by unanimous consent, 6-0.*

Councilperson Wilcox expressed her concern about the current fire dangers over the Fourth of July. Chief Stevens commented that there was a meeting at the BLM to coordinate various fire organizations and if fire conditions are too bad at that time there will be a ban on the ignition of fireworks.

MAYOR COMMENTS

At the last Council Meeting it had been requested that Council Members be provided with a list of projects that the Directors are currently working on. The Mayor explained that he had received the information from four departments and information received from these departments was 30 pages. He emphasized that Council Members can always contact Directors for updates. After a discussion, the council members thought it would be helpful to have the list and the one the Mayor currently has compiled will be placed in their mailboxes.

COMMITTEE RECOMMENDATIONS

- A. Zoning Commission Recommends Approval of 2210 Valley Drive East from General Commercial to Highway Commercial.

Lisa Ghiorzi, 415 Silver Stage Drive, commented that she is the purchaser of the property and she will be converting the building into a children's day care center.

***Councilperson Wilcox moved to approved the recommendation to rezone 2210 Valley Drive East from General Commercial to Highway Commercial, seconded by Councilperson Gardner. The motion passed by unanimous consent, 6-0.*

- B. Human Resources Committee Recommends Discussion of Planning Department Structure.

After a long discussion, the Council thought it would be in the best interest of the City to continue to retain a high-level professional planner this will save the City a lot of cost to the legal budget.

The Mayor allowed Chief Stevens to present a brief presentation on the benefits of creating a Fire Marshal position and combining it with the Building Inspector position. He has received positive input from other Fire Departments across the state of the benefits of combining these two positions. At the upcoming Human Resources Committee Meeting he will be presenting a combined positions description for Fire Marshal/Building Inspector.

BID OPENINGS

None

BID AWARDS

None

PUBLIC HEARINGS

None

UNFINISHED BUSINESS

- A. Discussion and Approval on Florence Stacy Fountain

Director Gray reached out to the manufacturer regarding the proposed fountain and it is substantially smaller than the original fountain. The City is storing 22' of marble from the original foundation. There was discussion about the size and not disappointing the donors. Lily Cruise, 908 S. Cottage Grove commented that they would like the fountain large enough to be attractive. The City will wait until they receive confirmation from Lily Cruise on confirmation of the proposed replacement fountain.

NEW BUSINESS

- A. **RESOLUTION NO. 4403 - A RESOLUTION APPROVING AN AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES, TASK ORDER EDITION WITH KADRMAS, LEE & JACKSON D/B/A KLJ, FOR THE PROVISION**

**OF ENGINEERING SERVICES TO THE CITY OF MILES CITY
FOR A 5-YEAR PERIOD.**

***Councilperson Huber moved to approve the Resolution No. 4403,
read by title only and seconded by Councilperson Patten.*

** On roll call vote, the motion passed by unanimous consent, 6-0.
Resolution No. 4403 passed.*

**B. RESOLUTION NO. 4415 - A RESOLUTION ESTABLISHING CITY
OF MILES CITY PERSONNEL POLICIES REGARDING POLICY
DRUG AND ALCOHOL FREE WORKPLACE**

***Councilperson Wilcox moved to approve the Resolution No.
4415, read by title only and seconded by Councilperson Gardner.*

** On roll call vote, the motion passed by unanimous consent, 6-0.
Resolution No. 4415 passed.*

**C. RESOLUTION NO. 4416 - A RESOLUTION ESTABLISHING CITY
OF MILES CITY PERSONNEL POLICIES REGARDING POLICY
DRUG AND ALCOHOL TESTING**

***Councilperson Wilcox moved to approve the Resolution No. 4416,
read by title only and seconded by Councilperson Patten.*

** On roll call vote, the motion passed by unanimous consent, 6-0.
Resolution No. 4416 passed.*

**D. RESOLUTION NO. 4417 - A RESOLUTION AUTHORIZING THE
CITY OF MILES CITY TO ENTER INTO AN AGREEMENT
ENTITLED "STATE OF MONTANA AGREEMENT MT-21-023
AMENDMENT 1" WITH THE STATE OF MONTANA HISTORIC
PRESERVATION OFFICE INCREASING CURRENT FUNDING IN
THE AMOUNT OF \$6000.00 TO THE HISTORIC PRESERVATION
OFFICE FOR USE AS MATCHING FUNDS FOR THE BIG SKY
TRUST FUND GRANT MATCH**

***Councilperson Patten moved to approve the Resolution No. 4417,
read by title only and seconded by Councilperson Huber.*

** On roll call vote, the motion passed by unanimous consent, 6-0.
Resolution No. 4417 passed.*

ADJOURNMENT

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

The meeting was adjourned at 8:02 p.m.

John Hollowell, Mayor

Linda Wilkins, Recorder

Public Safety Committee Meeting

The Public Safety Committee met Thursday, June 10, 2021, at 6:00 pm via live attendance and Zoom Conferencing in the City Hall Conference Room, 17 S. 8th. Present were Committee Members Elizabeth Patten, Kathy Wilcox, and Ken Gardner. Committee Member Steve Palmeri was excused. Also present were: Fire Chief Branden Stevens, Police Chief Doug Colombik, Captain Dan Baker and HR Officer/Recorder Linda Wilkins.

Chairperson Patten called the meeting to order.

1. Request of Citizens for Public Comment

None.

2. Staff Comments

Chief Stevens reported that the County has asked the department to respond to County calls. There was a discussion regarding discussing with the County regarding possibly do sometime of trade off between labor for taking County calls and use of a water tender. Chief Stevens also told the committee due to the closure of the airport for maintenance Forsyth Ambulance service will be providing coverage for medivac calls and there may be a reduction in revenue for the department not taking these air ambulance calls.

3. Committee Member Comments

None.

4. Review and Recommend Fireworks Resolution

The Committee did not recommend a resolution to Council, this year's activities will follow City Ordinance for fireworks.

5. Discuss and Recommend pigeon abatement.

1,025 pigeons have been trapped from the Nelson Building. The City will continue trapping pigeons.

6. Discussion and Recommendation of the Animal Ordinance regarding cats

The committee discussed setting the number of cats per household to 3 per household. Chief Colombik stated that Officer Mark Winkley is currently research on the wording for trapping cats within the City. He has been researching other cities. The committee is recommending a grandfather clause for people owning more than 3 cats prior to the passing of the ordinance may keep those cats but must not replace any cats over the number of 3. Licensing of cats was also discussed to assure that cats are spayed or neuter and vaccinated, this is a move to make sure cats are cared for. It was also suggested that public relations be done regarding owning pets.

***Committee Member moved to recommend to animal control officer for drafting an ordinance 3 cats per household with a grandfather clause for households owning for than 3 cats prior to the resolution may keep those cats but may not replace more than 3, licensing will be required on January, 2022 and proof of vaccinations, spay or neutering are required to obtain a license; and there will a clause for fostering cats, seconded by Committee Member Gardner. The motion passed unanimously 3-0.*

7. Update on MCPD remodel timeline

Chairperson Patten reported that Hardy Construction will begin working on the remodel next week. She will be meeting with SDI and Hardy on a timeline and there will be a presentation to Council on June 22.

8. Adjournment

***Committee Member Wilcox moved to adjourn the meeting, seconded by Committee Member Gardner and passed unanimously, 3-0.*

The meeting was adjourned at 6:38 p.m.

Chairperson Elizabeth Patten

Recorder Linda Wilkins

Human Resources Committee
June 10, 2021

The **Human Resources Committee** met Thursday, June 10, 2021 at 4:15 p.m. in the City Hall Conference Room. Present were Committee Members Kathy Wilcox, Stacy Broell, and Rick Huber. Committee Member Dwayne Andrews was excused. Also present were: Fire Chief Branden Stevens, Public Utilities Director Tom Speelmon, City Planner-in-Training Ally Capps, and Human Resources Officer/Recorder Linda Wilkins.

Chairperson Wilcox called the meeting to order.

1. Request of Citizens

None

2. Committee Member Comments

None

3. Review, Revise, Recommend Position Descriptions

a. Building Inspector / Fire Marshall

Chief Stevens call other fire departments in the state and the only negative feedback he received was from larger departments that it would be too much work. He stated the two positions cover a lot of the same areas. He explained that now when a construction company calls for the fire inspector to come out that usual would like the inspector to come immediately, but with the current schedule this not possible as the fire inspector is a full-time firefighter and may not be able to go on an inspection until either their back on shift or overtime is paid. This would alleviate complaints from business about the City not having a fire inspector from 9 a.m. to 5 p.m. Officer Wilkins reached out to other communities and the only city who responded was Kalispell with a combination position. Committee Member Huber expressed his concern over the volume of work that would be generated by this position and the work load that would be added to the Fire Chief. Chief Stevens will be working on the Fire Marshall / Building Inspector position description. The position description will be reviewed at the next committee meeting.

b. Planner-in-Training

c. Planner One

d. Planner Two

The Planner One position description was submitted to Land Solutions Community Planner Joel Nelson for his review and he has provided recommendations to the draft position description. Information also was provided to the committee for the American Institute of Certified Planners regarding "Job Classification Descriptions as per the American Planning Association" regarding certification levels of Planners. Chairperson Wilcox commented that it was important for the City to consider the structure of the Planning Department for job advancement or if it will continue to rely on Land Solutions. This an important decision because the whole Southgate issue came from the City not following the planning process correctly. Using Land Solutions helps to protect the City for liability issues rather than just having the position for the City signing off on projects. There was discussion on the education requirement of a planner.

***Committee Member Huber moved for discussion at City Council of the Fire Marshall and Planner positions, seconded by Committee Member Broell. The motion passed unanimously 3-0.*

4. Review, recommend Planner-in-Training advancement to Planner One

No discussion.

5. Other

None.

6. Next Meeting: TBD

Next meeting was not set.

7. Adjournment

***Committee Member Huber moved to adjourn, seconded by Committee Member Broell. The motion passed unanimously 3-0.*

The meeting was adjourned at 5:08 p.m.

Respectfully submitted,

Chairperson Kathy Wilcox

Recorder Linda Wilkins

Flood Control Committee
June 28, 2021

The Flood Control Committee met Monday, June 28, 2021, at 6:00 p.m. in the City Hall Conference Room. Those present were Chairperson Brant Kassner, Committee Members Steve Palmeri and Ken Gardner. Committee Member Elizabeth Patten was not present.

Also present were: Floodplain Administrator Samantha Malenovsky and City Clerk/Minute Recorder Mary Rowe.

1. Request of Citizens/Public Comment:

-None-

2. Committee Members Comments:

-None-

3. Review & Recommendation on 93 Penny Circle Variance Request

Administrator Malenovsky stated that she had received this request from Milestown Estates. The house and all utilities are at Base Flood Elevation (BFE) plus two inches. This request is for the garage to be at BFE without the additional two inches. She stated that she would approve this because of the slope of the driveway would be too much.

****** *Committee Member Palmeri moved to recommend approving the Variance Request on 93 Penny Circle, seconded by Committee Member Gardner and passed unanimously, 3-0.*

4. Adjournment

****** *Committee Member Palmeri moved to adjourn the meeting, seconded by Committee Member Gardner and passed unanimously, 3-0.*

There being no further business, the Committee adjourned at 6:03 p.m.

Respectfully Submitted,

Brant Kassner, Chairperson

Mary Rowe, Recorder

Finance Committee Meeting

June 29, 2021

The Finance Committee met Thursday, June 29, 2021 at 6:00 p.m. in the City Hall Conference room and online via zoom.us. Present were Committee Chair Stacy Broell and Committee Members Steve Palmeri, Brant Kassner and Elizabeth Patten.

Also present Mayor John Hollowell, Captain Dan Baker, and City Clerk/Recorder Mary Rowe.

Chairperson Broell called the meeting to order.

1. Requests of Citizens and Public Comment

None

2. Review and Approve Fiscal Year 2021-2022 Budget Meeting Schedule

Chairperson Broell suggested the third week of July at 6pm.

****** *Committee Member Palmeri moved to set the schedule to July 20th thru the 22nd, 2021 at 6:00pm, seconded by Committee Member Kassner and passed unanimously, 4-0.*

3. Adjournment

****** *Committee Member Patten moved to adjourn the meeting, seconded by Committee Member Palmeri and passed unanimously, 4-0.*

The meeting was adjourned at 6:05 p.m.

Stacy Broell, Committee Chairperson

Mary Rowe, Recorder

809 North Third
Miles City, MT 59301
406-853-2287

June 14, 2021

ATTN: Custer County/City Health Board

This letter is to express interest in continuing as a member of the Custer Co./City Health Board. My term expired on April 30, 2020. I apologize for being so late in sending this letter; last year was a little crazy for the local Health Board.

I have been on the board for several terms and find it to be a rewarding community service.

A handwritten signature in cursive script that reads "Donna J. Faber". The signature is written in black ink and is positioned above the printed name.

Donna Faber

1	ME1A	Meter Equipment - C Series
1	MP81	C Series Integrated Scale
1	NV50	InView Dashboard 1 unit DM125/DM225
1	NV90	InView Subscription
1	NV90KIT	InView Welcome Kit
1	NV99	InView MMS Base Software
1	NV99KIT	InView Welcome Kit
1	PAB1	C Series Premium App Bundle
1	PTJ1	SendPro Online
1	PTJ4	Multicarrier Sending App w/HW or Meter
1	PTJ8	SendPro Mailing Included W/ HW
1	PTJC	SendPro Individual
1	PTJN	Single User Access
1	PTK1	Web Browser Integration
1	PTK2	SendPro C Series Shipping Integration
1	SJS1	C200 SoftGuard
1	STDSLA	Standard SLA-Equipment Service Agreement (for SendPro C Series - Version 4)
1	ZH24	Manual Weight Entry
1	ZH27	HZ02 65 LPM Speed
1	ZHC425	SendPro C425 Base System Identifier
1	ZHD5	USPS Rates with Metered Letter
1	ZHD7	E Conf Services for Metered LTR. BDL
1	ZHWL	5lb/3kg Weighing Option for MP81

Your Payment Plan

Initial Term: 60 months	Initial Payment Amount:	
Number of Months	Monthly Amount	Billed Quarterly at*
60	\$ 89.06	\$ 267.18

*Does not include any applicable sales, use, or property taxes which will be billed separately.

- Tax Exempt Certificate Attached
- Tax Exempt Certificate Not Required
- Purchase Power® transaction fees included
- Purchase Power® transaction fees extra

Your Signature Below

By signing below, you agree to be bound by your State's/Entity's/Cooperative's contract, which is available at <http://www.pb.com/states> and is incorporated by reference. The terms and conditions of this contract will govern this transaction and be binding on us after we have completed our credit and documentation approval process and have signed below.

NASPO VALUEPOINT ADSP016-169887
 State/Entity's Contract#

Lessee Signature
 Print Name
 Title
 Date
 Email Address

Pitney Bowes Signature
 Print Name
 Title
 Date

Sales Information

Joseph Ruseski Jr	joseph.ruseski@pb.com	
Account Rep Name	Email Address	PBGFS Acceptance

Commerce solutions,
from the Craftsmen of Commerce.

pitney bowes 



Shipping

Shipping Solutions

SendPro®+

A better way to ship.

Manage multi-carrier shipping without ever leaving your office.

- Easily compare discounted shipping rates across USPS®, UPS® and FedEx®.
- Weigh packages with the integrated 15lb. scale and print labels directly from your device.
- Schedule pick-ups and track sending activity in real time with our integrated apps.
- Print discounted postage and seal envelopes at up to 65 letters per minute.
- Ship and mail from any PC with free subscription to SendPro Online.



For more information, visit us online: pitneybowes.com

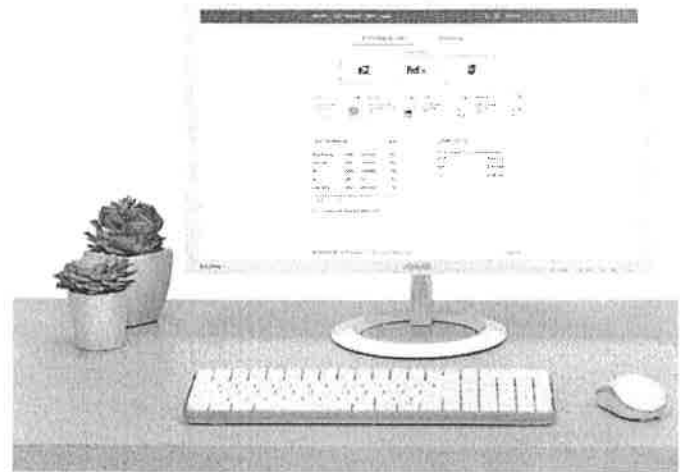
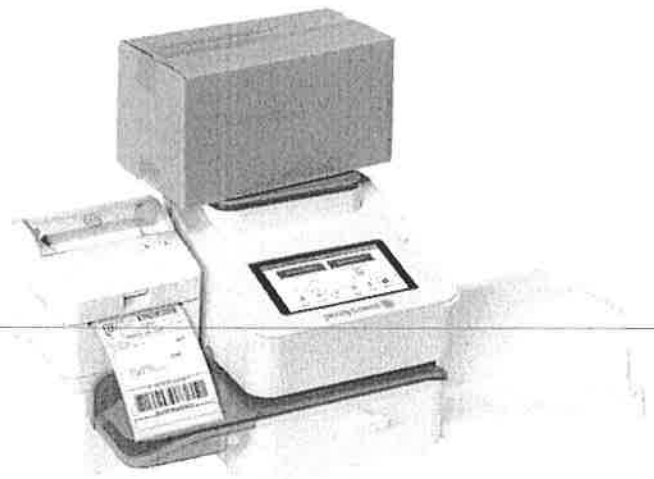
SendPro®+ Specifications:

Hardware: SendPro C425

User display	Color touchscreen
Envelope processing	Up to 65 letters per minute; semi-automatic feeding
Envelope moistener	Standard
Integrated scale	Up to 15 lbs.
Shipping label printer	(4" x 6") Optional: Compliant to USPS and alternate carriers
Electrical and approvals	100 – 120 VAC, 50/60 Hz, 1.0A
Dimensions	16 1/2" L x 15 1/2" D x 11 1/2" H
Envelope sizes	Up to 3/8" thickness. Media sizes: 3" x 5" up to 13" x 15"

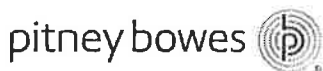
Software: SendPro Online and integrated applications

Pre-loaded apps	Included
Multi-carrier shipping	USPS®, UPS®, FedEx®
Label and report printing	Print to network printer
Connectivity	LAN (wired) or Wi-Fi (wireless)
Included services	
Basic accounting	Up to 100 accounts; Up to 10 devices
Basic analytics	High-level analytics
AutoInk™	Save 20% with enrollment*
Optional Add-On Features	
Electronic Return Receipt	Available
Premium accounting	Up to 500 accounts; Up to 100 devices
Premium analytics	Detailed analytics, insights and reports
Label and report printing	Laser printer for reports



*Get automatic ink replenishments at savings of 20% off the retail price when you enroll in the AutoInk program. For more information on AutoInk, visit us online at pbi.bz/autoink

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RECYCLE
PLEASE >
recycleplease.org

195MB01456_US



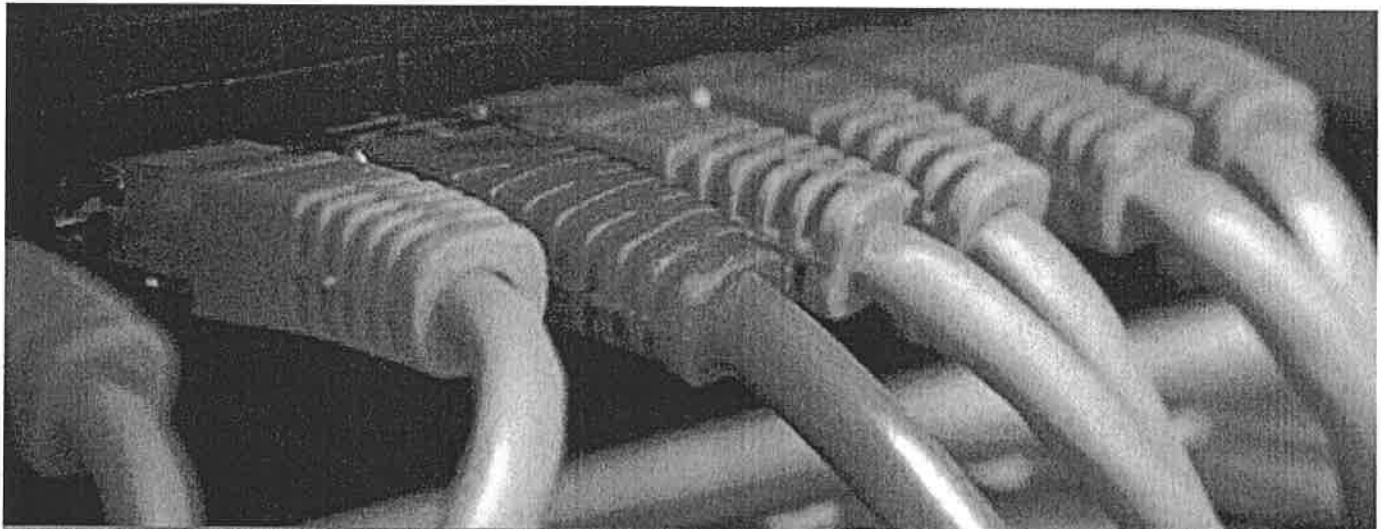
Get connected to stay connected.

Avoid disruptions to your mail operations. Switch your postage meter connection to a digital internet connection today.

With telecommunication companies moving away from traditional analog phone lines, you'll need to connect your Pitney Bowes meter via an internet connection (e.g. ethernet cable). This will help avoid any disruptions in your business operations. If you continue to connect your meter via a traditional analog phone line, you'll be unable to reach our servers once analog phone services are discontinued. Pitney Bowes meters connected via an internet connection can refill postage and download the latest USPS® postal rates with greater ease after analog phone services are discontinued.

Here's how you'll benefit when you upgrade to a digital internet connection.

- Avoid any possible disruptions to your business operations.
- Save money by eliminating the need for a dedicated analog phone line.
- Enjoy a far more reliable connection than with an analog connection.
- Take advantage of faster transmissions for USPS postal rate updates, software updates and refilling postage.



For more information, visit us online: pitneybowes.com/us/connect

Mary Rowe

From: Joseph Ruseski Jr <joseph.ruseski@pb.com> on behalf of Joseph Ruseski Jr
Sent: Wednesday, May 26, 2021 3:27 PM
To: cityclerk@milescity-mt.org
Subject: Pitney Bowes Postage Meter
Attachments: CITY OF MILES CITY.pdf; C425 - Brochure.pdf; Postage Meter Digital Internet Connectivity.pdf

Machine Model	DM300 (DM300C)	Serial Number	0895448
Contract	0040633476		

Good afternoon Mary,

Thanks for speaking with me regarding our postage meter located at 17 S. 8TH Street. As discussed, your lease/service agreement is nearing expiration & we've also discontinued our DM300 model.

Attached is the is the Montana State NASPO VALUEPOINT ADSP016-169897 contract with Pitney Bowes. Replacement rental/service agreement and equipment specifications are as follows;

Pitney Bowes SendPro C-425 postage mailing system with 5 lb. scale at the rate of \$89.06 per month

- Semi-automatic feeder processes 1 letter at a time
- Color touchscreen display
- Internal postage accounting codes included
- USPS shipping feature oversized items
- Optional barcode label printer not included
- Envelope sealer on/off
- Maximum scale capacity is 5 lbs.
- Internet hardwire or Wi-Fi connection only
- Includes full ink cartridge
- Professional installation & training by a Pitney Bowes technician which includes warranty, service & maintenance for duration of lease

Please have the following returned prior to 06/28/21;

1. **Confirm Printed Name, Title, Date on Lease Agreement**
2. **Please e-mail signed & completed copy to me**

There is no additional cost for your installation/training or removal. I may be reached at 800-203-2581 Ext. 6672 with any questions.

Sincerely,

Joseph F. Ruseski, Jr.

Account Manager
Pitney Bowes, U.S. Mailing Solutions, ISS
T +1 800 203 2581 Ext. 6672
F +1 860 392 5700
joseph.ruseski@pb.com
pitneybowes.com
Pitney Bowes

OFFICE OF THE GOVERNOR
STATE OF MONTANA

Greg Gianforte
GOVERNOR



Kristen Juras
LT. GOVERNOR

May 26, 2021

Jim Atchison, Executive Director
SouthEastern Montana Development Corporation
P.O. Box 1935
Colstrip, Montana 59323

RE: Notice of Big Sky Economic Development Trust Fund Grant Award for the Miles City Depot Feasibility Study

Dear Mr. Atchison:

On behalf of the State of Montana, I am pleased to notify you that SouthEastern Montana Development Corporation has been approved for up to \$13,500 from the Montana Department of Commerce – Big Sky Economic Development Trust Fund (BSTF) Program. This award, effective May 20, 2021, is for SouthEastern Montana Development Corporation to assist the City of Miles City with a Miles City Depot Feasibility Study.

Creating sustainable, good-paying jobs for Montanans is the foundation of our Montana Comeback Plan to get our economy going again and help our state live up to its full, outstanding potential. Thank you for your important role in creating greater opportunities and prosperity for more Montanans.

SouthEastern Montana Development Corporation will be contacted directly with more information in the coming weeks by program staff. If you have any questions, please contact Annmarie Robinson, Section Manager. Ms. Robinson can be reached at 406-841-2250 or by email at arobinson3@mt.gov.

Congratulations and wishing you continued success.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Gianforte".

GREG GIANFORTE
Governor

cc: Ally Capps, City of Miles City
Annmarie Robinson, Big Sky Economic Development Trust Fund Program

RESOLUTION NO. 4419

A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO AN INTERGOVERNMENTAL TRANSFER AGREEMENT FOR MEDICAID SUPPLEMENT PAYMENT PURPOSES CONTRACT WITH THE STATE OF MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

WHEREAS, The City of Miles City provides ambulance services to local residents;

AND WHEREAS, the City bills Medicaid for certain services, and is required to follow certain procedures and meet certain criteria to do so;

AND WHEREAS, the Montana Department of Public Health and Human Services has requested that the City of Miles City enter into an Intergovernmental Transfer Agreement to receive Medicaid funding;

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

1. The “State of Montana Department of Public Health and Human Services Intergovernmental Transfer Agreement for Medicaid Supplemental Payment Purposes 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
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, AT A DULY CALLED MEETING THIS 13TH DAY OF JULY, 2021.

John L. Hollowell, Mayor

ATTEST:

Mary Rowe, City Clerk

CONTRACT NUMBER 22-11-5-01-002-0

THIS CONTRACT, is entered into between the Montana Department of Public Health and Human Services, (the "Department"), whose contact information is as follows: P.O. Box 202951, Helena, MT, 59620, and Phone Number (406) 444-3182, and Fax Number (406) 444-1861, and City of Miles City Ambulance (the "Contractor"), whose contact information is as follows: Federal Tax ID 81-60011292, DUNS Number 134230325, P.O. Box 910, Miles City, MT, 59301, Phone Number 406-874-8601; respectively (collectively, the "Parties").

RECITALS

Therefore, in consideration of the foregoing recitals, covenants, terms and conditions set forth herein, the Parties agree as follows:

SECTION 1. SERVICES/SCOPE OF WORK

- A. This Contract constitutes the basic agreement between the parties for: providing the voluntary intergovernmental transfer of funds to the Department by the City or County where the Contractor is located as a local government entity of the State of Montana. The funds are to be used as matching funds for the receipt of federal Medicaid funds necessary for supplemental payments to ambulance providers that are city or county owned, operated, or publicly funded., (the "Services"), as more particularly described in Attachment A Scope of Work.
- B. Time is of the essence under this Contract.
- C. The Department and the Contractor, their employees, agents, contractors, and subcontractors will cooperate with each other, and with other state or federal administrative agency employees, contractors and subcontractors at no charge for purposes relating to the delivery of and administration of the services to be delivered under this Contract.
- D. The Contractor will perform the Services in accordance with all of the provisions of the Contract, which consists of the following documents:
 - 1. Contract (this instrument)
 - 2. Attachment A: Scope of Work
 - 3. Attachment B: Payment/ Fee Schedule
 - 4. Attachment C: Invoice
 - 5. Attachment D: Federal and State Law Requirements
 - 6. Attachment E: Assurances
 - 7. Attachment F: Business Associate Agreement

SECTION 2. TERM OF CONTRACT

The term of this Contract is from July 01, 2021 through June 30, 2028 unless terminated in accordance with the Contract. Renewals of this Contract, by written agreement of the parties, may be made at one-

year intervals, or any interval that is agreed upon by both parties. The Contract may not be renewed for more than a total of 7.

SECTION 3. CONSIDERATION AND PAYMENTS

Subject to the terms and conditions contained in this Contract, the Department will pay the Contractor for the Services as follows:

A. Other Programs as Payers for Services – Non-Duplication of Payment

The Contractor may not seek compensation from monies payable through this Contract for the costs of goods and services that may be or are reimbursed, in whole or in part, from other programs and sources.

B. Billing Procedures and Requirements

Payment shall be made in accordance with the reimbursement methodology and fees adopted at ARM 37.86.2606.

1. Payment to the Contractor shall be made to:

City of Miles City Ambulance
P.O. Box 910
Miles City, MT 59301

2. The Contractor must bill in accordance with the procedures and requirements the Department identifies and must itemize all services and expenses for reimbursement. Contractor must submit invoices on forms the Department provides. Invoice is attached as Attachment C.

C. Adjustments to Consideration

The Department may adjust the consideration provided to the Contractor under this Contract based on any reductions of funding, governing budget, erroneous or improper payments, audit findings, or failings in the Contractor's delivery of services.

D. Sources of Funding

The sources of funding for this Contract are 0% from the state general fund. Local government funds must be transferred and the funds certified by the city or county treasurer as an intergovernmental transfer of public funds that qualifies as a payment of services eligible for federal financial participation (FFP, the federal governments share of a state's expenditures under the Medicaid program) in accordance with 42 CFR 433.51 (2004).

E. Erroneous and Improper Payments

The Contractor may not retain any monies the Department pays in error or which the Contractor, its employees, or its agents improperly receive. The Contractor must immediately notify the

Department if it determines a payment may be erroneous or improper, and must return that payment within 30 days of the Department requesting its return. If the Contractor fails to return to the Department any erroneous or improper payment, the Department may recover such payment by any methods available under law or through this Contract, including deduction of the payment amount from any future payments to be made to the Contractor.

F. Final Payment

The Department will issue the final payment to the Contractor for the Services when the Department has accepted the Services and determined that the Contractor has met all of its Contract performance obligations satisfactorily.

G. Tax Exemption

State of Montana is exempt from Federal Excise Taxes (#81-0302402) except as otherwise provided in the federal Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119].

H. Personal Property Tax

All personal property taxes will be paid by Contractor.

SECTION 4. WARRANTIES

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

SECTION 5. CREATION AND RETENTION OF RECORDS

- A. The Contractor must maintain all records, (written, electronic or otherwise) documenting compliance with the requirements of this Contract and its attachments, and with state and federal law, relating to performance, monetary expenditures and finances during the term of this Contract and for 8 years after its completion date. The obligation to maintain records required by this paragraph survives the termination or expiration of this Contract.
- B. If any litigation, reviews, claims or audits concerning the records related to the performance of the Contract is begun, then the Contractor must continue to retain records until such activity is completed.
- C. The Contractor must provide the Department and its authorized agents with reasonable access to records the Contractor maintains for purposes of this Contract. The Contractor must make the records available at all reasonable times at the Contractor's general offices or other location as agreed to by the parties.

SECTION 6. ACCOUNTING, COST PRINCIPLES, AND AUDIT

A. Accounting Standards

The Contractor must maintain a system of accounting procedures and practices sufficient for the Department to determine to its satisfaction that the system (1) permits timely development of all necessary cost data in the form contemplated by the contract type, and (2) is adequate to allocate costs in accordance with Generally Accepted Accounting Principles.

B. Audits and Other Investigations

The Department and any other legally authorized federal and state entities and their agents may conduct administrative activities and investigations, including audits, to ensure the appropriate administration and performance of this Contract, and the proper expenditure of monies, delivery of goods, and provision of Services pursuant to this Contract. The Contractor will provide the Department and any other authorized governmental entity and their agents access to and the right to record or copy any and all of the Contractor's records, materials and information necessary for the conduct of any administrative activity, investigation or audit. Administrative activities and investigations may be undertaken, and access shall be afforded under this section from the time the parties enter this Contract until the expiration of 8 years from the completion date of this Contract.

C. Corrective Action

If directed by the Department, the Contractor must take corrective action to resolve audit findings. The Contractor must prepare a corrective action plan detailing actions the Contractor proposes to undertake to resolve the audit findings. The Department may direct the Contractor to modify the corrective action plan.

D. Reimbursement for Sums Owing

The Contractor must reimburse or compensate the Department in any other manner as the Department may direct for any sums of monies determined by any administrative activity, investigation or audit to be owing to the Department.

E. The Contractor must comply with the federal audit and cost accounting requirements set forth in 45 CFR Part 75 and 2 CFR Part 300.

SECTION 7. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

A. The Contractor will not assign, transfer, delegate or subcontract any right or duty arising under this Contract without prior written approval from the Department.

B. Any assignment, transfer, delegation, or subcontracting of the Contractor's rights or duties under this Contract does not relieve the Contractor from its responsibility and liability for performance of all Contractor obligations under this Contract. The Contractor will be as fully responsible for the acts or omissions of any subcontractor as it is for its own acts or omissions.

SECTION 8. INDEMNIFICATION

- A. The Contractor, at its sole cost and expense, must indemnify, defend, and hold harmless the State of Montana against any allegations of liability of any kind, relating to personal injury, death, damage to property, or any other legal obligation and any resulting judgments, losses, damages, liability, penalties, costs, fees, cost of legal defense and attorney's fees, to the extent caused by or arising out of Contractor's performance of services under this Contract or in any way resulting from the acts or omission of Contractor, and/or its agents, employees, representatives, assigns, and subcontractors.
- B. The Department must give the Contractor notice of any allegation of liability and at the Contractor's expense the Department shall cooperate in the defense of the matter.
- C. If the Contractor fails to fulfill its obligations as the indemnitor under this section, the Department may undertake its own defense. If the Department undertakes its own defense, the Contractor must reimburse the Department for any and all costs to the Department resulting from settlements, judgments, losses, damages, liabilities, and penalties and for all the costs of defense incurred by the Department including but not limited to attorney fees, investigation, discovery, experts, and court costs.

SECTION 9. LIMITATIONS OF STATE LIABILITY

- A. Any liabilities of the State of Montana and its officials, employees and agents are governed and limited by the provisions of Title 2, Chapter 9, MCA, for all acts, omissions, negligence, or alleged acts or omissions, negligent conduct, and alleged negligent conduct related to this Contract.
- B. The Department shall not be liable, regardless of the form of action, whether in contract, tort, negligence, strict liability or by statute or otherwise, for any claim related to or arising under this Contract for consequential, incidental, indirect, special, or exemplary damages, including without limitation lost profits and lost business opportunities.

SECTION 10. CONFLICTS OF INTEREST

The Contractor must not have any conflict of interest regarding the performance of the Services under this Contract. The Contractor may not enter into any contract or other arrangement for the use, purchase, sale lease or rental of real property, personal property or services funded with monies of this Contract if an employee, administrator, officer or director of the Contractor may receive a financial or other valuable benefit as a result. The Department may grant exceptions to this prohibition where it determines the particular circumstances warrant the granting of an exception.

SECTION 11. COMPLIANCE WITH LAWS/WARRANTIES

- A. The Contractor must comply with all state and federal laws, rules, regulations, ordinances, and executive orders applicable to the performance of the Services under this Contract. Attachment D to this Contract contains a list of state and federal authorities. The Contractor must assure that all subcontractors comply with all applicable laws.

- B. Civil Rights. The Contractor may not discriminate in any manner against any person on the basis of race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation, political beliefs, genetic information, veteran's status, culture, social origin or condition, ancestry, or an individual's association with individuals in any of the previously mentioned protected classes in the performance of this Contract or in the delivery of Montana State services or funding on behalf of the State of Montana.
- D. The Contractor represents and warrants that the Contractor is legally authorized under state and federal business and tax legal authorities to conduct business in accordance with this Contract.
- E. The Contractor represents and warrants that it is an independent contractor and that its employees, agents and subcontractors are not employees of the State of Montana. The Contractor may not in any manner represent or maintain the appearance of being employees of the State of Montana.
- F. The Contractor must comply with all applicable Workers' Compensation requirements.
- G. The Contractor must pay all state, federal, social security, unemployment insurance, and all other taxes, assessments, or contributions due and payable to the State of Montana and/or the United States in connection with the Services to be performed under this Contract. The Contractor must hold the State of Montana harmless from any liability on account of any such taxes or assessments.

SECTION 12. REGISTRATION OF OUT OF STATE ENTITIES

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

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

SECTION 13. OWNERSHIP OF DATA AND DOCUMENTS

All data, information, work in progress, documents, reports, patents or copyrights developed in connection with any services under this Contract or information provided to the Contractor, both in hard-copy form and as may embodied on any recording and storage media, is deemed Department property and, upon request at the termination or expiration of this Contract, shall be delivered to the Department.

SECTION 14. CONFIDENTIALITY

A. Personal Information

1. During the term of this Contract, the Contractor, its employees, subcontractors and agents must treat and protect as confidential all material and information the Department provides to the Contractor or which the Contractor acquires on behalf of the Department in the performance of this Contract which contains the personal information of any person.
2. In its use and possession of personal information, the Contractor must conform to security standards and procedures meeting or exceeding current best business practices. Upon the Department's request, the Contractor will allow the Department to review and approve any specific security standards and procedures of the Contractor.

B. Notice by Contractor of Unauthorized Disclosures or Uses of Personal Information

Immediately upon discovering any unauthorized disclosure or use of personal information by the Contractor, its employees, subcontractors, agents, the Contractor must confidentially report the disclosure or use to the Department in detail, and must undertake immediate measures to retrieve all such personal information and to prevent further unauthorized disclosure or use of personal information.

C. Notice by Contractor of Investigations, Complaints, Litigation Concerning the Use and Protection of Personal Information

1. The Contractor must provide the Department with written notice within five work days of the Contractor receiving notice of any administrative action or litigation threatened or initiated against the Contractor based on any legal authority related to the protection of personal information.
2. With its notice, the Contractor must provide the Department with copies of any relevant correspondence, pleadings, papers, administrative or legal complaints and determinations.

D. Contract Information

The Contractor must hold in strict confidence any data, findings, results, or recommendations obtained or developed by the Contractor in connection with the Services under this Contract, including but not limited to, information and data given to the Contractor by the Department, its agents or contractors or any other source.

E. Access/Use of Confidential Information

The Contractor may not access or use personal, confidential, or other information obtained through the Department, its agents and contractors, unless the Contractor does so:

1. in conformity with governing legal authorities and policies;

2. with the permission of the persons or entities to whom or which the information pertains; and
 3. with the review and approval by the Department prior to use, publication, or release.
- F. The information contained within this Contract and attachments, inclusive of Contractor's proposal and its attachments, if any, and information otherwise provided to the Department in relation to this contractual relationship is not confidential and is available for public inspection and copying unless determined in accordance with federal or state law to be confidential as personal consumer, recipient or employee information or as business/corporate proprietary information that is protected from release. To any extent required or allowed by law, the Department has the right to use for public purposes and to disclose to the public contractual information inclusive of reports, evaluations, statistics, and other management and performance information related to this Contract.

SECTION 15. COMPLIANCE WITH THE FEDERAL HIPAA AND HITECH PRIVACY AND SECURITY REQUIREMENTS

If the Contractor is a "Business Associate" as defined at 45 C.F.R. § 160.103, it must comply with the privacy and security requirements for functioning as a "business associate" of the Department or as a "covered entity" under HIPAA and HITECH. In addition to executing this Contract, the Contractor must execute the Business Associate Agreement attached to this Contract as Attachment G.

SECTION 16. PROPRIETARY INFORMATION

- A. Before the Department can recognize a business/corporate claim of confidential trade secret or proprietary information, the Contractor must identify and segregate the information for which the claim is being asserted and must have provided a detailed legal analysis supporting the claim of confidentiality. The Contractor must include with that claim an affidavit of legal counsel on the form provided by the Department, titled "AFFIDAVIT FOR PROPRIETARY INFORMATION CONFIDENTIALITY," attesting to legal counsel's legal relationship to the Contractor, acknowledging the primacy of federal and Montana law with respect to the claim, and indemnifying the Department with respect to defense and warranting the Contractor's responsibility for all legal costs and attorneys' fees, should the Department accept the claim as legitimate and as a result be subjected to administrative or legal contest.
- B. The Department will provide the Contractor timely notice of any administrative or legal request or contest from a third party seeking release of contractual and related information for which the Contractor has properly made a claim that the information is confidential as trade secret or proprietary information. If the Department determines that such information is subject to the public right to know and must be released as requested, the Department will provide the Contractor with notice of the intended release five working days prior to the date of the proposed release. The notice period is intended to allow the Contractor to make arrangements, if desired, to intervene through an appropriate legal forum to contest the release.

SECTION 17. PUBLICITY AND DISCLAIMERS

- A. The Contractor may not use monies under this Contract to pay for media, publicity or advertising that in any way associates the services or performance of the Contractor or the Department under this Contract with any specific political agenda, political party candidate for public office, or any matter to be voted upon by the public. Media includes but is not limited to commercial and noncommercial print, verbal, and electronic media.
- B. The Contractor must inform any people to whom it provides consultation or training services under this Contract that any opinions expressed do not necessarily represent the position of the Department. All public notices, information pamphlets, press releases, research reports, posters, public service announcements, web sites and similar modes of presenting public information pertaining to the services and activities funded with this Contract prepared and released by the Contractor must include the statement:

“This project is funded in whole or in part under a Contract with the Montana Department of Public Health and Human Services. The statements herein do not necessarily reflect the opinion of the Department.”

- C. The Contractor must state the percentage and the monetary amount of the total program or project costs of this Contract funded with (a) federal monies and (b) non-federal monies in all statements, press releases, and other documents or media pieces made available to the public describing the services provided through this Contract.
- D. Before the Contractor uses, publishes, releases or distributes them to the public or to local and state programs, the Department must review and approve all products, materials, documents, publications, press releases, and media pieces (in any form, including electronic) the Contractor or its agents produce with contract monies to describe and promote services provided through this Contract.

SECTION 18. ACCESS TO PREMISES

The Contractor must provide the State of Montana and any other legally authorized governmental entity, or their authorized representatives, the right to enter at all reasonable times the Contractor's premises or other places where contractual performance occurs to inspect, monitor or otherwise evaluate contractual performance. The Contractor must provide reasonable facilities and assistance for the safety and convenience of the persons performing these duties. All inspection, monitoring and evaluation must be performed in such a manner as not to unduly interfere with contractual performance.

SECTION 19. LIAISON AND SERVICE OF NOTICES

Jesse May, Phone Number (406) 444-3182, Fax Number (406) 444-1861, jesse.may@mt.gov, or their successor, is the liaison for the Department. Linda Wilkins, Phone Number 406-874-8601, is the liaison for the Contractor. These persons serve as the primary contacts between the parties regarding the performance of this Contract. Written notices, reports and other information required to be exchanged between the parties must be directed to the liaison at the parties' addresses set out in this Contract.

SECTION 20. MEETINGS

A. Technical or Contractual Problems. Contractor shall meet with the Department's personnel, or designated representatives, to resolve technical or contractual problems occurring during the Contract term or to discuss the progress made by Contractor and the Department in the performance of their respective obligations, at no additional cost to the Department. The Department may request the meetings as problems arise and will be coordinated by the Department. The Department shall provide Contractor a minimum of three full working days' notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the Contract.

SECTION 21. FORCE MAJEURE

If the Contractor or the Department is delayed, hindered, or prevented from performing any act required under this Contract by an occurrence beyond the control of the asserting party including, but not limited to, theft, fire, public enemy, severe and unusual weather conditions, injunction, riot, strikes, lockouts, insurrection, war, or court order, and the asserting party gives prompt written notice of the event to the other party, then performance of the act shall be excused for the period of the delay, to the extent the performance is actually affected and the asserting party resumes performance as soon as practicable. Matters of the Contractor's finances shall not be considered a force majeure.

SECTION 22. CONTRACT TERMINATION

- A. The Department may terminate this Contract without cause and in lieu of any or all other remedial measures available through this Contract. The Department terminating without cause must give written notice of termination to the Contractor at least sixty (60) days prior to the effective date of termination. In the event of such termination without cause, the Contractor shall be paid for all Services rendered satisfactorily to the termination date and for any direct costs (not including anticipated profits) incurred by the Contractor as a result of the termination. Such payment shall constitute the Contractor's sole right and remedy. The Department has the right to terminate without cause even when a condition of force majeure exists.
- B. The Department may immediately terminate this Contract if the Contractor engages in any violation of state or federal law listed in this Contract or any attachment to this Contract, or which otherwise may be applicable to the Contract arising from the performance of Services under this Contract.
- C. The Department may terminate this Contract in whole or in any aspect of performance under this Contract if:
 - 1. federal or state funding for this Contract becomes unavailable or reduced for any reason; or
 - 2. the Department determines that the Contractor is failing to perform in accordance with the terms of this Contract. In such event, the Department shall give Contractor written

notice of breach and an opportunity to cure the breach. Contractor will correct the breach within 30 calendar days of receipt of such notice unless the cure period is otherwise specified in the written notice of breach. If the breach is not corrected timely, this Contract may be terminated immediately, in whole or in part, by written notice from the Department to Contractor. The option to terminate shall be at the sole discretion of the Department.

- D. Upon expiration, termination or cancellation of this Contract, or any portion of this Contract, the Contractor must assist the Department, its agents, representatives and designees in closing out this Contract, and in providing for the orderly transfer of contract responsibilities and the continued delivery of contract services by the Department or its designee, and shall allow the Department access to the Contractor's facilities, records and materials to fulfill these requirements.

SECTION 23. ADDITIONAL REMEDIES

A. Withholding Payments

If the Contractor fails to perform the services in conformance with the requirements of this Contract, the Department has the right, with notice, to withhold any and all payments directly related to the non-compliant services. The Department may withhold any payments due to the Contractor, without penalty or work stoppage by Contractor, until the Contractor cures performance to the satisfaction of the Department. The Contractor is not relieved of its performance obligations if any payment is withheld.

B. Reductions in Payments Due

Amounts owed to the Department by the Contractor under this Contract, including but not limited to liquidated or other damages, or claims for damages, may be deducted or set-off by Department from any money payable to Contractor pursuant to this Contract.

- C. If, in the Department's reasonable judgment, a default by Contractor is not so substantial as to require termination of the entire Contract, reasonable efforts to induce the Contractor to cure the default are unavailing, the Contractor fails to cure such default within 30 calendar days of receipt of notice from the Department, and the default is capable of being cured by the Department or by another resource without unduly interfering with continued performance by the Contractor, the Department, without prejudice to any other remedy it may have, may terminate performance of the particular service that is in default and provide or procure the services reasonably necessary to cure the default. In the event of a termination for failure to perform, Department will, without limiting its other available remedies, have the right to procure the terminated services and the Contractor will be liable for: (i) the cost difference between the cost of the terminated services and the costs for the replacement services acquired from another vendor or expended by Department, and (ii) if applicable, the following administrative costs directly related to the replacement of this Contract: costs of competitive bidding, mailing, advertising, and staff time costs.

D. Stop Work Order

1. The Department may, at any time, by written stop work order to the Contractor, require the Contractor to stop any or all parts of the work required by this Contract for the period of days indicated by the Department after the stop work order is delivered to Contractor. The stop work order must be specifically identified as a stop work order issued under this section. Upon receipt of the stop work order, the Contractor must immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage.
2. If a stop work order issued under this section is canceled or the period of the stop work order, or any extension expires, the Contractor must resume contractual performance. The Department, as may be necessary, must adjust through amendment to this Contract the delivery schedule or reimbursement, or both.

E. Right to Assurance

If the Department, in good faith, has reason to believe that the Contractor does not intend to, or is unable to perform or has refused to perform or continue performing all material obligations under this Contract, the Department may demand in writing that the Contractor give a written assurance of intent to perform. Failure by Contractor to provide written assurance within the number of days specified in the demand (not less than five business days) may, at the Department's option, be the basis for terminating this Contract under the terms and conditions or other rights and remedies available by law or provided by this Contract.

- F.** Any remedies provided by this Contract are not exclusive and are in addition to any other remedies provided by law.

SECTION 24. CHOICE OF LAW, REMEDIES AND VENUE

- A.** This Contract is governed by the laws of the State of Montana.
- B.** For purposes of litigation concerning this Contract, venue must be in the First Judicial District in and for the County of Lewis and Clark, State of Montana.
- C.** If there is litigation concerning this Contract, the Contractor must pay its own costs and attorney fees.
- D.** This Contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

SECTION 25. GENERAL

- A.** No statements, promises, or inducements made by the parties or their agents are valid or binding if not contained in this Contract and the materials expressly referenced in this Contract as governing the contractual relationship.
- B.** The headings to the section of this Contract are convenience of reference and do not modify the terms and language of the sections to which they are headings.

- C. Except as may be otherwise provided by its terms, this Contract may not be enlarged, modified or altered except by written amendment signed by the parties to this Contract.
- D. If there is a dispute as to the duties and responsibilities of the parties under this Contract, this Contract along with any attachments prepared by the Department, including request for proposal, if any, govern over the Contractor's proposal, if any.
- E. If a court of law determines any provision of this Contract is illegal, all other provisions of this Contract remain in effect and are valid and binding on the parties.
- F. Any provision of this Contract that is determined to conflict with any federal or state law or regulation, is inoperative to the extent it conflicts with that authority and is to be considered modified to the extent necessary to conform with that authority.
- G. Waiver of any default, breach or failure to perform under this Contract may not be construed to be a waiver of any subsequent default, breach or failure of performance. In addition, waiver of a default, breach or failure to perform may not be construed to be a modification of the terms of this Contract unless reduced to writing as an amendment to this Contract.
- H. This Contract may be executed in counterparts, which together will constitute one instrument.

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

MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

BY: _____
Darci Wiebe, Administrator

Date: _____

CONTRACTOR

BY: _____
~~Linda Wilkins~~ John L. Hollowell

Date: _____

Attachment A To Contract No. 22-11-5-01-002-0

SCOPE OF WORK

During the 3rd quarter of each year the Department will send the Contractor a letter and a contract spreadsheet. The contract spreadsheet will depict the amount of the intergovernmental transfer to be issued to the Montana Department of Public Health and Human Services and the supplemental payment amount to be issued to the eligible provider for the specified state fiscal year. Once the check has been received from the City or County entity where the Contractor resides, the Department will process the Medicaid supplemental payment and issue a check to the ambulance provider in the amount specified in the specific state fiscal year's contract spreadsheet. Contract spreadsheets become a part of this contract. Checks from the ambulance provider must be received by the Department before December 31st and no retroactive supplemental payments will be issued.

Attachment B To Contract No. 22-11-5-01-002-0

PAYMENT/FEE SCHEDULE

The intergovernmental transfer through a check issued from the City or County treasurer for the amount specified in the spreadsheet and payable to the Department must occur before the respective Medicaid supplemental payment is made. The intergovernmental transfer must be made to the Department's accounting entity:

DPHHS Health Resources Division
Fiscal Bureau
1400 Broadway
PO Box 202951
Helena, MT 59620

The funds to be transferred to the Department by the City or County where the Contractor resides must be derived from a general mill levy or other legally authorized mill levy or other source for which the expenditure of the funds generated by the mill levy or other source are not limited in purpose or are for purposes that encompass the matching of federal Medicaid funds.

The City or County where the Contractor resides may not retain any of the funds designated for the Medicaid supplemental payment. In addition, the Ambulance provider must receive 100% of the payments made by the Department and no such funds shall be returned to the City or County by the provider. Furthermore, no funds from payments made under the approved Medicaid State Plan may be transferred from the participating Ambulance provider to the City or County.

Attachment D To Contract No. 22-11-5-01-002-0

FEDERAL AND STATE LAW REQUIREMENTS

Rev. 1/25/2021

A. Compliance with Federal Authorities

Contractor assures that it and any of its subcontractors will comply with all federal laws, regulations, and executive orders, that are applicable to this Contract, to include the provisions of the below referenced laws, regulations and executive orders. The list is not intended, nor must it be construed, as a listing of all federal authorities with which Contractor must comply for the purposes of the Contract, or that Contractor must comply with each of the authorities listed. The Contractor is responsible for determining with which federal authorities it must comply in the performance of the Contract.

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d, *et seq.*), prohibiting discrimination based on race, color, or national origin, as implemented by DoD regulations at 32 CFR part 195.
2. Age Discrimination Act of 1975 (42 U.S.C. § 6101, *et seq.*), prohibiting discrimination based on age, as implemented by DoD regulations at 32 CFR part 196.
3. Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681, *et seq.*), prohibiting discrimination based upon gender, as implemented by DoD regulations at 32 CFR part 196.
4. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), prohibiting discrimination based upon disability, as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.
5. Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, *et seq.*), prohibiting discrimination based upon disability.
6. Vietnam-Era Veterans Readjustment Assistance Act (38 U.S.C. § 4212), prohibiting discrimination in employment against protected veterans and requiring affirmative actions of recruit and employ protected veterans.
7. The Federal Executive Orders 11246, 11478, and 11375 and 41 CFR Part 60, requiring equal employment opportunities in employment practices.
8. Executive Order No. 13166 requiring facilitation of access for persons with limited English proficiency to federally funded services.
9. False Claims Act, 31 U.S.C. §§ 3729-3733 (the "Lincoln Law"), prohibiting recipients of federal payments from submitting a false claim for payment.
10. Sherman Anti-Trust Act, 15 U.S.C. §§1-7m prohibiting any contract, trust, or conspiracy in restraint of interstate or foreign trade.
11. Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58 and the Anti-Kickback Statute, 42 U.S.C. §§ 1320(a)-(7)a, prohibiting the exchange or offer to exchange anything of value to induce the referral of federal health care program business.
12. Copeland "Anti-Kickback" Act. Contractor agrees that it will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). As applied to this Contract, the Copeland "Anti-Kickback" Act makes it unlawful to induce, by force, intimidation, threat or procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public

- works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.
13. Debarment and Suspension. Contractor is subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. Contractor agrees to comply with the DOD implementation of 2 CFR part 180 (at 2 CFR 1125) by checking the Excluded Parties List System (EPLS) at the current OMB website to verify (sub)contractor eligibility to receive contracts and subcontracts resulting from this Agreement. The Contractor shall not solicit offers from, nor award contracts to contractors listed in EPLS. This verification shall be documented in the Contractor's contract files, and shall be subject to audit by Federal and State audit agencies.
 14. Whistleblower Protection Act, 10 U.S.C. 2409, 41 U.S.C. 4712, and 10 U.S.C. 2324, 41 U.S.C. 4304 and 4310, requiring compliance with statutory requirements for whistleblower protections.
 15. Byrd Anti-Lobbying Amendment, (31 U.S.C. 1352). Contractors that bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
 16. Drug-Free Work Place. Contractor agrees to comply with the requirements regarding drug-free workplace requirements in Subpart B of 32 CFR part 26, which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).
 17. Federal Funding Accountability and Transparency Act of 2006, requiring reporting of subawards and executive compensation;
 - a. First-tier Subawards.
All recipients, unless exempt as provided in paragraph D, must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity. Recipients must report the information about each obligating action in accordance with the submission instructions posted at www.fsrs.gov.
 - b. Total Compensation of Recipient Executives.
 - i. All recipients must report total compensation for each of the five most highly compensated executives for the preceding completed fiscal year, if,
 - (1) the total Federal funding authorized to date under this award is \$25,000 or more; in the preceding fiscal year, recipients received: Eighty percent or more of the annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (2) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial

- assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
- (3) The public does not have access to information about the compensation of the executives through periodic reports filed under the Securities Exchange Act of 1934 and Internal Revenue Code of 1986.
- ii. Where and when to report. Recipients must report executive total compensation described in paragraph b.1 of this award term:
 - (1) The Contractor is to submit the Compensation Report to the Department by the end of the month following the month in which the total of the monies obligated through this Contract is at \$25,000 or more, whether occurring at the time of signing or at some later date due to a contractual amendment. The Contractor must continue to submit the Compensation Report annually during the term of the Contract on the anniversary of the initial date of submittal, even if the total consideration for the Contract is later amended to be less than \$25,000.
 - (2) The Contractor will submit the Compensation Report to the Department by first-class mail addressed as follows or via email:
DPHHS
Attn: BFSD-FFATA Reporting
PO Box 4210
Helena, MT 59604-4210
hhsffata@mt.gov
- c. Total Compensation of Subrecipient Executives.
All recipients unless exempt as provided in paragraph d. of this award term, for each first-tier subrecipient. Recipients must report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if
 - i. in the subrecipient's preceding fiscal year, the subrecipient received:
 - (1) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards);
 - (2) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - (3) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.
 - d. Exemptions. All recipients' gross income, from all sources of the previous tax year, under \$300,000, are exempt from the requirements to report:
 - i. Subawards, and
 - ii. The total compensation of the five most highly compensated executives of any subrecipient.
18. Disclosure of Ownership and Control Information pursuant to 42 C.F.R. §§ 455.104, 455.105, and 455.106, requiring disclosures of ownership and control, business

- transactions, and persons with criminal convictions in connection with the delivery of Medicaid funded services.
19. Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Information Technology For Economic And Clinical Health of 2009 (HITECH), requiring compliance with privacy, security, electronic transmission, coding and other requirements applicable to Covered Entities or a Business Associate as defined for purposes of the acts.
 20. Patient Protection and Affordable Care Act – P.L. 111-148
 21. Section 1557 of the Affordable Care Act and 45 CFR Part 92, prohibiting discrimination in health programs and activities any part of which receives Federal financial assistance.
 22. Use of United States Flag Vessels. Contactor agrees that travel under this Contract shall use U.S.-flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the inter-operative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942. Contactor/Vendor agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. Chapter 553), as implemented by Department of Transportation regulation at 46 CFR 381.7, and 46 CFR 381.7(b).
 23. Buy American Act. Contractor agrees that it will not expend any funds appropriated by Congress without complying with The Buy American Act (41 U.S.C. 10a et seq). The Buy American Act gives preference to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of America and the European Economic Community (EEC) on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide that EEC and NAFTA end products and construction materials are exempted from application of the Buy American Act.
 24. System For Award Management and Data Universal Numbering Requirements. Contractor agrees to comply with the System for Award Management and Data Universal Numbering. Contractor must provide DUNS number to the state. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun & Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the internet (currently at <http://fedgov.dnb.com/webform>).
 25. Procurement of Recovered Materials. Contractor must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
 26. 2 C.F.R. 200.326, Appendix II, Required Contract Clauses. 2 C.F.R. 200.326, Appendix II, Required Contract Clauses are incorporated by reference as if set forth in full text and are made part of this agreement as applicable. Contractor shall comply with all applicable contract clauses and provide the same clauses in any subcontracts or purchase orders issued in support of this agreement with the State.

27. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. The Contractor agrees it will not provide or use covered telecommunications equipment or services in the performance of this Contract in compliance with 2 CFR 200.216. Covered telecommunications equipment or services has the meaning provided in Public Law 115-232, Section 889.
28. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387, As Amended. Any Contract or subcontract in excess of \$150,000 must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the State who in turn will report to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
29. Rights to Inventions Made Under a Contract or Agreement. Any discovery or invention that arises during the course of the Contract shall be reported to the non-Federal entity. Contractor/Vendor must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
30. Uniform Relocation Assistance and Real Property Acquisition Policies. Contractor agrees that it will comply with CFR 49 part 24, which implements the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.
31. Lobbying. Contractor agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; and, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement the provisions of Section 319 of Public Law 101-121 (31 U.S.C. Section 1352) is incorporated by reference and the State agrees to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.
32. Contract Work Hours and Safety Standards Act. Contractor agrees that it will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) as supplemented by Department of Labor regulations (29 CFR Part 5). As applied to this agreement, the Contract Work Hours and Safety Standards Act specifies that no laborer or mechanic doing any part of the work contemplated by this agreement shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1.5 times the basic rate of pay.
33. Environmental Protection.
 - (a) Contractor agrees that its performance under this Contract shall comply with:
 - (1) The requirements of Section 114 of the Clean Air Act (42 U.S.C. Section 7414);
 - (2) Section 308 of the Federal Water Pollution Control Act (33 U.S.C. Section 1318), that relates generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder;
 - (3) The Resources Conservation and Recovery Act (RCRA);

- (4) The Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA);
 - (5) The National Environmental Policy Act (NEPA);
 - (6) The Solid Waste Disposal Act (SWDA);
 - (7) The applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.), as implemented by Executive Order 11738 and Environmental Protection Agency (EPA) rules at 40 CFR Part 31; and
 - (8) To identify any impact this Contract may have on the quality of the human environment and provide help as needed to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et seq.) and any applicable federal, state or local environmental regulation.
- (b) In accordance with the EPA rules, the parties further agree that the Contractor/Vendor shall also identify to the state any impact this Contract may have on:
- (1) The quality of the human environment and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C 4321, et seq.) and to prepare Environment Impact Statements or other required environmental documentation. In such cases, the recipient agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process.
 - (2) Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.
 - (3) Coastal zones, and provide help the agency may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), concerning protection of U.S. coastal resources.
 - (4) Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.
 - (5) Any existing or proposed component of the National Wild and Scenic Rivers System, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).
 - (6) Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C 300H-3).

B. Compliance with State of Montana Authorities.

Contractor assures that it and any of its subcontractors will comply with all State of Montana laws, rules, ordinances and executive orders, that are applicable to this Contract, to include the provisions of the below referenced laws. The list is not intended, nor must it be construed, as a listing of all state authorities with which Contractor must comply for the purposes of the Contract, or that Contractor must comply with each of the authorities listed. Contractor is responsible for determining with which state authorities it must comply in the performance of the Contract.

1. Montana False Claims Act, Title 17, Chapter 8, part 4, MCA.
2. Montana Anti-Trust laws – §30-14-201, MCA, et. seq.
3. Montana Human Rights Act Title 49 MCA
4. Montana Governmental Code of Fair Practices Title 49, Chapter 3

Attachment E To Contract No. 22-11-5-01-002-0

ASSURANCES

DEPARTMENT'S ANNUAL CERTIFICATION

DPHHS GS-301
Rev. 5/2019

ANNUAL CERTIFICATION FOR DEPARTMENT OF PUBLIC HEALTH & HUMAN SERVICES OF THE CONTRACTOR'S COMPLIANCE WITH CERTAIN STATE AND FEDERAL REQUIREMENTS

This annual certification form is standardized for general use by the Department Of Public Health And Human Services (Department) in contracting relationships. Not all of these assurances may be pertinent to the Contractor's circumstances. The Contractor in signing this form is certifying compliance only with those requirements that are legally or contractually applicable to the circumstances of the contractual relationship of the Contractor with the Department.

These assurances are in addition to those stated in the federal OMB 424B (Rev. 7-97) form, known as "ASSURANCES - NON-CONSTRUCTION PROGRAMS", issued by the federal Office of Management of the Budget (OMB). Standard Form 424B is an assurances form that must be signed by the Contractor if the Contractor is to be in receipt of federal monies.

There may be program specific assurances, not appearing either in this form or in the OMB Standard Form 424B, for which the Contractor may have to provide additional certification.

This form and OMB Standard Form 424B are to be provided with original signatures to the Department's contract liaison. The completed forms are maintained by the Department in the pertinent procurement and contract files.

Further explanation of several of the requirements certified through this form may be found in the text of related contract provisions and in the Department's policies pertaining to procurement and contractual terms. In addition, detailed explanations of federal requirements may be obtained through the Internet at sites for the federal departments and programs and for the Office for Management of the Budget (OMB) and the General Services Administration (GSA).

ASSURANCES

City of Miles City Ambulance

The **Contractor**, City of Miles City Ambulance, for the purpose of contracting with the Montana Department of Public Health & Human Services, by its signature on this document certifies to the Department its compliance, as may be applicable to it, with the following requirements.

The Contractor assures the Department:

GENERAL COMPLIANCE REQUIREMENTS

- A. That the Contractor does not engage in conflicts of interest in violation of any state or federal legal authorities, any price fixing or any other anticompetitive activities that violate the federal antitrust Sherman Act, 15 U.S.C. §§1 – 7, Anti-Kickback Act, 41 U.S.C. §§ 51-58, and other federal legal authorities. And that the Contractor does not act in violation of 18-4-141, MCA or other legal authorities by colluding with other contractors for the purpose of gaining unfair advantages for it or other contractors or for the purpose of providing the services at a noncompetitive price or otherwise in a noncompetitive manner.
- B. That the Contractor does not act in violation of the federal False Claims Act at 31 U.S.C. §§ 3729 3733 (the "Lincoln Law") or of the Montana False Claims Act, at Title 17, chapter, 8, part 4, MCA. And that the Contractor and its employees, agents and subcontractors act to comply with requirements of the federal False Claims Act by reporting any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person has submitted a false claim to the federal government.
- C. That the Contractor is solely responsible for and must meet all labor, tax, and other legal Authorities requirements pertaining to its employment and contracting activities, inclusive of insurance premiums, tax deductions, unemployment and other tax withholding, overtime wages and other employment obligations that may be legally required with respect to it.
- D. That the Contractor maintains necessary and appropriate workers compensation insurance coverage.
- E. That the Contractor is an independent contractor and possesses, unless by law not subject to or exempted from the requirement, a current independent contractor certification issued by the Montana Department Of Labor And Industry in accordance with 39-71-417 through 39-71-419, MCA.
- F. That the Contractor's subcontractors and agents are in conformance with the requirements of Sections B, C, and D of this Certification.
- G. That the Contractor, any employee of the Contractor, or any subcontractor in the performance of the duties and responsibilities of the proposed Contract: 1) are not currently suspended, debarred, or otherwise prohibited in accordance with 2 CFR Part 180, OMB Guidelines To Agencies On Government wide Debarment and Suspension (nonprocurement) from entering into a federally funded contract or participating in the performance of a federally funded contract; and 2) are not currently removed or suspended in accordance with 18-4-241, MCA from entering into contracts with the State Of Montana.
- H. That the Contractor is in compliance with those provisions of the privacy, security, electronic transmission, coding and other requirements of the federal Health Insurance Portability And Accountability Act of 1996 (HIPAA) and the federal Health Information Technology For Economic And Clinical Health (HITECH), a part of the American Recovery And Reinvestment Act Of 2009, and the implementing federal regulations for both acts that are applicable to contractual performance if the Contractor is either a Covered Entity or a Business Associate as defined for purposes of those acts.
- I. That, as required by legal authorities or contract, the Contractor maintains smoke and tobacco free public and work sites. And if the contract performance is related to the delivery of a human service, the Contractor does not perform any work involved in the production, processing, distribution, promotion, sale, or use of tobacco products or the promotion of tobacco companies; or 3) accept revenues from the tobacco industry or subsidiaries of the tobacco industry if the acceptance results in the appearance that tobacco use is desirable or acceptable or in the appearance that the Contractor endorses a tobacco product or the gifting tobacco related entity.

COMPLIANCE REQUIREMENTS FOR FEDERALLY FUNDED CONTRACTS

- J. That the Contractor, in conformance with the Pro-Children Act of 1994 (20 U.S.C. §6081 *et seq.*), prohibits smoking at any site of federally funded activities that serve youth under the age of 18. This federal prohibition is not applicable to a site where the only federal funding for services is through Medicaid monies or the federally funded activity at the site is inpatient drug or alcohol treatment.
- K. That the Contractor does not expend federal monies in violation of federal legal authorities prohibiting expenditure of federal funds on lobbying the United States Congress or state legislative bodies or for any effort to persuade the public to support or oppose legislation.
- L. That the Contractor maintains in compliance with the Drug-Free Workplace Act of 1988, 41 U.S.C. 701, *et seq.*, drug free environments at its work sites, providing required notices, undertaking affirmative reporting, and other requirements, as required by federal legal authorities.
- M. That the Contractor is not delinquent in the repayment of any debt owed to a federal entity.
- N. That the Contractor, if expending federal monies for research purposes, complies with federal legal authorities relating to use of human subjects, animal welfare, biosafety, misconduct in science and metric conversion.
- O. That the Contractor, if receiving aggregate payments of Medicaid monies totaling \$5,000,000 or more annually, has established in compliance with 1902(a)(68) of the Social Security Act, 42 U.S.C. 1396a(a)(68), written policies with educational information about the federal False Claims Act at 31 U.S.C. §§ 3729–3733 (the “Lincoln Law”) and presents that information to all employees.
- P. That the Contractor is in compliance with the executive compensation reporting requirement of the Federal Funding Accountability And Transparency Act (FFATA or Transparency Act), P.L. 109-282, as amended by Section 6202(a), P.L. 110-252-1, either in that the Contractor does not meet the criteria necessitating the submittal of a report by an entity or in that, if the Contractor meets the criteria mandating reporting, the Contractor produces the information in a publicly available report to the Securities And Exchange Commission (SEC) or to the Internal Revenue Service and provides the report in a timely manner to the Department or produces a separate report with the information and submits that report to the in a timely manner to the Department.
- Q. That the Contractor, if a contractor for the delivery of Medicaid funded services, is in compliance with the requirements of 42 C.F.R. §§ 455.104, 455.105, and 455.106 concerning disclosures of ownership and control, business transactions, and persons with criminal convictions.
- R. That the Contractor, if providing federally funded health care services, is not as an entity currently federally debarred from receiving reimbursement for the provision of federally funded health care services and furthermore does not currently have any employees or agents who are federally debarred from the receiving reimbursement for the provision of federally funded health care services.

COMPLIANCE REQUIREMENTS FOR FEDERALLY FUNDED CONTRACTS INVOLVING THE PURCHASE OR DEVELOPMENT OF PROPERTY

- S. That the Contractor manages any real, personal, or intangible property purchased or developed with federal monies in accordance with federal legal authorities.
- T. That the Contractor, if expending federal monies for construction purposes or otherwise for property development, complies with federal legal authorities relating to flood insurance, historic properties, relocation assistance for displaced persons, elimination of architectural barriers, metric conversion and environmental impacts.
- U. That the Contractor, if the Contract exceeds \$100,000, complies with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan

issued in compliance with the federal Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. §6321 et. seq.

- V. That the Contractor, if the Contract exceeds \$100,000, complies with all applicable standards, orders and requirements issued under Section 306 of the Clean Air Act, 42 U.S.C. 7607, Section 508 of the Clean Water Act, 33 U.S.C. 1368, Executive Order .11738, and U.S. Environmental Protection Agency regulations, 40 C.F.R. Part15 and that if the Contractor enters into a subcontract that exceeds \$100,000 these requirements are in that contract.

CONTRACTOR

BY: _____
~~Linda Wilkins~~ John L. Hollowell

Date: _____

SOURCES OF INFORMATION

DPHHS GS-302
Rev. 06/2018

SOURCES OF INFORMATION ON THE PRIVACY, TRANSACTIONS AND SECURITY REQUIREMENTS PERTAINING TO HEALTH CARE INFORMATION OF THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) AND THE FEDERAL HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT (HITECH), ENACTED AS PART OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The following are sources of information concerning the applicability of and implementation of the privacy, transactions and security requirements of HIPAA and HITECH. The Department Of Public Health & Human Services requires that contractors generating, maintaining, and using health care information in relation to recipients of State administered and funded services be compliant with the requirements of HIPAA and HITECH as applicable under the federal legal authorities and the status of the Department as a health care plan.

There can be difficulty in interpreting the applicability of the HIPAA and HITECH requirements to an entity and various circumstances. It is advisable to retain knowledgeable experts to advise concerning determinations of applicability and appropriate compliance.

Websites specified here may be changed without notice by those parties maintaining them.

FEDERAL RESOURCES

The following are official federal resources in relation to HIPAA and HITECH requirements. These are public sites. Implementation of the additional requirements under HITECH, due to the more recent date of enactment, is occurring on an ongoing basis.

1. U.S. Department Of Health & Human Services / Office Of Civil Rights www.hhs.gov/ocr/hipaa
The federal Department Of Health & Human Services / Office Of Civil Rights (OCR) provides information pertaining to privacy and security requirements under HIPAA and HITECH including the adopted regulations and various official interpretative materials. This site includes an inquiry service. OCR is responsible for the implementation of the privacy and security aspects of HIPAA/HITECH and serves as both the official interpreter for and enforcer of the privacy requirements.
2. U.S. Department Of Health & Human Services / Centers For Disease Control & Prevention <http://www.cdc.gov/Other/privacy.html>. The federal Department Of Health & Human Services / Centers For Disease Control & Prevention (CDC) provides information pertaining to the application of privacy requirements under HIPAA to public health activities and programs.

STATE RESOURCES

The Department Website For Medicaid Provider Information provides general information for providers of services on compliance with various state and federal requirements. <https://medicaidprovider.mt.gov/>

Further information concerning HIPAA/HITECH compliance in the delivery of services funded through the Department's various programs can be reviewed at the Department Website for DPHHS HIPAA Policies. <https://dphhs.mt.gov/HIPAA>

Certain departmental programs may have more detailed guidance available in relation to particular programs of services. Inquiries may be directed at a program to determine if further information is available.

PROVIDER ASSOCIATIONS

Many national and state provider associations have developed extensive resources for their memberships concerning HIPAA/HITECH requirements. Those are important resources in making determinations as to the applicability and implementation of HIPAA/HITECH.

CONSULTANT RESOURCES

There are innumerable consulting resources available nationally. The Department does not make recommendations or referrals as to such resources. It is advisable to pursue references before retaining any consulting resource. Some consulting resources may be inappropriate for certain types of entities and circumstances.

ASSURANCES NON-CONSTRUCTION OMB 424

OMB Approval No. 0348-0040 ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions reducing this burden, to the Office of Management and Budget, Paperwork Reduction project (0348-0040), Washington, DC 20503. **PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurance. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include, but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683 and 1685-1686), which prohibit discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3) as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act

of 1968 (42 U.S.C. § 2601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (l) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-66), which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333, regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approval State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955k, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling and treatment of warm blooded animals held for research, teaching or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) Which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

CONTRACTOR

BY: _____
~~Linda Wilkins~~ John L. Hollowell

Date: _____

DISCLOSURE OF LOBBYING ACTIVITIES

DISCLOSURE OF LOBBYING ACTIVITIES
 Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB
 0348-0046

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: Year _____ quarter _____ Date of last report _____
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(See reverse for public burden disclosure)

4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known Congressional District, if known: _____	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____
--	---

6. Federal Department/Agency: _____	7. Federal Program Name/Description: CFDA Number, if applicable: _____
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8. Federal Action Number, if known: _____	9. Award Amount, if known: \$ _____
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10. a. Name and Address of Lobbying Registrant (If individual, last name, first name, MI): _____	b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): _____
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11. Information requested through this form is authorized by Title 31 U.S.C., Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
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Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)
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INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawarded or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to Title 31 U.S.C., Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include, but are not limited to, subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks Subawardee, then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award of loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in Item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number, the contract, grant or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., RFP-DE-90-001.
9. For a covered Federal action, where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in Item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in Item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services and include full address if different from 10(a). Enter Last Name, First Name and Middle Initial (MI). 11. The certifying official shall sign and date the form, print his/her name, title and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 205

Attachment F To Contract No. 22-11-5-01-002-0

Rev. 4/2019

BUSINESS ASSOCIATE AGREEMENT

PARTIES

This Business Associate Agreement (Agreement) is entered into between the Department of Public Health and Human Services, (the "Department"), State of Montana (State), whose contact information is as follows: P.O. Box 202951, Helena, MT, 59620, Phone Number (406) 444-3182, Fax Number (406) 444-1861, and 22-11-5-01-002-0 (Business Associate), whose contact information is as follows: Federal Tax ID Number 81-6001424, DUNS Number 134230325, P.O. Box 910, Miles City, MT, 59301, Phone Number 406-874-8601.

THE PARTIES AGREE AS FOLLOWS:

1. Business Associate Status

- a. The Department is subject to and must comply with provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as codified at 42 U.S.C. § 1320d-d8, and the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), enacted as part of the American Recovery and Reinvestment Act of 2009, as codified at 42 U.S.C. §§ 300jj et seq. and §§ 17901, et seq. and the implementing regulations for the two acts at 45 CFR Parts 160, 162 and 164.
- b. The Department has determined it is a hybrid entity as defined in the implementing regulations, that is a covered entity performing both covered and non-covered functions. Under the HIPAA and HITECH and the implementing regulations, the Business Associate, as an entity that performs or assists in the performance of an administrative or data function for the Department involving the use or disclosure of protected health information (PHI) for the Department, is acting as a business associate of a covered entity.

2. Definitions that Apply to This Agreement

Terms used in this Agreement have the same meaning as those terms in the HIPAA and HITECH Acts and the implementing regulations.

3. Status as a Business Associate

The Business Associate agrees that it is a Business Associate of the Department, as defined at 45 CFR § 160.103, and further agrees that it is obligated to comply with the terms of this Agreement and with the requirements of the HIPAA and HITECH Acts and the implementing regulations.

4. Obligations of Business Associate

The Business Associate, as a business associate of the Department, must:

- a. use or disclose PHI, including E-PHI, only as is permitted or required by this Agreement, in compliance with the Department's minimum necessary standard policies and procedures, or by applicable law inclusive of 45 CFR Parts 160, 162 and 164;
- b. use appropriate safeguards to prevent use or disclosure of PHI and E-PHI other than as provided for by this Agreement or by law;
- c. implement appropriate administrative, physical and technical security safeguards as set forth in § 164.306, § 164.308, and § 164.312, that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI and prevent use or disclosure of the PHI other than as provided for by this Agreement;
- d. mitigate to the extent practicable and as may be directed by the Department any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate that is in violation of the requirements of this Agreement;
- e. report in a timely manner as required by law and this Agreement to the Department any use or disclosure of the PHI not provided for by this Agreement inclusive of uses and disclosures of information that are not in compliance with the minimum necessary standard;
- f. report to the Department any security incident of which it becomes aware, and at the request of the Department must identify: i) the date of the security incident, ii) the scope of the security incident, iii) the Business Associate's response to the security incident, and iv) the identification of the party responsible for causing the security incident, if known;
- g. enter, as required by 45 CFR § 164.504, into Business Associate Agreements containing the terms and conditions as required by the HIPAA and HITECH Acts and the implementing regulations and as are stated in this Agreement, with any subcontractors performing services in relation to the services being provided by the Business Associate for the Department that involve PHI;
- h. make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of the Department, available to the Department, or to the Secretary of the Federal Department of Health and Human Services in accordance with 45 CFR § 164.408, in a time and manner prescribed by the Department or designated by the Secretary, for purposes of the Secretary determining the Department's and the Business Associate's compliance with the Privacy Regulation, the Security Regulation, and the HITECH Act;
- i. document disclosures of PHI and collect information related to those disclosures necessary for the Department to respond to a request by a person for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528 and Section 13405(c) of the HITECH Act;
- j. provide to the Department or a person, in time and manner prescribed by the Department, documentation necessary for the Department to respond to a request by a person for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. Notwithstanding 45 CFR § 164.528(a)(1)(i), the Business Associate must document disclosures of PHI made through an electronic health record to carry out treatment, payment or health care operations as provided by 45 CFR § 164.506 in the six years prior to the date on which the accounting is requested, and to collect information related to such disclosures as required by the Secretary in regulation pursuant to Section 13405(c)(2) of the HITECH Act;
- k. implement a response program, in compliance with Section 13402 of the HITECH Act and implementing regulations, and Subpart D of 45 CFR Part 164 that specifies the actions to be taken when the Business Associate detects or becomes aware of

unauthorized access to information systems. The response program must include the following features:

- (i) The Business Associate must notify the Department, by facsimile or telephone, of any breach or suspected breach of its security related to areas, locations, or computer system which contain unsecured PHI, including, without limitation, any instance of theft, unauthorized access by fraud, deception, or other malfeasance or inadvertent access (an "incident") in accordance to 45 CFR § 164.410, as promptly as possible, upon having reason to suspect that an incident may have occurred or determining the scope of any such incident, but in no event later than two (2) calendar days upon having reason to suspect that an incident may have occurred;
- (ii) In the event of any incident, the Business Associate must provide to the Department, in writing, those details concerning the incident as the Department may request, and must cooperate with the Department, its regulators and law enforcement to assist in regaining possession of the unsecured PHI and in preventing its further unauthorized use, and take any necessary remedial actions as may be required by the Department to prevent other or further incidents;
- (iii) If the Department determines that it may need to notify any person(s) as a result of such incident that is attributable to the Business Associate's breach of its obligations under this Agreement, the Business Associate must bear all reasonable direct and indirect costs associated with the determination, including, without limitation, the costs associated with providing notification to the affected person, providing fraud monitoring or other services to affected persons and any forensic analysis required to determine the scope of the incident;
- (iv) The Business Associate, working in cooperation with the Department, must update the notice provided to the Department under this Agreement of the incident to include, to the extent possible and as soon as possible, the identification of each person whose unsecured PHI has been, or is reasonably believed by the Business Associate or the Department to have been accessed, acquired, used or disclosed during the incident and must provide any of the following information the Department is required to include in its notice to the person pursuant to 45 CFR § 164.404(c):
 - (A) A brief description of what happened, including the date of the incident and the date of the discovery of the incident, if known;
 - (B) A description of the types of unsecured PHI that were involved in the incident (e.g., Social Security Number, full name, date of birth, address, diagnosis);
 - (C) Any steps the person should take to protect themselves from potential harm resulting from the incident;
 - (D) A brief description of what is being done to investigate the incident, mitigate the harm, and protect against future incidents;
 - (E) Contact procedures for persons to ask questions or learn additional information which shall include a toll-free number, an e-mail address, website, or postal address; and
 - (F) This additional information must be submitted to the Department immediately at the time the information becomes available to the Business Associate.
- (v) limit its use and disclosure of PHI created or received by the Business Associate from or on behalf of the Department to uses or disclosures as are permitted to the

Business Associate under the applicable requirements of 45 CFR § 164.504(e) and the HITECH Act and the terms of this Agreement. The Business Associate must also comply with the additional requirements of Subtitle D of the HITECH Act that relate to privacy and that apply to covered entities and to the Business Associate as a business associate; and

- (vi) respond to a person's request under 45 CFR § 164.522(a)(1)(i)(A) that the Business Associate restrict the disclosure of the person's PHI.

5. Permitted Uses, Disclosures and Limitations

- a. Except as otherwise limited in this Agreement, the Business Associate may use or disclose PHI on behalf of, or to provide services to, the Department for the following purposes, if such use or disclosure of PHI would not violate the requirements of the HIPAA and HITECH Acts and the implementing regulations if done by the Department or otherwise violate the minimum necessary policies and procedures of the Department: to perform services within this Contract.
- b. The Business Associate may use PHI to report violations of federal and state laws to appropriate Federal and State authorities, consistent with 45 CFR § 164.502(j)(1) and (2).
- c. The Business Associate, as required by 45 CFR § 164.504(e)(1)(iii), must terminate any business associate agreement with a subcontractor that violates the requirements of this Agreement or the applicable law.
- d. The Business Associate shall not directly or indirectly receive remuneration in exchange for PHI that is created or received by the Business Associate from or on behalf of the Department.

6. Use and Disclosure for Business Associate's Purposes

- a. The Business Associate must use and disclose PHI that is created or received by the Business Associate from or on behalf of the Department in compliance with each applicable requirement of 45 CFR § 164.504(e) and the HITECH Act.
- b. The Business Associate may use and disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate provided that:
 - (i) the disclosures are required by law;
 - (ii) the disclosures are expressly authorized in this Agreement by the Department;
 - (iii) the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only for the purpose for which it was disclosed to the person; and
 - (iv) the Business Associate requires the person to whom the information is disclosed to report immediately any incident of which it is aware in which the confidentiality of the information has been breached.
- c. The Business Associate may only use PHI for Data Aggregation purposes if the Department in this Agreement expressly authorizes those purposes and the Data Aggregation is permitted in accordance with 42 CFR § 164.504(e)(2)(i)(B).
- d. To the extent otherwise permitted by this Agreement, a communication that is described in the definition of Marketing in 45 CFR § 164.501 for which the Department receives or has received Direct or Indirect Payment (excluding payment for Treatment) in exchange for making such communication, shall not be considered a Health Care Operation unless:

- (i) such communication describes only a drug or biologic that is currently prescribed for the recipient of the communication and any payment received in exchange for making such a communication is reasonable in amount; or
- (ii) the communication is made by the Business Associate on behalf of the Department and the communication is otherwise consistent with this Agreement. No communication may be made by the Business Associate without prior written authorization by the Department.

7. Obligations of the Department

- a. The Department must notify the Business Associate of any limitation(s) in the Department's notice of privacy practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of PHI. A copy of the Department's Notice of Privacy Practice is attached to this Agreement and incorporated herein.
- b. The Department must notify the Business Associate of any changes in, or revocation of, permission by a person to use or disclose PHI, to the extent that such changes may affect the Business Associate's use or disclosure of PHI.
- c. The Department must notify the Business Associate of any restriction to the use or disclosure of PHI that the Department has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.
- d. The Department, except as may be expressly agreed to by the parties and stated in this Agreement, may not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the requirements of the HIPAA and HITECH Acts and the implementing regulations if done by the Department.

8. Term and Termination

- a. The term of this Agreement shall be effective as of the effective date that the Business Associate begins delivery of its services and shall terminate when all of the PHI provided by the Department to the Business Associate, or created or received by the Business Associate on behalf of the Department, is destroyed or returned to the Department, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this subsection.
- b. Upon the Department's knowledge of a breach, as defined in § 164.402, by the Business Associate, the Department, as its sole discretion, must provide an opportunity for the Business Associate to:
 - (i) cure the breach; or
 - (ii) end the violation and terminate this Agreement if the Business Associate does not cure the breach; or
 - (iii) end the violation within the time specified by the Department; or
 - (iv) immediately terminate this Agreement if the Business Associate has breached a material term of this Agreement and cure is not possible; or
 - (v) if neither termination nor cure are feasible, the Department must report the violation to the Secretary.
- c. Upon the Business Associate's knowledge of a material breach by the Department, the Business Associate must either:
 - (i) notify the Department of such breach in reasonable detail, and provide an opportunity for the Department to cure the breach or violation; or

- (ii) if cure is not possible, the Business Associate may immediately terminate this Agreement; or
 - (iii) if neither termination nor cure is feasible, the Business Associate shall report the violation to the Secretary.
- d. The Department may unilaterally terminate this Agreement with the Business Associate upon thirty (30) days written notice in the event:
 - (i) the Business Associate does not promptly enter into negotiations to amend this Agreement when requested by the Department pursuant to the terms of this Agreement; or
 - (ii) the Business Associate does not enter into an amendment to this Agreement providing assurance regarding the safeguarding of PHI that the Department, in its sole discretion, deems sufficient to satisfy the standards and requirements of the HIPAA and HITECH Acts and the implementing regulations.

9. Effect of Termination

- a. Except as provided in this subsection, upon termination of this Agreement, for any reason, the Business Associate shall at the Department's sole discretion return or destroy all PHI received from the Department, or created or received by Business Associate on behalf of the Department. This Agreement shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate. The Business Associate shall retain no copies of the PHI.
- b. In the event that the Business Associate determines that returning or destroying the PHI is infeasible, the Business Associate must provide to the Department notification of the conditions that make return or destruction infeasible. Upon written agreement by the Department that return or destruction of PHI is infeasible, the Business Associate must extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI.

10. Miscellaneous

- a. **Regulatory References.** A reference in this Agreement to a section in the Privacy Regulation or Security Regulation means the section as in effect or as amended.
- b. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Department to comply with the requirements of the HIPAA and HITECH Acts and the implementing regulations.
- c. **Survival.** The respective rights and obligations of the Business Associate under this Agreement shall survive the termination of this Agreement.
- d. **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit the Department to comply with the requirements of the HIPAA and HITECH Acts and the implementing regulations.

MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

BY: _____
Darci Wiebe, Division Administrator

Date: _____

BUSINESS ASSOCIATE

BY: _____
~~Linda Wilkins~~ John L. Hollowell

Date: _____

ORDINANCE NO. 1349

AN ORDINANCE AMENDING SECTION 22-175 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY WITH RESPECT TO ANGLE PARKING.

WHEREAS, the City of Miles City has authority to regulate angle parking within the City limits pursuant to Montana Code Annotated Section 61-8-355; and

WHEREAS, the Kadrmas Lee & Jackson engineering firm has designed parking around Wibaux Park which is “reverse” angle parking, and the City has determined that said reverse angle parking should be permitted, and the City Code updated to allow for the same;

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

Section 1. Section 22-175 is hereby amended to read as follows:

Sec. 22-175. - Angle parking.

Unless otherwise indicated, angle parking shall be accomplished by driving the vehicle into the parking spot so that the right front wheel touches the curb. When signage indicates that angle parking is to be reverse angle parking, such parking shall be accomplished by backing the vehicle into the parking spot so that the right rear wheel touches the curb.

Section 2. This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this 13th day of July, 2021.

John Hollowell, Mayor

ATTEST:

Mary Rowe, City Clerk

FINALLY PASSED AND ADOPTED this 27th day of July, 2021.

John Hollowell, Mayor

ATTEST:

Mary Rowe, City Clerk