CITY OF MILES CITY

Regular Council Meeting Agenda

November 17, 2026 at 6:00 PM

City Council Chambers and online at zoom.us

Zoom ID: 4062343462 | Passcode: 59301

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

1. REQUEST OF CITIZENS AND PUBLIC COMMENT

2. APPROVAL OF COUNCIL MINUTES/COMMITTEE MINUTES

- **A.** Regular City Council Meeting 11/10/2026

3. SCHEDULE MEETINGS

4. STAFF REPORTS & OTHER COMMITTEE MINUTES

- **A.** MILES CITY FIRE & RESCUE STAFF REPORT

5. CITY COUNCIL COMMENTS

6. MAYOR COMMENTS

7. PUBLIC HEARINGS

- **A.** ORDINANCE NO. 1410 - *(Second Reading)* AN ORDINANCE AMENDING SECTION 5-61 OF THE CODE OF ORDINANCES OF MILES CITY, MONTANA, ADOPTING THE 2021 INTERNATIONAL MECHANICAL CODE AND FUEL GAS CODE.
- **B.** ORDINANCE NO. 1412 - *(Second Reading)* AN ORDINANCE AMENDING SECTION 2-52 OF THE CODE OF ORDINANCES OF MILES CITY, MONTANA, RELATED TO CITY COUNCIL MEETING SCHEDULE.

8. UNFINISHED BUSINESS

- **A.** ORDINANCE NO. 1410 - *(Second Reading)* AN ORDINANCE AMENDING SECTION 5-61 OF THE CODE OF ORDINANCES OF MILES CITY, MONTANA, ADOPTING THE 2021 INTERNATIONAL MECHANICAL CODE AND FUEL GAS CODE.

B. ORDINANCE NO. 1412 - *(Second Reading)* AN ORDINANCE AMENDING SECTION 2-52 OF THE CODE OF ORDINANCES OF MILES CITY, MONTANA, RELATED TO CITY COUNCIL MEETING SCHEDULE.

9. NEW BUSINESS

A. REVIEW STORMWATER PRELIMINARY ENGINEERING REPORT

B. RESOLUTION NO 4735 - A RESOLUTION AUTHORZING THE CITY OF MILES CITY TO ENTER INTO A SERVICE AGREEMENT AND MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MILES CITY AND THE MILES CITY LIBRARY BOARD OF TRUSTEES.

C. RESOLUTION NO. 4738 - A RESOLUTION APPROVING A SHORT FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES WITH BROSZ ENGINEERING, INC. FOR THE PROVISION OF ENGINEERING SERVICES TO THE CITY OF MILES CITY FOR A 5-YEAR PERIOD.

D. ORDINANCE NO. 1413 -(*first reading*) AN ORDINANCE AMENDING THE TEXT OF CITY ZONING CODE TO REQUIRE CONDITIONAL USE PERMITS IN RESIDENTIAL DISTRICTS FOR CERTAIN RANGES OF LOT COVERAGE ON LOTS WITHOUT PRIMARY BUILDINGS AND TO ADD COMPLIMENTARY LANGUAGE REGARDING ACCESSORY BUILDINGS ON LOTS WITHOUT PRIMARY BUILDINGS IN RESIDENTIAL DISTRICTS, AND PROVIDING FOR A HEARING THEREON.

10. 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

CITY OF MILES CITY

Regular Council Meeting Minutes

November 10, 2026 at 6:00 PM

City Council Chambers and online at zoom.us

Zoom ID: 4062343462 | Passcode: 59301

CALL TO ORDER

Mayor Grenz called the meeting to order.

PLEDGE OF ALLEGIANCE

Mayor Grenz led the Council in the Pledge of Allegiance.

ROLL CALL

PRESENT
Councilmember Dan Scott
Councilmember Ed Pulecio
Councilmember Rick Huber
Councilmember Jeni Losey
Councilmember Cody Steiner
Councilmember Brooke Bartholomew
Councilmember Don Simpson
Mayor Chris Grenz

ABSENT
Councilmember Kevin Thomason

Also present were City Attorney Dan Rice, Interim Fire Chief Ed Kanduch, Police Captain Dustin Sloan, Building Inspector Gabe Martinsen, Library Director Sarah Peterson, Dispatch Director Lyne Anderson, and City Clerk/Minute Recorder Mary Rowe.

1. REQUEST OF CITIZENS AND PUBLIC COMMENT

John Laney, 511 Pleasant St, speaking on behalf of the Chamber of Commerce stated that due to a scheduling conflict, the Christmas Stroll has been moved to Thursday the 3rd of December this year as well as the polar plunge.

Terri Stewart, 1115 Palmer St., stated she has lived next to Eagles Manor for 38 years and in the last five years or so she has witnesses a remarkable amount of near misses of middle schoolers walking down Palmer St. As Palmer Street is treated as a through street people tend to drive faster. After several years she was successful in getting a sign put up on the corner of 12th and Palmer, now she is requesting a 4-way stop sign on the corner of 11th street and Palmer street. Councilmember Losey explained that reports that were handed out contained accident reports as a whole, then broken down by intersection and the signed petition. Mayor Grenz said he would take care of it in the morning.

A. LETTER OF INTEREST FOR BOARD OF APPEALS - MELYNDA HOULD

2. APPROVAL OF COUNCIL MINUTES/COMMITTEE MINUTES

A. Regular City Council Meeting Minutes 0825 2026

B. Regular City Council Meeting Minutes 0922 2026

C. Regular City Council Meeting Minutes 1027 2026

Mayor Grenz requested a consent agenda for the minutes. Council was not opposed.

Motion made to approve minutes A-C on the agenda by Councilmember Pulecio, Seconded by Councilmember Simpson.
Voting Yea: Councilmember Scott, Councilmember Pulecio, Councilmember Huber, Councilmember Losey, Councilmember Steiner, Councilmember Bartholomew, Councilmember Simpson

3. SCHEDULE MEETINGS

Director Anderson stated that there will be a zoom only meeting on November 24th at 2pm. Send a request to Director Anderson if a link is needed.

4. APPOINTMENTS

A. LIBRARY BOARD OF TRUSTEES - KALA KEITH

Councilperson Losey asked why Kala Keith was interested in the position, to which she replied that she recently moved back to town and she loves libraries as they are her happy place.

Motion made by Councilmember Huber, Seconded by Councilmember Simpson.
Voting Yea: Councilmember Scott, Councilmember Pulecio, Councilmember Huber, Councilmember Losey, Councilmember Steiner, Councilmember Bartholomew, Councilmember Simpson

5. REVIEW STAFF REPORTS & OTHER COMMITTEE MINUTES

A. MCDURA-TIFD Board Meeting Minutes 10/22/2026 (review only)

B. Building Report October 2026 (review only)

6. CITY COUNCIL COMMENTS

Councilperson Huber stated that he had visited with Director Malenovsky about the signs going east by the jail on 10th and Bridge street. He noted several signs, including a 10 mile per hour sign and an unknown square sign with an arrow pointing up on it, and says they are stupid and need to be taken down. It was stated that the 10 mile per hour sign was initially put up for the senior center attendees. Director Anderson stated that the speed limit sign is there for emergency response vehicles as well. Spencer Haynes noted that the speed limit sign is up and by law the speed limit remains ten miles an hour until the end of a zone. In this case there is not a sign notating the end of the speed zone so it continues on across main until the next speed limit sign. There was a brief discussion about whether the Public Works Director had the ability to remove the signs on her own or if it needed Council approval. Attorney Rice clarified that she does have the ability to add/remove signs as she feels necessary. Mayor Grenz will speak with Director Malenovsky about this area and report back to Council.

Councilperson Pulecio asked if we were still paying utilities out at the Askin property, to which Interim Chief Kanduch said yes, but two of the lines need to be shut down.

Councilperson Steiner inquired about engine 9. Interim Chief Kanduch stated it is waiting for a pump test. Councilperson Huber said he knows a guy and will get Kanduch the phone number.

7. MAYOR COMMENTS

Mayor Grenz thanked the anonymous donor for the large donation for police department equipment.

He stated that he had been approached about trading four of the old Crown Victoria police cars to someone who could then provide one fully functioning police car back to the agency. Attorney Rice said he would have to look into it as there are very strict regulations on governmental disposal of property.

It was brought to the attention of Council that currently the general fund is sitting at negative $1,258,056.78.

He then inquired about public assist calls vs overtime. There was over $87,000 in overtime for three months. Interim Chief Kanduch explained that assist calls do not usually generate overtime. He noted that in 2024 there were approximately 9.75 calls per month, 2025 had average of 7 calls per month and 2026 to date has 6.6 calls per month.

Mayor Grenz stated that the average starting pay is about $6,500 per month for a new fire fighter with another $3,000 in rollup costs. Why do we not have a list a mile long of applicants. Interim Chief Kanduch explained that it goes back to when the fire departments positions were frozen. People talk at the consortium. He said they have offered positions to people who decline because of the lack in support for the fire department in this room. He also noted that the police department is also struggling because of the wages being paid too. Mayor Grenz stated that he agrees, but with the deficit it is a struggle for every department.

8. PUBLIC HEARINGS

None

9. UNFINISHED BUSINESS

A. APPROVE WAIVING PERMIT FEES FOR CONNORS STADIUM IMPROVEMENTS DONATION FROM MCYBA.

Motion made by Councilmember Pulecio, Seconded by Councilmember Simpson.

Councilperson Bartholomew explained this was brought back up because Councilperson Pulecio and herself had talked to several people and gathered information they did not previously have. She also stated that Inspector Martinsen does not get tot decide if we waive fees, Council does.

Mayor Grenz stated that the construction at Connors Stadium is 10,000 to 100,000 dollars. He knows that the building inspector works hard, but he feels it looks like a slap in the face to not waive the fees. He recommends waiving all fees for the donation.

Inspector Martinsen noted that previously the plan review fees had been waived for donations and he is completely okay doing so on this.

John Laney, Kyle Pryer, and Ren Gardner commented that MCYBA donate to enhance all sports, not just baseball. They want to ensure their donors of City buy in. They are requesting a fee waiver, not demanding it. They all agreed that Inspector Martinsen is just doing his job. It was explained that the project is getting done in three phases.

Inspector Martinsen explained that the first phase is the lights, which would cost approximately $530,000, so the building permit fees would be about $3,370. The building phase will need a

plan review and it will come back at a later time. He needs to know what we are going to do in the future when these projects come back for approval.

Councilmember Huber asked if this motion was a blanket waiver forever for all fees? As it stands yes, this is a blanket fee waiver for the entirety of this project.

Voting Yea: Councilmember Scott, Councilmember Pulecio, Councilmember Huber, Councilmember Losey, Councilmember Steiner, Councilmember Simpson
Voting Nay: Councilmember Bartholomew

10. NEW BUSINESS

A. RESOLUTION NO. 4736 - A RESOLUTION APPROVING THE DEPOSIT OF SALE PROCEEDS FROM THE FIRE DEPARTMENT LIVING QUARTERS “PODS” IN THE FIRE DEPARTMENT CAPITAL IMPROVEMENTS FUND.

Motion made by Councilmember Huber, Seconded by Councilmember Losey.

A brief discussion about where the pods came from and the cost associated with the pods. It was ultimately decided that since the cost came from general fund, the proceeds should go back into general fund.

Voting Nay: Councilmember Scott, Councilmember Pulecio, Councilmember Huber, Councilmember Losey, Councilmember Steiner, Councilmember Bartholomew, Councilmember Simpson

B. RESOLUTION NO. 4737 - A RESOLUTION APPROVING THE DEPOSIT OF SALE PROCEEDS FROM FIRE ENGINE NO. 8 IN THE FIRE DEPARTMENT CAPITAL IMPROVEMENTS FUND.

Motion made by Councilmember Huber, Seconded by Councilmember Simpson.
Voting Yea: Councilmember Pulecio, Councilmember Huber
Voting Nay: Councilmember Scott, Councilmember Losey, Councilmember Steiner, Councilmember Bartholomew, Councilmember Simpson

C. REVIEW & APPROVE PRE-APPLICATION & APPLICATION FOR TIFD BUSINESS ASSISTANCE - ML ROSS PROPERTIES, LLC/ RECREATION LANES; 115 S 7TH STREET SIDEWALKS IN THE AMOUNT OF $21,000.00 (60% OF THEIR ESTIMATED PROJECT COST OF $35,000.00)

Motion made by Councilmember Simpson, Seconded by Councilmember Pulecio.
Voting Yea: Councilmember Scott, Councilmember Pulecio, Councilmember Huber, Councilmember Losey, Councilmember Steiner, Councilmember Bartholomew, Councilmember Simpson

D. REVIEW & APPROVE PRE-APPLICATION & APPLICATION FOR TIFD BUSINESS ASSISTANCE - STRONGS / OTIUM BREWING; 21 S 9TH STREET HVAC UPGRADES IN THE AMOUNT OF $15,812.00 (70% OF THEIR ESTIMATED PROJECT COST OF $22,589.00)

Motion made by Councilmember Pulecio, Seconded by Councilmember Simpson.
Voting Yea: Councilmember Scott, Councilmember Pulecio, Councilmember Huber, Councilmember Losey, Councilmember Steiner, Councilmember Bartholomew, Councilmember Simpson

E. REVIEW & APPROVE PRE-APPLICATION & APPLICATION FOR TIFD BUSINESS ASSISTANCE - LEESBURGS / VINTAGE & RUSTICS; 813 MAIN STREET ROOFING & HVAC UPGRADES IN THE AMOUNT OF $37,341.88 (50% OF THEIR ESTIMATED PROJECT COST OF $74,683.75)

Motion made by Councilmember Huber, Seconded by Councilmember Pulecio.
Voting Yea: Councilmember Scott, Councilmember Pulecio, Councilmember Huber, Councilmember Losey, Councilmember Steiner, Councilmember Bartholomew, Councilmember Simpson

TIFD Committee Chairperson Brandon Janshen noted that they have updated the $50,000 or less application to streamline the process.

F. DISCUSS CITY PERSONNEL POLICY REGARDING DIRECTORS COUNCIL MEETING ATTENDANCE. (see highlighted area of City Policy)

Mayor Grenz brought up the cost of overtime by having the Directors attend the meetings when they do not have anything on the agenda. Clerk Rowe explained that pre-policy, the Directors attended the meetings when they had something on the agenda and were not being compensated, since this policy it must be compensated whether they have something on the agenda or not, which has increased wage cost quite a bit. Several Council members said they like having the directors attend meetings so they can ask questions as they do not have time to get here within the two business days prior to the meeting. Director Anderson, Captain Sloan, and Interim Chief Kanduch all think it is a good idea for Directors to attend Council meetings.

G. APPROVE CANCELLATION OF COUNCIL MEETINGS ON NOVEMBER 24TH AND DECEMBER 22ND IN OBSERVANCE OF THE HOLIDAY WEEKS.

Motion made by Councilmember Losey, Seconded by Councilmember Pulecio.
Voting Yea: Councilmember Scott, Councilmember Pulecio, Councilmember Huber, Councilmember Losey, Councilmember Steiner, Councilmember Bartholomew, Councilmember Simpson

H. APPROVE OCTOBER 2026 CLAIMS

Motion made by Councilmember Huber, Seconded by Councilmember Simpson.
Voting Yea: Councilmember Scott, Councilmember Pulecio, Councilmember Huber, Councilmember Losey, Councilmember Steiner, Councilmember Bartholomew, Councilmember Simpson

11. 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

Mayor Grenz stated that he will be gone from December 4th thru the 14th.

Motion made to adjourn by Councilmember Scott, Seconded by Councilmember Pulecio.
Voting Yea: Councilmember Scott, Councilmember Pulecio, Councilmember Huber, Councilmember Losey, Councilmember Steiner, Councilmember Bartholomew, Councilmember Simpson

The meeting was adjourned at 7:51pm

Miles City Fire Rescue
CITY OF MILES CITY

www.milescityfirerescue.com

2800 Main Street
Miles City, MT 59301

Telephone (406) 234-2235
Email: Firechief@milescity-mt.org
Fax (406) 874-8666

November 17, 2026

Staffing:

1. Two Open Positions frozen due to City Finance. We have 13 FTE approved.
    a. We are down to 9 FTE currently. Posting for applicants. C-PAT is in December.

Training

1. EMT class at MCC.
2. Company Training Fire and EMS

Apparatus/Equipment:

1. Posted Invitation to bid for Mini Pumper – Due December 3rd, Open bids on December 8th
2. E-9 had new engine. Pump test delayed due to medical issue. Waiting to get rescheduled.
3. R-1 fixed and using as chase.
4. Capital Improvement Inventory List.
    a. Looking for Mini Pumper (Working on assisted with Grant Funding)
    b. Looking for replacement First Due Fire Engine (Working on assisted with Grant Funding)
    c. Response Staff vehicles – used
    d. Need for a single Type VI wildland response apparatus
        i. Urban interface response within city boundaries
        ii. Looking into options aside from purchasing

Community:

1. Blessing for Safe Haven Baby Box December 2nd
2. Awarded an EMS grant for 2 new monitors – Received funds
3. Tourism Grant awarded $50,000 for purchase of Engine
4. Coal board grant awarded $150,000 for purchase of Mini Pumper

Facility:

1. New fire station building:
    a. Finishing up organizing and then work on putting up decorations.
    b. Continuing to get warranty work completed

Responses:

1. Call Volume ytd: 1494 (As of 11/12/26 Up 79 calls from last year)
2. Total call Volume last year: 1640 (increase of 36 from previous year)

ORDINANCE NO. 1410

AN ORDINANCE AMENDING SECTION 5-61 OF THE CODE OF ORDINANCES OF MILES CITY, MONTANA, ADOPTING THE 2021 INTERNATIONAL MECHANICAL CODE AND FUEL GAS CODE.

WHEREAS, the State of Montana has adopted certain model technical codes and recommended that the City of Miles City adopt the same, and the City of Miles City desires to adopt said updated model technical codes so recommended.

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

Section 1. A new section, Sec. 5-25, is added to Article II, International Building Code, as set forth below. Additionally, Section 5-46, 5-61, and 5-76 of the Code of Ordinances of Miles City, Montana, are amended to read as set forth below, revisions being underlined:

ARTICLE II. - INTERNATIONAL BUILDING CODE

Sec. 5-25. – Adoption; amendments.

The city council hereby adopts the International Building Code, 2024 Edition, as amended by ARM 24.301.131.

ARTICLE III. - INTERNATIONAL RESIDENTIAL CODE

Sec. 5-46. - Adoption; amendments.

The city council hereby adopts the International Residential Code, 2024 Edition, as amended by ARM 24.301.154.

ARTICLE IV. - ADDITIONAL MODEL TECHNICAL CODES

Sec. 5-61. - Adoption, amendments.

The city council hereby adopts the following model technical codes.

(a)2024 International Existing Building Code, as amended by ARM 24.301.171.
(b)2024 International Swimming Pool and Spa Code, as amended by ARM 24.301.175.
(c)2024 International Energy Conservation Code, as amended by ARM 24.301.161.
(d)2024 International Mechanical Code, as amended by ARM 24.301.172.
(e)2024 International Fuel Gas Code, as amended by ARM 24.301.173.

ARTICLE V. - NATIONAL ELECTRICAL CODE

Sec. 5-76. - Adoption; amendments.

The city council hereby adopts the National Electrical Code, 2024 Edition, as amended by ARM 24.301.401.

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

Said Ordinance read and put on its passage this 27th day of October, 2026.

_____
C. A. Grenz, Mayor

ATTEST:

_____
Mary Rowe, City Clerk

FINALLY PASSED AND ADOPTED this 17th day of November, 2026.

_____
C. A. Grenz, Mayor

ATTEST:

_____
Mary Rowe, City Clerk

ORDINANCE NO. 1412

AN ORDINANCE AMENDING SECTION 2-52 OF THE CODE OF ORDINANCES OF MILES CITY, MONTANA, RELATED TO CITY COUNCIL MEETING SCHEDULE.

WHEREAS, the City Council has determined that by adding a third meeting date each month has become time consuming and generating unnecessary staff overtime;

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

Section 1. **Section 2-52** of the Code of Ordinances of Miles City, Montana, is hereby **AMENDED** to read as follows:

Sec. 2-52 – **Meetings, Generally.** The city council shall hold its regular meetings for the transaction of municipal business on the second and fourth Tuesdays in each month, and such other meetings to which the council may be adjourned or which may be called. Special meetings may be called by the mayor, at the request of three members of the council or at any time by the city clerk on request, after giving reasonable notice thereof in writing to all the members of the city council present in the city. All meetings, unless otherwise ordered for a good cause, shall be held in the city council chamber.

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

Said Ordinance read and put on its passage this 27th day of October, 2026.

_____
C.A. Grenz, Mayor

ATTEST:

_____
Mary Rowe, City Clerk

FINALLY PASSED AND ADOPTED this 17th day of November, 2026.

_____
C.A. Grenz, Mayor

ATTEST:

_____
Mary Rowe, City Clerk

ORDINANCE NO. 1410

AN ORDINANCE AMENDING SECTION 5-61 OF THE CODE OF ORDINANCES OF MILES CITY, MONTANA, ADOPTING THE 2021 INTERNATIONAL MECHANICAL CODE AND FUEL GAS CODE.

WHEREAS, the State of Montana has adopted certain model technical codes and recommended that the City of Miles City adopt the same, and the City of Miles City desires to adopt said updated model technical codes so recommended.

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

Section 1. A new section, Sec. 5-25, is added to Article II, International Building Code, as set forth below. Additionally, Section 5-46, 5-61, and 5-76 of the Code of Ordinances of Miles City, Montana, are amended to read as set forth below, revisions being underlined:

ARTICLE II. - INTERNATIONAL BUILDING CODE

Sec. 5-25. – Adoption; amendments.

The city council hereby adopts the International Building Code, 2024 Edition, as amended by ARM 24.301.131.

ARTICLE III. - INTERNATIONAL RESIDENTIAL CODE

Sec. 5-46. - Adoption; amendments.

The city council hereby adopts the International Residential Code, 2024 Edition, as amended by ARM 24.301.154.

ARTICLE IV. - ADDITIONAL MODEL TECHNICAL CODES

Sec. 5-61. - Adoption, amendments.

The city council hereby adopts the following model technical codes.

(a)2024 International Existing Building Code, as amended by ARM 24.301.171.
(b)2024 International Swimming Pool and Spa Code, as amended by ARM 24.301.175.
(c)2024 International Energy Conservation Code, as amended by ARM 24.301.161.
(d)2024 International Mechanical Code, as amended by ARM 24.301.172.
(e)2024 International Fuel Gas Code, as amended by ARM 24.301.173.

ARTICLE V. - NATIONAL ELECTRICAL CODE

Sec. 5-76. - Adoption; amendments.

The city council hereby adopts the National Electrical Code, 2024 Edition, as amended by ARM 24.301.401.

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

Said Ordinance read and put on its passage this 27th day of October, 2026.

_____
C. A. Grenz, Mayor

ATTEST:

_____
Mary Rowe, City Clerk

FINALLY PASSED AND ADOPTED this 17th day of November, 2026.

_____
C. A. Grenz, Mayor

ATTEST:

_____
Mary Rowe, City Clerk

ORDINANCE NO. 1412

AN ORDINANCE AMENDING SECTION 2-52 OF THE CODE OF ORDINANCES OF MILES CITY, MONTANA, RELATED TO CITY COUNCIL MEETING SCHEDULE.

WHEREAS, the City Council has determined that by adding a third meeting date each month has become time consuming and generating unnecessary staff overtime;

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

Section 1. **Section 2-52** of the Code of Ordinances of Miles City, Montana, is hereby **AMENDED** to read as follows:

Sec. 2-52 – **Meetings, Generally.** The city council shall hold its regular meetings for the transaction of municipal business on the second and fourth Tuesdays in each month, and such other meetings to which the council may be adjourned or which may be called. Special meetings may be called by the mayor, at the request of three members of the council or at any time by the city clerk on request, after giving reasonable notice thereof in writing to all the members of the city council present in the city. All meetings, unless otherwise ordered for a good cause, shall be held in the city council chamber.

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

Said Ordinance read and put on its passage this 27th day of October, 2026.

_____
C.A. Grenz, Mayor

ATTEST:

_____
Mary Rowe, City Clerk

FINALLY PASSED AND ADOPTED this 17th day of November, 2026.

_____
C.A. Grenz, Mayor

ATTEST:

_____
Mary Rowe, City Clerk

See What's *Possible*.

www.greatwesteng.com

Miles City Stormwater

2026 PER and Environmental Assessment



CITY OF Miles City MONTANA

GreatWest ENGINEERING

Bailey Lehenbauer, PE

Why are we here?



2024

- City Identified Need
- Decided to apply for planning grants to complete stormwater PER

2026

- Completed Stormwater PER, Overall Collection System Analyzed

GreatWest ENGINEERING

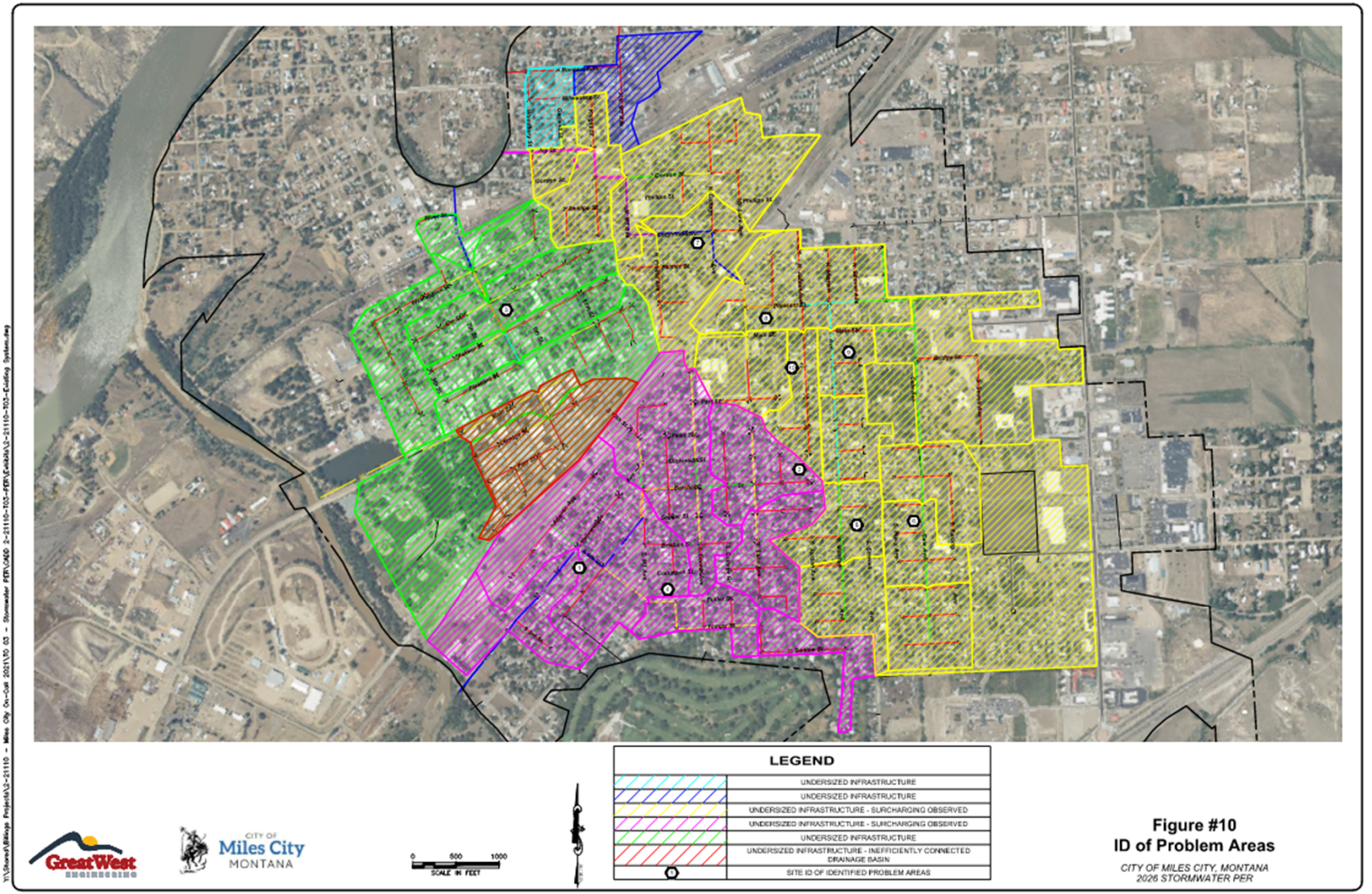
Deficiencies



- Infrastructure Surcharging
- Existing Infrastructure Undersized
- Localized Flooding

GreatWest ENGINEERING

Identified Problem Areas



Decision Matrix

Decision Matrix													
Site ID	Life Cycle Costs		Technical Feasibility		Operation and Maintenance		Social Impacts		Environmental Impacts		Public Health and Safety		TOTAL
	Weight:	3	Weight:	4	Weight:	7	Weight:	6	Weight:	5	Weight:	10	
	Score	Wtd.	Score	Wtd.	Score	Wtd.	Score	Wtd.	Score	Wtd.	Score	Wtd.	
1	1.6	5	8.0	32	7.0	49	5.0	30	7.0	35	8.0	80	**231**
2	2.0	6	8.0	32	8.0	56	9.0	54	7.0	35	9.0	90	**273**
3	2.2	7	7.0	28	6.0	42	8.0	48	7.0	35	9.0	90	**250**
4	5.6	17	9.0	36	8.0	56	4.0	24	6.0	30	7.0	70	**233**
5	9.3	28	9.0	36	9.0	63	3.0	18	6.0	30	5.0	50	**225**
6	7.5	23	9.0	36	9.0	63	3.0	18	6.0	30	5.0	50	**220**
7	0.7	2	5.0	20	6.0	42	6.0	36	7.0	35	8.0	80	**215**
8	4.0	12	8.0	32	8.0	56	7.0	42	7.0	35	8.0	80	**257**
9	8.8	26	9.0	36	9.0	63	5.0	30	6.0	30	5.0	50	**235**
10	7.2	22	9.0	36	9.0	63	5.0	30	6.0	30	5.0	50	**231**

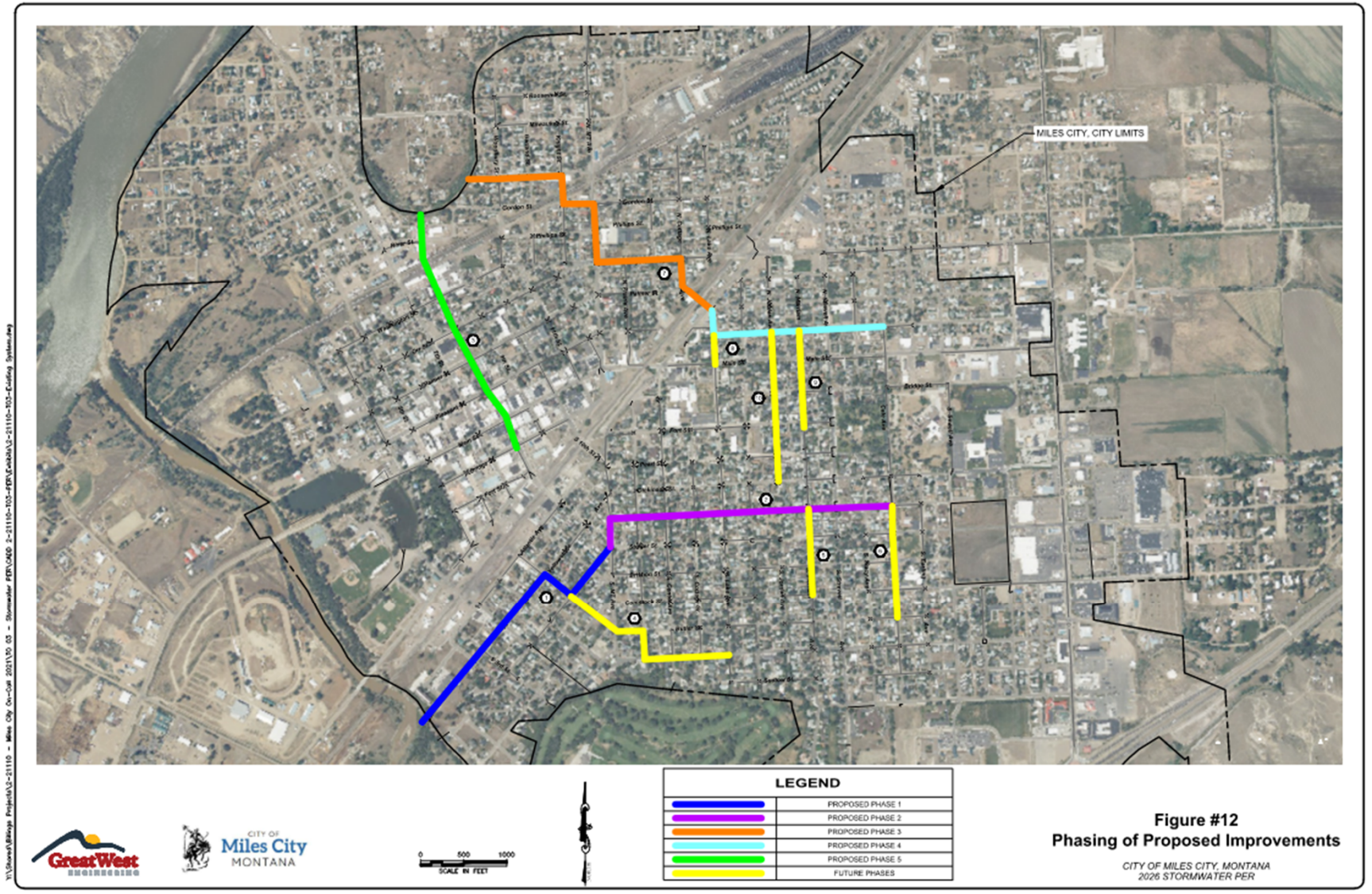
It is important to note that the above scoring and weighting are subjective. Alternatives that score overall within 10 pts of each other may essentially hold the same degree of preference.

GreatWest ENGINEERING

Preferred Alternative

SITE ID	AREA	MAIN LENGTH (FT)	EXISTING STRUCTURE TYPE	EXISTING SIZE	DESCRIPTION
1	Stower Avenue to Yellowstone Avenue to Tongue River Outfall	2,250	RCP	30" Pipe	Undersized Infrastructure

Proposed Phasing



Funding Scenarios

FUNDING OPTIONS FOR Miles City Phase 1 - Stormwater Improvements				
ITEM	SCENARIO #1 SRF Loan (20-yrs, 2.5%)	SCENARIO #2 RRGL, SRF Loan (20-yrs, 2.5%)	SCENARIO #3 RD Loan (40-yrs, 3.75%)	SCENARIO #4 RRGL, RD Loan (40-yrs, 3.75%)
Phase 1 - Loan only (Construction in 2028)	$3,290,036.56	$0.00	$3,290,036.56	$0.00
Phase 1 - With grants (Construction in 2030)	$0	$3,487,439	$0	$3,487,439
Rounded Total	**$3,290,000**	**$3,488,000**	**$3,290,000**	**$3,488,000**
DNRC Grant	$0	$125,000	$0	$125,000
MCEP Grant (Must meet target rate for Water and Sewer $116.40)	$0	$0	$0	$0
Local Contribution	$0	$0	$55,000	$55,000
RD Loan / SRF Loan	$3,290,000	$3,363,000	$3,235,000	$3,308,000
Total Project Funds	**$3,290,000**	**$3,488,000**	**$3,290,000**	**$3,488,000**
RD - Interim Interest (loans > $500,000, see link to calculate)			$83,200	$81,500
SRF Bond Reserve (1/2 year payment)	$105,609.00	$107,952.30		
Total Loan Amount	**$3,395,609**	**$3,470,952**	**$3,318,200**	**$3,389,500**
Annual Loan Payment	$218,000	$222,840	$161,600	$165,070
Total Loan Payments Over Life of Loan	$4,360,000	$4,456,800	$6,464,000	$6,602,800
Total Interest Paid Over Life of Loan	**$964,391**	**$985,848**	**$3,145,800**	**$3,213,300**
Annual Loan Coverage	$21,800	$22,284	$16,160	$16,507
TOTAL ANNUAL CAPITAL DEBT SERVICE COST	**$239,800**	**$245,124**	**$177,760**	**$181,577**
User Capital Cost/Annual	**$0.005893**	**$0.006024**	**$0.004368**	**$0.004462**
Current Annual O&M [1]	$82,300.00	$82,300.00	$82,300.00	$82,300.00
Current Annual Debt Service[1]	$0.00	$0.00	$0.00	$0.00
Additional O&M Due To Project	$0.00	$0.00	$0.00	$0.00
Annual Short Lived Asset Reserve/Capital Reserve	$6,200.00	$6,200.00	$6,200.00	$6,200.00
TOTAL ANNUAL O&M COSTS	**$88,500**	**$88,500**	**$88,500**	**$88,500**
User O&M Cost/Annual	**$0.002175**	**$0.002175**	**$0.002175**	**$0.002175**
USER COST - ANNUAL INCREASE PER SQUARE FOOT	**$0.008068**	**$0.008199**	**$0.006543**	**$0.006637**
Example 7,000 Square Feet Annual Increase	$56.48	$57.39	$45.80	$46.46
Example 9,000 Square Feet Annual Increase	$72.61	$73.79	$58.89	$59.73
Example 11,000 Square Feet Annual Increase	$88.75	$90.19	$71.98	$73.01

[1] Based on the 2030 projected budget

[2] Based on 40,692,050 Square Feet

[4] https://www.rd.usda.gov/programs-services/water-environmental-programs/water-waste-disposal-loan-grant-program/mt

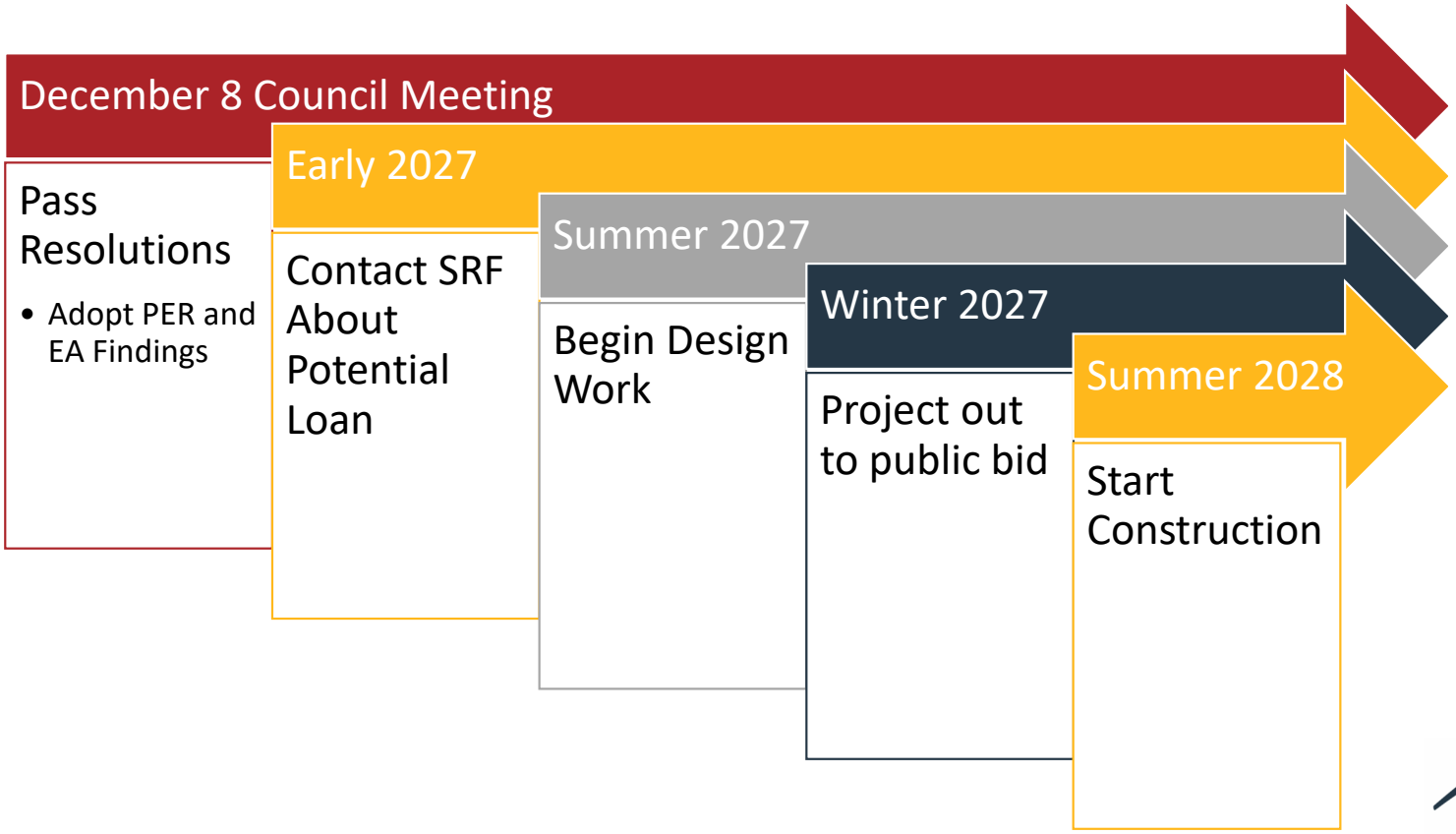
GreatWest ENGINEERING

Funding Strategy

- **Project Options:**
  - Entirety of Phase 1
    - Downhill Phases first
- **Most Likely Funding Source(s): 2028**
  - RD/SRF Loan $3,363,000
- **Most Likely Funding Source(s): 2030**
  - DNRC Grant $125,000
  - RD/SRF Loan $3,363,000
- **Phase 1 Estimate: $3,290,037 2028 Construction**
  - $3,488,000 2030 Construction
- **Annual Assessment Increase of $56.48 for a 7,000 Square foot property.**

GreatWest ENGINEERING

Project Schedule



GreatWest ENGINEERING

Environmental Assessment

- **No Adverse Effects were discovered as part of the MEPA Checklist**
  - Potential temporary nuisances such as noise, dust, fumes, etc. will be apart of normal construction activities.

GreatWest ENGINEERING

Questions?



GreatWest ENGINEERING

See What's *Possible.*

www.greatwesteng.com

Water/Wastewater ▪ Transportation ▪ Grant Services ▪ Solid Waste ▪ Structural ▪ Bridges ▪ Natural Resources ▪ Planning

BILLINGS
6780 Trade Center Avenue
Billings, MT 59101
PHONE 406.652.5000

BOISE
1921 E. Overland Road
Meridian, ID 83642
PHONE 208.576.6646

GREAT FALLS
702 2nd Street South #2
Great Falls, MT 59405
PHONE 406.952.1109

HELENA
PO Box 4817
2501 Belt View Drive
Helena, MT 59604
PHONE 406.449.8627
FAX 406.449.8631

SPOKANE
10220 N. Nevada St
Suite 130
Spokane, WA 99218
PHONE 509.413.1430

GreatWest ENGINEERING

RESOLUTION NO. 4735

A RESOLUTION APPROVING A "SERVICE AGREEMENT AND MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MILES CITY AND THE MILES CITY PUBLIC LIBRARY BOARD OF TRUSTEES" GOVERNING LIBRARY OPERATIONS, BUDGETING, AND STAFFING.

WHEREAS, the City of Miles City ("City") and the Miles City Public Library Board of Trustees ("Board") have a partnership wherein the City of Miles City is the fiscal sponsor of the Library, the operations of which is governed by their Board; and

WHEREAS, the City and the Board have reduced their agreements regarding the operation, staffing, and budgeting for the Miles City Public Library, and desire to approve the same;

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

1. The "Service Agreement And Memorandum Of Understanding Between The City Of Miles City And The Miles City Public Library Board Of Trustees" attached hereto as Exhibit "A," and incorporated by this reference, is hereby approved.

2. The Mayor of the City of Miles City is hereby authorized to execute the same on behalf of the City of Miles City.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, AT A REGULAR MEETING THIS 17TH DAY OF NOVEMBER, 2026.

_____
C.A. Grenz, Mayor

ATTEST:

_____
Mary Rowe, City Clerk

SERVICE AGREEMENT AND MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MILES CITY AND THE MILES CITY PUBLIC LIBRARY BOARD OF TRUSTEES

This Service Agreement and Memorandum of Understanding ("Agreement") is entered into this ___day of November 2026 between the City of Miles City, Montana, a municipal corporation of the State of Montana (hereafter, "City"), through its Mayor, and the Miles City Public Library Board of Trustees (hereafter, "Library Board"), together referred to hereafter as "the parties".

RECITALS

WHEREAS, the City has established a free public library, the Miles City Public Library ("Library") for the use of the citizens under regulations as prescribed by the Library Board, subject to approval of the City (Miles City Code 14-1, 14-2; § 22-1-309, MCA);

WHEREAS, the Library Board has exclusive control of the expenditure of the public library funds subject to a budget approved by the City as well as other duties and authority set for and governed by (§ 22-1-309, MCA and § 22-1-310, MCA);

WHEREAS, on July 1, 2025, the City and the Montana State Council of the American Federation of State, County, and Municipal Employees, AFL-CIO Local No. 283A ("Union") entered a Collective Bargaining Agreement ("CBA"), in which Library employees can obtain membership. The CBA is effective July 1, 2025 through June 30, 2027;

WHEREAS, said CBA was established through collective bargaining procedures as provided for under Montana law, the "promotion of harmonious relations" between the City and Union; and the "establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, and fringe benefits, employee safety, and other conditions of employment;"

WHEREAS, to address the ability of the City to provide for personnel costs (Section 3.A) and insurance coverage for property and liability for the Library, and to make clear the rights and obligations by and between the City and the Library Board, the parties desire to create this Memorandum of Understanding regarding the City and the Library's respective rights and obligations, specifically as they relate to personnel management, such as to ensure that they are clearly-defined and understood.

UNDERSTANDING OF THE PARTIES

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained, the parties agree as follows:

1. **PURPOSE:** The purpose of this Agreement is to provide stability and a framework of the roles, responsibilities and relationships of the City and Library Board as it relates to the efficient operation and management of the Library for the benefit of the community.

2. **TERM:** This Agreement shall commence for the fiscal year beginning July 1, 2026 and shall continue through and include June 30, 2027. The Agreement will automatically renew for each subsequent fiscal year unless one party provides written notice to the other at least ninety (90) days prior to the end of the term, of its intention to not renew the same.

3. **OBLIGATIONS OF THE CITY:**

3.A Personnel costs: The City agrees to budget for all Library personnel costs:

3.A.1 Personnel Costs include:

- Wages as provided by the current CBA and, in the case of the Library Director, the annual salary approved by the Library Board;
- State and Federal withholding taxes;
- Workers' compensation contributions;
- Public Employee Retirement System (PERS) contributions;
- Retirement/termination buyout of accrued vacation/sick leave pursuant to City policy
- Life, health, and opt-in vision and dental insurance
- Unemployment insurance
- Employee Assistance Program

3.B Insurance Coverage: The City agrees to provide property insurance coverage for the Miles City Public Library building and contents as well as liability and Employment Practices Liability Insurance coverage, workers' compensation, and health insurance benefits under the City's insurance policies with the Montana Municipal Interlocal Authority.

3.C Fiscal Agent: All public ("general") funds for the Library will be maintained by the City. All non-public funds, such as donated or grant-funded accounts, shall be maintained by the City. The City shall provide all financial administration and record keeping of Library funds. Financial records of all fiscal activity shall be kept at the City's facilities.

3.C.1 Payroll and Accounting: the City agrees to handle payroll and related accounting.

4. **OBLIGATIONS OF THE LIBRARY BOARD:**

4.A Funding Library Operations: The City agrees that it will provide for operational and personnel costs as part of the City's annual general fund budget process. The Library Board agrees it will manage and review the expenditure of public library funds with the development and review of an annual budget and a monthly accounting report from the Library Director, AND manage the expenditure of funds received by donations, grants, memorials, entitlements, or other monies collected, to be kept separate from public funds.

4.B Annual Budget: The Library Board will prepare an annual budget for

approval by the City in accordance with state law (§ 22-1-309(6), MCA).

4.C Public Entity and Open Meeting Laws: The Library Board agrees to comply with all laws pertaining to public entities including open meetings.

5. ADDITIONAL OBLIGATIONS:

6. OPERATION OF THE LIBRARY:

6.A Library Board Authority: The Library Board shall have the authority to determine the policy for the operation and care of the Library; prepare budgets; authorize expenditures; determine the selection of materials; and negotiate contracts and agreements as set forth in § 22-1-309, MCA. The Library Board further agrees to provide the City with timely notice of all policy modifications or changes, including providing any written documentation which accompanies and/or supports such modifications or changes.

6.B Execution of Contracts/Agreements: Per MCA § 22-1-309 (3) the Library Board may contract for services. The Mayor has the right to consult with the Library Board about any contracts and agreements for the Library.

6.C Personnel Management: Pursuant to § 22-1-310, MCA, the Library Board oversees employees at the library. In recognition of library employees also being city employees, the Library Board agrees to the following:

6.C.1 Employee Status and Policy: Library employees are employees of the City. The parties acknowledge and understand that as employees of the City, all applicable City policies shall apply including but not limited to the City personnel policies. The Library must notify the City of any change in status of any/all Library employees. This notification must be completed in a timely manner so that required timelines/deadlines can be met for completion of forms and notification of appropriate agencies.

6.C.2 Appointment and hiring. The Library Board shall have the authority and responsibility for hiring, appointment, termination, and disciplinary proceedings of the Library Director and, in coordination with the Library Director, library employees. The Library Board and Library Director shall follow city personnel policies and procedures for hiring and appointment and shall seek the guidance of city human resources (HR) in ensuring that the hiring process is legal and follows city protocol.

6.C.2.a. Administrative status and supervision of Library Director and employees. The Library Director shall have the administrative status of a City department head and shall report to and be supervised by the Library Board. The Library Director will attend department head meetings and will communicate regularly with the Mayor. The Library Board has the authority and responsibility for evaluating the performance of the Library Director. The Library Director will supervise any library employees and is responsible for library employees' performance evaluations. The Library Board and Library Director shall follow CBA and City procedures for supervision, handling grievances, discipline and/or termination. The Library Director and/or Library Board agrees to confer with City HR and/or the Mayor during a grievance or termination process and a union representative if applicable, The City may contact the City's

coverage provider and/or legal counsel for guidance and will report back to the Library Director and/or Library Board on appropriate action; the union also has the right to request guidance per the CBA and report to the Library Director and/or Library Board. The Library Director and Library Board agree to follow the recommendations of the coverage provider and/or legal counsel.

If there is a disagreement about the handling of a personnel management issue, the City, Library Board, and Library Director agree to follow the recommendations of union leadership, City attorney and/or HR professional. All parties agree to act in good faith and in the best interests of the Library and citizens of the City in resolving any disagreements.

6.C.2.b Execution of Library operation and policies. The Library Director shall manage the operations of the Library and be responsible to the Library Board for the execution of the Library Board's policies. The Library Director and employees agree to follow the payroll and accounting procedures of the City.

6.C.2.c Salary. The Library Board will fix library employee salary and any annual adjustments within the approved budget and in accordance with the CBA. The Library Board will work with the City to determine a salary structure.

6.D Building. The Library building is owned by the City. The Library Board sets policy and works with the Library Director and staff on the use of the space. The Library Board agrees to confer with the Mayor, City Council, and other parties as needed when any major changes or building fixes are planned.

7. MODIFICATIONS: Any modifications sought to be made to this Agreement shall be agreed to by both parties and will be memorialized in writing, signed by both parties.

8. NOTICE: Any notice required or permitted under this Agreement shall be deemed sufficiently given or serviced if sent by mail or hand delivered to:

City of Miles City
Mayor
17 S. 8th St.
Miles City, MT 59301

Miles City Public Library
Library Board
1 S. 10th St.
Miles City, MT 59301

Either party may, by written notice at any time during the term of this Agreement, designate a different address to which notices hereunder shall subsequently be sent. Written notice hereunder shall be deemed to have been given as of the time the same is deposited in the United States mail.

9. TIME OF ESSENCE: Time shall be of the essence of this Agreement and all the terms, covenants and conditions hereof shall be performed at or before the times herein set forth. Any forbearance on the part of either party in the enforcement of the terms and conditions of this Agreement shall in no way be construed as a waiver of default thereof or waiver of the obligatory effect of such provision.

10. CONSTRUCTION AND BINDING EFFECT: This Agreement shall be construed under the laws of

the State of Montana and shall be binding upon and inure to the benefit of the respective parties, their heirs, executors, successors and assigns.

11. SEVERABILITY: If any term of this Agreement should hereafter be declared or becomes void or unenforceable by judicial decree or operation of law, all other terms of this Agreement shall continue to be effective unless the void or unenforceable terms materially defeats the manifest intent and purpose of this agreement.

12. BINDING: This Agreement shall be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this Agreement, and the parties hereto approve and execute this Agreement.

CITY OF MILES CITY

Chris Grenz
Mayor

_____
Mayor

* APPROVED AS TO FORM:

Daniel Z. Rice
City Attorney

_____
City Attorney

LIBRARY BOARD OF TRUSTEES

Andrew Albers
Board Chair

_____
Board Chair

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated project and the controlling laws and regulations.

AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES

TASK ORDER EDITION

Prepared by

EJCDC®
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

Issued and Published Jointly by

ACEC
AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASCE
AMERICAN SOCIETY OF CIVIL ENGINEERS

National Society of Professional Engineers®

EJCDC® E-505, Agreement Between Owner and Engineer for Professional Services – Task Order Edition.
Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

This Agreement has been prepared for use with EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC® E-001, Commentary on the EJCDC Engineering Services Agreements, 2013 Edition.

Copyright © 2014:

National Society of Professional Engineers

1420 King Street, Alexandria, VA 22314-2794

(703) 684-2882

www.nspe.org

American Council of Engineering Companies

1015 15th Street N.W., Washington, DC 20005

(202) 347-7474

www.acec.org

American Society of Civil Engineers

1801 Alexander Bell Drive, Reston, VA 20191-4400

(800) 548-2723

www.asce.org

The copyright for this EJCDC document is owned jointly by the three sponsoring organizations listed above. The National Society of Professional Engineers is the Copyright Administrator for the EJCDC documents; please direct all inquiries regarding EJCDC copyrights to NSPE.

NOTE: EJCDC publications may be purchased at www.ejcdc.org, or from any of the sponsoring organizations above.

TABLE OF CONTENTS

Page

ARTICLE 1 – SERVICES OF ENGINEER 1
1.01 Scope 1
1.02 Task Order Procedure 1

ARTICLE 2 – OWNER'S RESPONSIBILITIES 2
2.01 General 2

ARTICLE 3 – TERM; TIMES FOR RENDERING SERVICES 2
3.01 Term 2
3.02 Times for Rendering Services 2

ARTICLE 4 – INVOICES AND PAYMENTS 3
4.01 Invoices 3
4.02 Payments 3

ARTICLE 5 – OPINIONS OF COST 4
5.01 Opinions of Probable Construction Cost 4
5.02 Designing to Construction Cost Limit 4
5.03 Opinions of Total Project Costs 4

ARTICLE 6 – GENERAL CONSIDERATIONS 4
6.01 Standards of Performance 4
6.02 Design Without Construction Phase Services 6
6.03 Use of Documents 6
6.04 Electronic Transmittals 7
6.05 Insurance 7
6.06 Suspension and Termination 8
6.07 Controlling Law 10
6.08 Successors, Assigns, and Beneficiaries 10
6.09 Dispute Resolution 10
6.10 Environmental Condition of Site 10
6.11 Indemnification and Mutual Waiver 11
6.12 Records Retention 12
6.13 Miscellaneous Provisions 12

ARTICLE 7 – DEFINITIONS 13
7.01 Defined Terms 13

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS 17
8.01 Suggested Form of Task Order 17
8.02 Exhibits Included: 17
8.03 Total Agreement 17
8.04 Designated Representatives 18
8.05 Engineer's Certifications 18

EJCDC® E-505, Agreement Between Owner and Engineer for Professional Services – Task Order Edition.
Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES

TASK ORDER EDITION

THIS IS AN AGREEMENT effective as of 10/22/2026 ("Effective Date of the Agreement") between

City of Miles City, MT ("Owner") and

Brosz Engineering, Inc. ("Engineer").

Other terms used in this Agreement are defined in Article 7.

From time to time Owner may request that Engineer provide professional services for Specific Projects. Each engagement will be documented by a Task Order. This Agreement sets forth the general terms and conditions which shall apply to all Task Orders duly executed under this Agreement.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

A. Engineer's services will be detailed in a duly executed Task Order for each Specific Project. ~~The general format of a Task Order is shown in Attachment 1 to this Agreement.~~ Each Task Order will indicate the specific services to be performed and deliverables to be provided.

B. This Agreement is not a commitment by Owner to Engineer to issue any Task Orders.

C. Engineer shall not be obligated to perform any prospective Task Order unless and until Owner and Engineer agree as to the particulars of the Specific Project, including the scope of Engineer's services, time for performance, Engineer's compensation, and all other appropriate matters.

1.02 *Task Order Procedure*

A. Owner and Engineer shall agree on the scope, time for performance, and basis of compensation for each Task Order. With respect to the scope of Engineer's services, each specific Task Order shall either (1) be accompanied by and incorporate a customized Exhibit A, "Engineer's Services for Task Order," prepared for the Specific Project, (2) state the scope of services in the Task Order document itself, ~~or (3) incorporate by reference all or portions of Exhibit A, "Engineer's Services for Task Order," as attached to this Agreement.~~ Each duly executed Task Order shall be subject to the terms and conditions of this Agreement.

B. Engineer will commence performance as set forth in the Task Order.

C. Engineer shall provide, or cause to be provided, the services set forth in the Task Order.

EJCDC® E-505, Agreement Between Owner and Engineer for Professional Services – Task Order Edition.
Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 *General*

A. Owner shall have the responsibilities set forth in this Agreement; ~~in Exhibit B, "Owner's Responsibilities";~~ and in each Task Order.

B. Owner shall pay Engineer as set forth in each Task Order, pursuant to the applicable terms of Article 4 ~~and Exhibit C~~.

C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement; such responsibility extends to requirements, instructions, programs, reports, data, and other information furnished by Owner pursuant to any Task Order. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.

D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of: (1) any development that affects the scope or time of performance of Engineer's services; (2) the presence at the Site of any Constituent of Concern; or (3) any relevant, material defect or nonconformance in Engineer's services, the Work, the performance of any Constructor, or in Owner's performance of its responsibilities under this Agreement.

ARTICLE 3 – TERM; TIMES FOR RENDERING SERVICES

3.01 *Term*

A. This Agreement shall be effective and applicable to Task Orders issued hereunder for [5] years from the Effective Date of the Agreement.

B. The parties may extend or renew this Agreement for an additional 5-year term, with or without changes, by written instrument establishing a new term.

3.02 *Times for Rendering Services*

A. The Effective Date of the Task Order and the times for completing services or providing deliverables will be stated in each Task Order. Engineer is authorized to begin rendering services under a Task Order as of the Effective Date of the Task Order.

B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.

C. If Owner authorizes changes in the scope, extent, or character of the Specific Project, or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.

E. If Engineer fails, through its own fault, to complete the performance required in a Task Order within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

F. With respect to each Task Order, the number of Construction Contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established shall be identified in the Task Order. If the Work designed or specified by Engineer under a Task Order is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), then the Task Order will state the schedule for performance of Engineer's services in order to sequence and properly coordinate such services as are applicable to the Work under the Construction Contracts. If the Task Order does not address such sequencing and coordination, then Owner and Engineer shall jointly develop a schedule for sequencing and coordination of services prior to commencement of final design services; this schedule is to be prepared and included in or become an amendment to the authorizing Task Order whether or not the work under such contracts is to proceed concurrently.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices, ~~the terms of Exhibit C,~~ and the specific Task Order. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 *Payments*

A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.

B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:

1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and

2. Engineer may, after giving seven days written notice to Owner, suspend services under any Task Order issued until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.

C. *Disputed Invoices:* If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to the terms of Paragraph 4.01.

D. *Sales or Use Taxes:* If after the Effective Date of a Task Order any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under the Task Order, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

shall be in addition to the compensation to which Engineer is entitled under the terms of ~~Exhibit C and~~ the specific Task Order.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 *Designing to Construction Cost Limit*

A. If a Construction Cost limit for a Specific Project is established between Owner and Engineer in a Task Order, then such Construction Cost limit and Engineer's rights and responsibilities with respect thereto will be governed by Exhibit F, "Construction Cost Limit," which shall be attached to and incorporated in the Task Order. If no Construction Cost limit is established in a Task Order, then Exhibit F does not apply.

5.03 *Opinions of Total Project Costs*

A. The services, if any, of Engineer with respect to Total Project Costs for a Specific Project shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.

B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.

D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

E. *Compliance with Laws and Regulations, and Policies and Procedures*

1. Engineer and Owner shall comply with applicable Laws and Regulations.

2. Engineer shall comply with the policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.

3. Each Task Order is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date of the Task Order. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:

a. changes after the Effective Date of the Task Order to Laws and Regulations;

b. the receipt by Engineer after the Effective Date of the Task Order of Owner-provided written policies and procedures;

c. changes after the Effective Date of the Task Order to Owner-provided policies or procedures.

F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant the existence of conditions whose existence Engineer cannot ascertain within its services for that Specific Project. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to the Engineer in any way contingent upon Engineer signing any such document.

G. ~~The general conditions for any construction contract documents prepared hereunder are to be EJCDC® C-700 "Standard General Conditions of the Construction Contract" (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in Exhibit J or in the specific Task Order~~.

H. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.

I. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.

J. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

K. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or for enforcement of construction insurance or surety bonding requirements.

L. Engineer's services do not include providing legal advice or representation.

M. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.

N. While at a Site, Engineer, its Consultant, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

A. For each design performed or furnished, Engineer shall be responsible only for those Construction Phase services that have been expressly required of Engineer in the authorizing Task Order. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services. Owner waives all claims against Engineer that may be in any way connected to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in the authorizing Task Order.

6.03 *Use of Documents*

A. All Documents are instruments of service, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Specific Project is completed.

B. If Engineer is required to prepare or furnish Drawings or Specifications under the specific Task Order, then Engineer shall deliver to Owner ~~at least one original printed record version of~~ such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.

C. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Specific Project. Engineer grants Owner a limited license to use the Documents on the Specific Project, extensions of the Specific Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Specific Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Specific Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and its Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.

D. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Specific Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Electronic Transmittals*

A. Owner and Engineer may transmit, and shall accept, Specific Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Specific Project website, in accordance with a mutually agreeable protocol.

B. If this Agreement or a Task Order does not establish protocols for electronic or digital transmittals, then Owner and Engineer shall jointly develop such protocols.

C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 *Insurance*

A. Commencing with the Effective Date of the Agreement, Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer that is applicable to a Specific Project.

B. Commencing with the Effective Date of the Agreement, Owner shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability insurance policies carried by Owner, which are applicable to the Specific Project.

C. Owner shall require Contractors to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Specific Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor.

D. ~~Owner and~~ Engineer shall ~~each~~ deliver ~~to the other~~ certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished promptly after the Effective Date of the Agreement and at renewals thereafter during the life of this Agreement.

E. All policies of property insurance relating to a Specific Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer or its Consultants. Owner and Engineer waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Specific Project. Owner and Engineer shall take appropriate measures in other Specific Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.

F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.

G. Under the terms of any Task Order, or after commencement of performance of a Task Order, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner.

6.06 *Suspension and Termination*

A. *Suspension*

1. By Owner: Owner may suspend a Task Order for up to 90 days upon seven days written notice to Engineer.

2. By Engineer: Engineer may suspend services under a Task Order (a) if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraph 4.02.B, or (b) in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.10.A.4.

3. A suspension on a specific Task Order, whether by Owner or Engineer, shall not affect the duty of the two parties to proceed with their obligations under other Task Orders.

B. *Termination for Cause—Task Order:* The obligation to provide further services under a specific Task Order may be terminated for cause:

1. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms of the specific Task Order or this Agreement, whose terms govern the specific Task Order, through no fault of the terminating party.

2. By Engineer:

a. upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

b. upon seven days written notice if the Engineer's services under a Task Order are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.10.A.5.

c. Engineer shall have no liability to Owner on account of such termination.

d. Notwithstanding the foregoing, neither this Agreement nor the Task Order will terminate under Paragraph 6.06.B.1 if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

C. *Termination for Cause—Agreement:* In the case of a default by Owner in its obligation to pay Engineer for its services under more than one specific Task Order, Engineer may request immediate payment of all amounts invoiced on other Task Orders, and may invoice Owner for continued services on such Task Orders on a two-week billing cycle, with payment due within one week of an invoice. If Owner fails to make such payments, then upon seven days notice Engineer may terminate this Agreement, including Engineer's services under all Task Orders.

D. *Termination for Convenience by Owner:* Owner may terminate a Task Order or this Agreement for Owner's convenience, effective upon Engineer's receipt of notice from Owner.

E. *Effective Date of Termination:* The terminating party under Paragraphs 6.06.B, C, and D may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Task Order materials in orderly files.

F. *Payments Upon Termination:*

1. In the event of any termination under Paragraph 6.06, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with the specific Task Order and this Agreement, and for all expenses incurred through the effective date of termination, to the extent that the specific Task Order (or Task Orders) allows reimbursement for such expenses. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.

2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.06.F.1, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using the basis of compensation for Additional Services, as indicated in the specific Task Order.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

6.07 *Controlling Law*

A. This Agreement is to be governed by the Laws and Regulations of the state in which the Specific Project is located.

6.08 *Successors, Assigns, and Beneficiaries*

A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.08.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

3. The Owner agrees that the substance of the provisions of this Paragraph 6.08.C shall appear in any Construction Contract Documents prepared for any Specific Project under this Agreement.

6.09 *Dispute Resolution*

A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights at law.

B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.09.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.10 *Environmental Condition of Site*

A. With respect to each specific Task Order, Specific Project, and Site (unless indicated otherwise in a specific Task Order):

1. Owner represents to Engineer that as of the Effective Date of the Task Order, to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

2. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (a) Owner and (b) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.

3. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.

4. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, immediately suspend performance of services on the portion of the Specific Project affected thereby until such portion of the Specific Project is no longer affected.

5. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under the specific Task Order, then the Engineer shall have the option of (a) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (b) terminating the specific Task Order for cause on seven days notice.

6. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under a specific Task Order or this Agreement.

6.11 *Indemnification and Mutual Waiver*

A. *Indemnification by Engineer:* To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to this Agreement, any Task Order, or any Specific Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants.

B. *Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations.

C. *Environmental Indemnification:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorneys' fees) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under any Site, provided that (1) any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this Paragraph

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

D. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.

E. *Percentage Share of Negligence*: To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

F. *Mutual Waiver*: To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, any Task Order, or a Specific Project, from any cause or causes.

6.12 *Records Retention*

A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services under each Task Order, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under the Task Order. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

6.13 *Miscellaneous Provisions*

A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

D. *Waiver:* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

E. *Accrual of Claims*: To the fullest extent permitted by Laws and Regulations, all causes of action arising under a Specific Project shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion of such Specific Project.

F. *Applicability to Task Orders:* The terms and conditions set forth in this Agreement apply to each Task Order as if set forth in the Task Order, unless specifically modified. In the event of conflicts between this Agreement and a Task Order, the conflicting provisions of the Task Order shall take precedence for that

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

Task Order. The provisions of this Agreement shall be modified only by a written instrument. Such amendments shall be applicable to all Task Orders issued after the effective date of the amendment if not otherwise set forth in the amendment.

G. *Non-Exclusive Agreement*: Nothing herein shall establish an exclusive relationship between Owner and Engineer. Owner may enter into similar agreements with other professionals for the same or different types of services contemplated hereunder, and Engineer may enter into similar or different agreements with other project owners for the same or different services contemplated hereunder.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

A. Wherever used in this Agreement (including the Exhibits hereto and any Task Order) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits or Task Order, or in the following definitions:

1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.

2. *Additional Services*—Services to be performed for or furnished to Owner by Engineer in accordance with a Task Order, but which are not included in Basic Services for that Task Order.

3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Article 8.

4. *Application for Payment*—The form acceptable to Engineer which is to be used by a Contractor in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.

5. *Basic Services*—The services to be performed for or furnished to Owner by Engineer in accordance with a specific Task Order, as specified in the Task Order (but not including Additional Services performed or furnished pursuant to an amendment to the specific Task Order).

6. *Change Order*—A document which is signed by a Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.

7. *Change Proposal*—A written request by a Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.

8. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA");

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

(b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

9. *Construction Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.

10. *Construction Contract Documents*—Those items designated as "Contract Documents" in the Construction Contract, and which together comprise the Construction Contract.

11. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.

12. *Construction Contract Times*—The numbers of days or the dates by which a Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion, and (c) complete the Work.

13. *Construction Cost*—The cost to Owner of the construction of those portions of an entire Specific Project designed or specified by or for Engineer under this Agreement and the specific Task Order, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damage to property; Owner's costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with a Specific Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.

14. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Specific Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and their employees, agents, and representatives.

15. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to a Specific Project as Engineer's independent professional associates, consultants, subcontractors, or vendors.

16. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.

17. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.

18. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by a Contractor.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

19. *Effective Date of the Agreement*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

20. *Effective Date of the Task Order*—The date indicated in the Task Order on which it becomes effective, but if no such date is indicated, it means the date on which the Task Order is signed and delivered by the last of the two parties to sign and deliver.

21. *Engineer*—The individual or entity named as such in this Agreement.

22. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.

23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

24. *Owner*—The individual or entity with which Engineer has entered into this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning Specific Projects.

25. *Record Drawings*—Drawings depicting the completed Specific Project, or a specific portion of the completed Specific Project, prepared by Engineer as an Additional Service and based solely on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.

26. *Resident Project Representative*—The authorized representative, if any, of Engineer assigned to assist Engineer at the Site of a Specific Project during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of the RPR. The duties and responsibilities of the RPR will be as set forth in each Task Order.

27. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.

28. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for a Contractor and submitted by a Contractor to Engineer to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.

29. *Site*—Lands or areas indicated in the Construction Contract Documents for a Specific Project as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for use of a Contractor.

30. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

31. *Specific Project*—The total specific undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under a specific Task Order are a part.

32. *Subcontractor*—An individual or entity having a direct contract with a Contractor or with any other Subcontractor for the performance of a part of the Work.

33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

34. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with a Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

35. *Task Order*—A document executed by Owner and Engineer, including amendments if any, stating the scope of services, Engineer's compensation, times for performance of services and other relevant information for a Specific Project.

36. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Specific Project, including Construction Cost and all other Specific Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, the total costs of services of Engineer or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Specific Project, and the cost of other services to be provided by others to Owner.

37. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents for a Specific Project. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning; all as required by such Construction Contract Documents.

38. *Work Change Directive*—A written directive to a Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. *Day:* The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 ~~*Suggested Form of Task Order*~~

A. ~~The Suggested Form of Task Order is attached as Attachment 1, and shall be used as the basis for preparing a specific Task Order for each Specific Project under this Agreement~~.

8.02 *Exhibits Included:*

A. ~~Exhibit A, Engineer's Services for Task Order. Services, tasks, and terms in Exhibit A as included with this Agreement are for reference in preparing the scope of services for specific Task Orders, and are contractually binding only to the extent expressly incorporated in a specific Task Order.~~

B. ~~Exhibit B, Owner's Responsibilities. This Exhibit applies to all Task Orders~~**.**

C. ~~Exhibit C, Payments to Engineer for Services and Reimbursable Expenses. The terms of Exhibit C that will be applicable to and govern compensation under a specific Task Order will be determined by the selection of compensation methods made in Paragraph 6, "Payments to Engineer," of the specific Task Order~~.

D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative. This Exhibit is not contractually binding except when expressly incorporated in a specific Task Order.

E. Exhibit E, Notice of Acceptability of Work. Engineer shall use this Notice of Acceptability of Work form at the conclusion of construction on a Specific Project if (1) the form is expressly incorporated by reference in a specific Task Order, and Engineer's scope of services in the specific Task Order includes providing such a notice to Owner and Contractor, and (2) the Work is in fact acceptable pursuant to applicable requirements, subject to the terms of the notice.

F. ~~Exhibit F, Construction Cost Limit. This Exhibit is contractually binding only with respect to those specific Task Orders that (1) expressly incorporate Exhibit F by reference in the Task Order, Paragraph 2, "Services of Engineer," and (2) expressly state a specific Construction Cost Limit and contingency for the Specific Project in Paragraph 2, "Services of Engineer," of the specific Task Order~~.

G. Exhibit G, Insurance. This Exhibit is applicable to all Task Orders.

H. Exhibit H, Dispute Resolution. This Exhibit is applicable to all Task Orders**.**

I. ~~Exhibit I, Limitations of Liability. This Exhibit is applicable to all Task Orders~~**.**

J. ~~Exhibit J, Special Provisions. This Exhibit is applicable to all Task Orders~~**.**

K. Exhibit K, Amendment to Task Order. Owner and Engineer may use this form during a Specific Project to modify the specific Task Order.

8.03 *Total Agreement*

A. This Agreement (together with the Exhibits included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

B. An executed Task Order under this Agreement (including any incorporated exhibits or attachments) constitutes the entire agreement between Owner and Engineer with respect to the Specific Project, and supersedes all prior written or oral understandings. Such a Task Order may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments to such a Task Order should be based whenever possible on the format of Exhibit K to this Agreement.

8.04 *Designated Representatives*

A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party that the individual represents. Each Task Order shall likewise designate representatives of the two parties with respect to that Task Order.

8.05 *Engineer's Certifications*

A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.05:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;

2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;

3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on Page 1.

OWNER:	ENGINEER:
By:	By: 
Print Name:	Print Name: Charlie Hankins, PE
Title:	Title: Director of Urban Services
Date Signed:	Date Signed: 10/22/2026
	Engineer License or Firm's Certificate No. (if required): PEL-EF-LIC-274
	State of : Montana
	Date Signed: 06/26/1998
Address for Owner's receipt of notices:	Address for Engineer's receipt of notices:
	109 S Main St
	Bowman, ND 58623
DESIGNATED REPRESENTATIVE (Paragraph 8.04):	DESIGNATED REPRESENTATIVE (Paragraph 8.04):
	Shannon Hewson, PE
Title:	Title: Municipal Market Sector Leader
Phone Number:	Phone Number: (701) 523-3340
E-Mail Address:	E-Mail Address: shannonh@broszengineering.com

EJCDC® E-505, Agreement Between Owner and Engineer for Professional Services – Task Order Edition.
Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

RESOLUTION NO. 4738

A RESOLUTION APPROVING A SHORT FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES WITH BROSZ ENGINEERING, INC. FOR THE PROVISION OF ENGINEERING SERVICES TO THE CITY OF MILES CITY FOR A 5-YEAR PERIOD.

WHEREAS, the City of Miles City has the power to contract for engineering services without soliciting competitive bids, pursuant to MCA §7-5-4301;

AND WHEREAS, the City of Miles City wishes to contract with Brosz Engineering, Inc. for the provision of general engineering services to the City, as may be requested by the City from time to time, for a five (5) year period with the City of Miles City having the option to extend said period for an additional five (5) year period upon City Council approval;

AND WHEREAS, Brosz Engineering, Inc. has agreed to be available to the City of Miles City to provide general engineering services upon request of the City during said five (5) year period

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

1. The "Short Form of Agreement between Owner and Engineer for Professional Services," 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.

3. The Mayor of the City of Miles City is hereby empowered and authorized to execute such further documents as may become necessary to carry out the terms of said agreement.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 17th DAY OF NOVEMBER, 2026.

_____

Chris A. Grenz, Mayor

ATTEST:

_____

City Clerk

ORDINANCE NO. 1413

AN ORDINANCE AMENDING THE TEXT OF THE CITY ZONING CODE TO REQUIRE CONDITIONAL USE PERMITS IN RESIDENTIAL DISTRICTS FOR CERTAIN RANGES OF LOT COVERAGE ON LOTS WITHOUT PRIMARY BUILDINGS AND TO ADD COMPLIMENTARY LANGUAGE REGARDING ACCESSORY BUILDINGS ON LOTS WITHOUT PRIMARY BUILDINGS IN RESIDENTIAL DISTRICTS, AND PROVIDING FOR A HEARING THEREON.

WHEREAS, there have been multiple cases of accessory buildings, such as large shops, being placed on otherwise vacant lots within the residential zoning districts of the City of Miles City, which have no primary building for the buildings to be accessory to and have then become used for non-residential purposes that are contrary to the purposes and intents of the residential districts and zoning code overall, and the zoning code does not specifically address this trend;

AND WHEREAS, such developments tend to consume lots in residential districts such that the lots become otherwise undevelopable for primary buildings, such as dwellings, which are the intended primary uses in said residential districts;

AND WHEREAS, such developments should be encouraged to place the lot coverage in a manner that leaves lots open for future development;

AND WHEREAS, requiring Conditional Use Permits in residential districts for certain ranges of lot coverage on lots without primary buildings will provide for limited uses, while the review for the criteria for conditional uses will help to ensure that said developments are not contrary to the purposes and intents of the residential districts;

AND WHEREAS, City of Miles City staff have proposed text amendments to the City zoning code to better address development and uses of lots without primary buildings through limiting permitted lot coverage and requiring conditional use reviews for such developments;

AND WHEREAS, Section 24-96 of the Code of Ordinances of Miles City, Montana requires that such zoning amendments be referred to the City Zoning Commission for public hearing and recommendation to the City Council prior to any action by the City Council upon such amendments;

AND WHEREAS, the Miles City Zoning Commission, on the 21st day of October, 2026, upon public hearing and deliberation, recommended to the City Council that the amendments be approved.

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

Section 1.

The following sections for the residential districts are amended as follows: Note: additions are underlined

In Sec. 24-15. - Residential A district (RA), subsection (b), Table II.1: RA District Permitted and Conditional Uses, "Lot coverage between 22.5% and 45% without a primary building on the lot" is added to the list of Conditional Uses.

In Sec. 24-15. - Residential A district (RA), subsection (c), Table II.2: RA District Specifications, the specification for "Maximum lot coverage" is amended to state, "45%; however, lot coverage between 22.5% and 45% without a primary building on the lot is a Conditional Use; lot coverage greater than 45% is prohibited".

In Sec. 24-16. - Residential B district (RB), subsection (b), Table II.3: RB District Permitted and Conditional Uses, "Lot coverage between 30% and 60% without a primary building on the lot" is added to the list of Conditional Uses.

In Sec. 24-16. - Residential B district (RB), subsection (c), Table II.4: RB District Specifications, the specification for "Maximum lot coverage" is amended to state, "60%; however, lot coverage between 30% and 60% without a primary building on the lot is a Conditional Use; lot coverage greater than 60% is prohibited".

In Sec. 24-17. - Residential C district (RC), subsection (b), Table II.5: RC District Permitted and Conditional Uses, "Lot coverage between 35% and 70% without a primary building on the lot" is added to the list of Conditional Uses.

In Sec. 24-17. - Residential C district (RC), subsection (c), Table II.6: RC District Specifications, the specification for "Maximum lot coverage" is amended to state, "70%; however, lot coverage between 35% and 70% without a primary building on the lot is a Conditional Use; lot coverage greater than 70% is prohibited".

In Sec. 24-18. - Semi-rural district (SR), subsection (b), Table II.7: SR District Permitted and Conditional Uses, "Lot coverage between 22.5% and 45% without a primary building on the lot" is added to the list of Conditional Uses.

In Sec. 24-18. - Semi-rural district (SR), subsection (c), Table II.8: SR District Specifications, the specification for "Maximum lot coverage" is amended to state, "45%; however, lot coverage between 22.5% and 45% without a primary building on the lot is a Conditional Use; lot coverage greater than 45% is prohibited".

In Sec. 24-19. - Mobile home residential district (MH-A), subsection (b), Table II.9: MH-A District Permitted and Conditional Uses, "Lot coverage between 25% and 50% without a primary building on the lot" is added to the list of Conditional Uses.

In Sec. 24-19. - Mobile home residential district (MH-A), subsection (c), Table II.10: MH-A District Specifications, the specification for "Maximum lot coverage" is amended to state, "50%; however, lot coverage between 25% and 50% without a primary building on the lot is a Conditional Use; lot coverage greater than 50% is prohibited".

Sec. 24-63. - Accessory buildings, is amended as follows (additions are underlined):
(Also see accessory dwelling units, section 24-65)

Accessory buildings are allowed in all zoning districts subject to permitting requirements except as exempted under section 24-81 and the following standards:

(a) No accessory building shall be located within five feet of any principal residential building, or have a height over 24' as measured from the highest peak of the building. This height limitation does not apply to accessory dwelling units, which are subject to the same height limitations as those for primary buildings.

(b) On residential lots, accessory buildings may be located in rear yards, but not in the required rear yard setback. See Figure III.A, setbacks and yards.

(c) No accessory building shall be located in any required side or front yard in residential districts, with the following exceptions: Storm shelters, fallout shelters and similar shelters to protect human life during periods of danger may be constructed in the required front or side yard, but no part of the building may protrude above the average grade of the lot. In addition, such buildings with impervious surfaces shall be calculated against the permitted lot coverage.

(d) In non-residential districts, with the exception of the CBD, accessory structures may be located in any yard, but not required yards.

(e) For those uses listed as a conditional use, the addition of accessory buildings that expand a conditional use beyond what may have been reviewed under a conditional use permit process require review as a conditional use.

(f) For nonconforming uses, the addition of accessory buildings that expand the nonconformity shall not be permitted without approval of a variance. For purposes of this requirement, nonconformity is increased if any portion of a required yard would be diminished by the proposed activity.

(g) In the RA, RB, RC, SR, and MH-A districts, lot coverage on a lot without a primary building, such as a lot with an accessory building or parking areas only are limited to the percentages outlined in the use tables and specification tables for each district, and lot coverages in specific ranges in the districts require a Conditional Use Permit by City Council. The intent

of requiring Conditional Use Permits for such developments is to ensure the projects are reviewed for the criteria found in Sec. 24-91(d) and that lots are not developed in a manner that accessory buildings without primary buildings on the same lot do not consume the lots making them otherwise undevelopable with primary buildings such as dwellings. Such developments should also place the lot coverage in a manner that leaves the lots open for future development.

Section 2. The Final Report of the Zoning Commission of the City of Miles City, prepared as part of the review of these amendments, and attached hereto as Exhibit "A," is hereby adopted as Findings of Fact to support the Council's decision.

Section 3. Prior to final passage, a public hearing shall be held upon this proposed zoning amendments before the City Council at 6:00 P.M. on the 8th day of December, 2026, in the Council Chambers at City Hall, 17 S. Eighth Street, Miles City, Montana.

Section 4. The City Clerk and/or zoning Administrator shall give notice of the date, time and place of such hearing in accordance with Sections 76-2-303 and 7-1-4127(7)(b), MCA, as well as Section 24-97 of the Code of Ordinances of Miles City, Montana. Said notice shall include publication twice in the Miles City Star, with the first notice published at least 15 business days prior to the date of such hearing.

Section 5. This ordinance shall be in full force and effect thirty (30) days after its final passage and approval.

Said Ordinance first read and put on its passage this 17th day of November, 2026.

_____
C. A. Grenz, Mayor

ATTEST:

_____
Mary Rowe, City Clerk

FINALLY PASSED AND ADOPTED this 8th day of December, 2026.

_____
C. A. Grenz, Mayor

ATTEST:

_____
Mary Rowe, City Clerk

FINAL REPORT
OF THE MILES CITY ZONING COMMISSION
ON DRAFT TEXT AMENDMENTS TO ZONING CODE: ACCESSORY BUILDINGS AND LOT COVERAGE IN RESIDENTIAL DISTRICTS
OCTOBER 21, 2026

A) Introduction:

This report is submitted to the City of Miles City City Council along with **Ordinance No. 1413** for text amendments to the City zoning code. Proposed text amendments were originally initiated by the Zoning Administrator and Contract City Planner to address accessory buildings in residential districts, by adding language prohibiting accessory buildings on lots until the primary/main building is constructed or under construction concurrently with the primary building. Those amendments were previously proposed along with text amendments to address shipping containers. However, at the August 2026 meeting, the Zoning Commission tabled the matter of the accessory building regulations while advancing a recommendation regarding the shipping container regulations. At the August 25 City Council meeting, the shipping container ordinance was not passed by the Council.

During the August 13 Zoning Commission meeting when the amendments regarding accessory buildings were tabled, the Zoning Commission members discussed possible amendments that would limit lot coverage to half of the permitted amount for lots without primary buildings, with half or more lot coverage on a lot not allowed, and possible language requiring such developments to be configured such that the accessory building(s) without primary building(s) would not consume entire lots. The concept discussed was that requiring the accessory buildings to be limited to under half of what was allowed and placing the development to a limited area on the lots would leave the lots developable with a primary building in the future, such as residences – the intent of residential districts.

Based on those discussions from the August meeting, staff prepared two ordinances for Zoning Commission consideration at the September 16 Zoning Commission meeting: Option 1 was to include language from the original draft (with language prohibiting accessory buildings on lots until the primary/main building is constructed or under construction concurrently with the primary building), and Option 2 was based the suggestion to limit lot coverage in the residential districts to half of the permitted amount for lots without primary buildings, and language encouraging such developments to be placed such that the accessory building(s) would not consume entire lots leaving them undevelopable for future homes. Lot coverage in such developments without primary buildings proposed at over half of the permitted amount would require Conditional Use Permits through City Council reviews.

At the September 16 Zoning Commission meeting, the Zoning Commission eliminated Option 1 from consideration, and decided Option 2 should proceed through the process. Then, the Zoning Commission held a public hearing on the draft updates previously proposed as Option 2. The Zoning Commission's public hearing was held on Wednesday, October 21, 2026.

B) Municipal Zoning Procedure:

According to 76-2-307, MCA, the City Council appoints the Zoning Commission to recommend the boundaries of the zoning districts and appropriate zoning regulations. The Zoning Commission shall make a preliminary report and hold public hearings on the zoning districts and regulations before submitting its final report, and the City Council shall not hold its public hearings or take action until it has received the final report of the Zoning Commission. The purpose of the October 21st public hearing was to meet the requirements of 76-2-307, MCA for the Zoning Commission to hold its public hearing and make a final report on the draft zoning regulations.

At the public hearing the Zoning Commission reviewed the draft updates and a preliminary report. The Zoning Commission made no changes to the reviewer-recommended findings or draft ordinance; however, the ordinance has been modified administratively for the City Council review (dates, ordinance number, a minor correction, etc.). A public hearing of the City Council will be scheduled for the Council to review the draft ordinance and final report of the Zoning Commission; the hearing is currently set for December 8, 2026.

Per 76-2-303(2), MCA, a regulation, restriction, or boundary may not become effective until after a public hearing in relation to the regulation, restriction, or boundary at which parties in interest and citizens have an opportunity to be heard has been held. Per the zoning code effective as of October 9, 2026 and current state law, notices must be published twice, with the first notice published at least 15 business days before the hearing or action to be taken. The notices of the Zoning Commission's October 21 public hearing were published in the Miles City Star on September 26 & October 3, 2026. Additionally, the City Council's public hearing is being noticed according to state law and the zoning code.

C) Report/Findings:

This report is the final report of the Zoning Commission as required by 76-2-307, MCA. Section D) of this report gives an overview of the draft zoning updates and some context, and includes the full text of Sec. 24-91 for Conditional Use Permits that some projects would be subjected to per the amendments. Section E) provides the purpose and process for zone changes and zoning amendments. Section F) of the report outlines applicable zoning statutes and preliminary findings regarding the draft regulations' compliance with the zoning code's criteria for zone changes and zoning amendments. Section G) provides the Zoning Commission recommendations to the City Council.

Please note this report is based upon the zoning regulations currently in effect, which includes the amendments from Ordinance No. 1409, effective October 9, 2026.

D) Overview of Draft Regulations:

The draft ordinance is intended to revise various sections of Chapter 24 of the current City Codes ("Zoning"). The following is a general overview of the text amendments being proposed:

- In the various residential districts, the use tables add new uses under the lists of Conditional Uses that include lot coverage amounts that are half of the allowed amounts allowed by the respective districts' District Specifications tables. As examples, in the RA District, where lot coverage of up to 45% is allowed, the district's Table II.1, RA District Permitted and Conditional Uses, "*Lot coverage between 22.5% and 45% without a primary building on the*

lot" is proposed to be added to the list of Conditional Uses; in the RC District, where lot coverage of up to 70% is allowed, the district's Table II.5: RC District Permitted and Conditional Uses, "*Lot coverage between 35% and 70% without a primary building on the lot*" would be added to the list of Conditional Uses.

- In the various residential districts, the District Specifications tables for each district for the "Maximum lot coverage" is modified to add that lot coverage between half of the allowed lot coverage and the full lot coverage without a primary building on the lot is a Conditional Use; and lot coverage greater than the allowed amount is prohibited. For example, in Sec. 24-15. - Residential A district (RA), subsection (c), Table II.2: RA District Specifications, the specification for "Maximum lot coverage" is amended to state, "45%; however, lot coverage between 22.5% and 45% without a primary building on the lot is a Conditional Use; lot coverage greater than 45% is prohibited".

- In Sec. 24-63 (Accessory buildings), a new subsection (g) is added, stating, "*In the RA, RB, RC, SR, and MH-A districts, lot coverage on a lot without a primary building, such as a lot with an accessory building or parking areas only are limited to the percentages outlined in the use tables and specification tables for each district, and lot coverages in specific ranges in the districts require a Conditional Use Permit by City Council. The intent of requiring Conditional Use Permits for such developments is to ensure the projects are reviewed for the criteria found in Sec. 24-91(d) and that lots are not developed in a manner that accessory buildings without primary buildings on the same lot do not consume the lots making them otherwise undevelopable with primary buildings such as dwellings. Such developments should also place the lot coverage in a manner that leaves the lots open for future development.*"

Because the proposed amendments rely upon limiting allowed lot coverage on lots without primary buildings, it is important to understand how lot coverage is defined and appropriately administered. The definition for "Lot coverage" is as follows: "*The area of a lot or parcel that is covered by rooftops, paving, and other surfaces that prevent direct infiltration of precipitation or runoff into the soil. Lot coverage is typically expressed as a percentage of the total area of the lot. Surfaces such as gravel driveways and permeable pavers may be assessed for lot coverage based on relative imperviousness factor guidance provided by MDEQ or other credible sources. Slatted decks are not considered lot coverage where the ground under the deck is pervious."* The definition is important because it has been discussed that the proposed amendments seem somewhat complicated, but the reviewer notes that calculating lot coverage is already relatively complicated in some circumstances, so adding lot coverage limitations for lots without primary buildings does not appear to be overly complicated relative to existing needs to understand and administer lot coverage.

Also, because the proposed amendments rely upon Conditional Use Permits to address certain development proposals that result in relatively high lot coverage on lots in the residential districts that do not contain primary buildings, it is important to understand the Conditional Use Permit process and review criteria in Sec. 24-91 of the zoning code. Sec. 24-91 is as follows:

Sec. 24-91. Conditional use permit review.

(a) *Purpose.* Conditional uses require public review for activities that may have a significant impact on the landscape setting, public facilities, or neighboring land uses. Conditional uses may be compatible with the permitted uses in a zoning district, but require individual review of their location, scale, design, and configuration, and may include the imposition of special conditions or mitigations in order to ensure the appropriateness of the use at a particular location within a given zoning district.

(b) *Applicability.* The conditional uses for each district are listed in the permitted and conditional use tables in the various districts sections in article II. When a proposed use is listed as a conditional use in the site's zoning district, the following require review under this section:

(1) Any new conditional uses;

(2) Any non-minor changes of occupancy resulting in a different conditional use, as determined by the administrator;

(3) Any expansion to an existing use listed as a conditional use involving addition to buildings or outdoor areas directly associated with the conditional use that is greater than 25 percent of the existing square footage or 5,000 square feet, whichever is less; and

(4) Changes in use where the parking requirements will exceed 25 percent of the existing use.

(c) *Procedure.* The following is the typical procedure for an applicant to apply for and receive a conditional use permit:

(1) The applicant shall submit a properly completed conditional use permit application form, a site plan, any supporting materials necessary to demonstrate compliance with these regulations, and the required application fee at city hall.

(2) The administrator shall determine whether the application is complete and sufficient for review. When an application is determined incomplete or insufficient, the administrator shall provide written notice to the applicant indicating what information must be submitted for the review to proceed.

(3) After determining a conditional use permit application is complete and sufficient, the administrator shall place a public hearing on the proposed conditional use on the agenda of the next city council meeting for which the notice requirements of these regulations can be met (section 24-97), and at which time will allow for its proper consideration.

(4) The administrator shall give notice of the public hearing in accordance with section 24-97.

(5) The administrator shall prepare, or contract for preparation of, a report that describes the proposed conditional use, its site, its context, and its compliance, or failure to comply, with the applicable requirements of these regulations. In preparation of the report, the administrator may seek input from the police, fire, parks, sewer and water, streets, solid

waste and other departments as well as other agency and service providers including the Montana Department of Transportation, local school district, utility service providers, Montana Department of Environmental Quality and others. In the report the administrator shall propose findings of fact and a recommendation of approval, approval with conditions or denial of the proposal for the city council's consideration.

(6) The city council shall conduct a hearing on the proposed conditional use. At that hearing, the city council shall review the particular facts and circumstances of the proposed conditional use and adopt findings of fact in support of its decision. If the city council finds the application complies with the evaluation criteria in subsection (d) below, it shall approve the application. If the city council finds the application fails to comply, it shall deny the application. All decisions by the city council shall require the majority vote of a quorum of the council, with the mayor having the authority to break any ties.

(7) Conditions may be attached to approval of any conditional use permit as provided in subsection (e) below, provided the city council specifically identifies the basis for each condition.

(8) Consideration of a conditional use permit application may be tabled for no more than 35 calendar days.

(9) Within ten days after a decision on the conditional use permit application is made, the administrator, working on behalf of the city council, shall notify the applicant of the decision and any conditions attached to the approval.

(10) Upon the applicant demonstrating compliance with any conditions required by the city council to the administrator, the conditional use permit will be issued by the administrator within ten days.

(11) Approval of a conditional use by the city council does not require the Administrator to permit any activity that is found to not comply with other applicable requirements.

(d) *Evaluation criteria.* The city council, after weighing and evaluating the proposed use in light of the criteria set forth below, shall grant a conditional use permit if the application, supplemental information, public hearing and other evidence demonstrate that:

(1) The proposed use complies with the applicable standards and the requirements of the zoning district in which the project is proposed;

(2) The proposed use, including mitigation measures, shall have no more adverse effects on the health, safety, or welfare of persons living or working in the neighborhood, or shall be no more injurious to property or improvements in the neighborhood than would any other permitted or conditional uses in the same district. In making such determination, consideration shall be given to the location, type, height, scale, layout, and the type and extent of landscaping and screening on the site, as well as measures proposed by the applicant to minimize impacts to neighborhood;

(3) Adequate facilities and services are, or will be, through the application of these regulations and the adoption of conditions, made available to serve the proposed use including police, fire, parks, sewer, water, streets, motorized and non-motorized transportation, drainage, solid waste, schools and other facilities and services as appropriate;

(4) Adequate measures shall be taken as necessary to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads; and

(5) No use shall be constructed or operated so as to cause excessive noise, vibrations, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare into a residential district. "Excessive" is defined for these purposes as a degree that could be observed by the administrator and city council to be injurious to the public health, safety or welfare.

(e) *Conditions.* Conditions may be imposed upon the approval of any conditional use permit, if:

(1) They are clearly designed to ensure compliance with one or more specific requirement of these or other adopted regulations the city has the ability to enforce;

(2) They are clearly designed to ensure the applicant complies with other laws or regulations;

(3) They are directly related to the anticipated impacts of the proposed use;

(4) They are roughly proportional to the anticipated impacts of the proposed use;

(5) The applicant offers to take specific actions in relation to the proposal that can be ensured through the implementation of a condition; or

(6) That conditions are deemed necessary to protect the public health, safety and general welfare.

(f) *Approval period.* Conditional use permits are typically valid for two years from the date of approval by the city council, during which time all construction must be completed and compliance with the permit demonstrated. After this time, the use must remain in compliance with the city council approval and these regulations. However:

(1) A conditional use permit may be granted with a shorter approval period as deemed appropriate by the city council with a justifiable reason related to protecting public health and safety or to ensure compliance with these regulations or other applicable regulations or laws.

(2) At the end of the approval period the city council may, at the request of the applicant, extend its approval for a mutually agreed-upon period of time. The city council may issue more than one extension. For a permit to be extended, the applicant may be required to submit substantiating evidence justifying the request and showing good cause for extending the permit period.

E) Zone changes and zoning amendments – Purpose and Process:

Administration of zone changes and zoning amendments is outlined in Sec. 24-96 of the Zoning Code. The following are the 'purpose' and 'amendment process' for review of zoning amendments. Other sections for applicable to the review, with recommended findings based on the zone change criteria, are provided in the next section.

(a) *Purpose.* Any person may petition for the amendment of the zoning district map and/or these regulations. The amendment procedure shall be as provided here and in MCA 76-2-303. Amendments may also be initiated by the zoning commission or administrator, in which cases steps subsections (b)(1) through (b)(3) below, will not be required.

(b) *Amendment process.*

(1) The applicant shall submit a properly completed application form, the required supporting materials, including a narrative evaluating the amendment request under the amendment criteria in (c) below, and the required application fee at city hall.

(2) The administrator shall determine whether the application is complete and sufficient. When an application is determined incomplete or insufficient, the administrator shall provide written notice to the applicant indicating what information must be submitted for the review to proceed.

(3) After the application is determined to be complete and sufficient, the administrator shall schedule a public hearing on the application for a zoning amendment on the agenda of the next zoning commission meeting for which the notice requirements can be met (section 24-97), and at which time allows for its proper consideration.

(4) The administrator shall give notice of the public hearing in accordance with section 24-97.

(5) The administrator shall prepare, or contract for the preparation of, a report that describes the proposed amendment and how it complies, or fails to comply, with the amendment criteria. The report shall include a recommendation for approval, approval with modifications or denial.

(6) The zoning commission shall conduct at least one public hearing on the proposed amendment. At the hearing, the zoning commission shall make a report regarding the proposed zone change and consider whether the proposed amendment meets the amendment criteria. The zoning commission shall review the particular facts and circumstances of the proposed amendment and develop findings and conclusions that support its recommendation that the city council approve, approve with modifications, or disapprove it accordingly.

(7) The zoning commission's action on a proposed amendment may be tabled, but for no more than 35 days.

(8) The administrator shall convey the zoning commission's recommendation and all public comments to the city council and, unless the application is withdrawn, place a hearing on the agenda of the next city council meeting for which the notice requirements can be met (Section 24-97), and at which time allows for its proper consideration. The city council shall not hold its public hearing or take action until it has received the report of the zoning commission.

(9) The administrator shall give notice of the city council's public hearing in accordance with section 24-97.

(10) The city council shall conduct a public hearing on the proposed amendment. At the hearing, the city council shall consider the recommendation of the zoning commission and all testimony received, then approve, reject, or modify and approve the amendment. Action on the proposed amendment may be tabled, but for no more than 35 days.

(11) If approved or approved with modifications, the city council shall pass an ordinance or resolution effectuating the amendment to the zoning map or regulations, as applicable.

a. Per MCA 76-2-303(2)(b), if a zone map boundary only is proposed to be amended, supplemented, changed, modified, or repealed, the city council shall adopt the boundary change by resolution. The adoption of the zoning district map boundary/zone change by resolution is effective immediately.

b. Zoning ordinances, except interim zoning ordinances, passed by the council shall not become effective until 30 days after its final passage and adoption, or such later effective date as may be set forth in the ordinance. Interim zoning ordinances may become effective immediately.

(12) At the conclusion of the amendment process, the administrator shall notify the applicant of the city council decision within ten days.

F) Amendment Criteria and Recommended Findings

Sec. 21-96(c) of the Zoning Code provides the "Amendment criteria" for zone changes and zoning amendments. The evaluation criteria are listed below, followed by the reviewer's and Zoning Commission's recommended findings in *italics*.

(c) Amendment criteria.

(1) Zoning amendments shall be made:

a. In accordance with the growth policy;

Finding 1-a:

The reviewer has evaluated the 2025 Miles City Growth Policy for applicable City policies relevant to the proposed text amendments, and the following are recommended findings regarding whether the amendments would be in accordance with the 2025 Growth Policy:

- *Land Use Objective LU.1.a: "Update land use regulations to provide greater clarity and flexibility." This objective is to promote Land Use Goal LU.1: "Provide a predictable development environment". The proposed amendments are intended to address development projects in residential districts that involve buildings of questionable uses, being buildings on lots that have no primary use and no primary building to be accessory to. The proposed text would trigger Conditional Use Permit reviews for lot development proposals in the residential districts that result in at least half of the allowed lot coverage on the lot without a primary building, and add complimentary language within the regulations for accessory buildings, with an intent being to prevent lots without accessory buildings to be consumed by development without a primary building, such as a dwelling. Large buildings of questionable uses on otherwise vacant lots in the residential districts have been problematic for City staff, have been the subjects of complaints by citizens, and the zoning regulations are not entirely clear in general to these uses. While the regulations for such uses will become less flexible by requiring special reviews of the projects when relatively high lot coverages are proposed without a primary building/use, the regulations will better address such scenarios on a case-by-case basis while still allowing for reasonable development of otherwise vacant lots. The public review procedures and reasonable conditions for projects requiring Conditional Use Permit reviews by the City Council would help protect the residential districts, and add predictability of uses within residential neighborhoods, thereby promoting Land Use Objective LU.1.a and Land Use Goal LU.1.*

  Regarding the proposed amendments appearing somewhat complicated to address a simple matter, it should be noted that staff has repeatedly proposed simple zoning amendments that would prohibit accessory buildings on lots without primary buildings, but both the City Council and the Zoning Commission have rejected that amendment. The Zoning Commission has instead indicated addressing the matter through limited lot coverage, and the proposed amendments under consideration reflect those discussions. Although the proposed amendments appear somewhat complex, and not as clear as would be preferred, it should be noted that calculating lot coverage is already relatively complicated in some circumstances, so adding lot coverage limitations for lots without primary buildings does not appear to be overly complicated relative to existing needs to understand and administer lot coverage. The intent behind the amendments is to address the issue with accessory buildings while still being flexible, which promotes Land Use Objective LU.1.a and Land Use Goal LU.1 of the growth policy.

- *Land Use Objective LU.3.b: "Focus on public outreach and participation in land use matters related to zoning code updates." This objective is to promote*

Land Use Goal LU.3: "Balance property rights with the common interests of the community.". The Zoning Commission will have held three meetings on the issue of accessory buildings without primary buildings, and the Council has discussed the matter on multiple occasions, with public comment accepted throughout. Notice has been given of the proposed amendments to promote public outreach and participation in the zoning code updates, which have been initiated largely as a result of public comments and complaints by citizens regarding minimally-regulated shop buildings in residential districts of unknown or questionable uses. The Zoning Commission and Council will accept and consider public comments through the review process. The Council has discussed the issues repeatedly and the regulations have been drafted with consideration of these discussions and public concerns. The proposed regulations have been drafted with the intent to balance property rights with the common interests of the community. By the Zoning Commission and Council encouraging and considering public participation in the update process, the update process will have substantially accorded to Land Use Objective LU.3.b and Land Use Goal LU.3.

- *Land Use Objective LU.4.b: "Develop and implement zoning that guides future development but also protects existing development from unwanted impacts." The proposed regulations have been drafted with the intent to protect existing residential neighborhoods from future unwanted impacts that tend to result from development of buildings of questionable uses that are established in residential areas. Previous large shop buildings have been developed on otherwise vacant lots that have been the subjects of zone changes and violations when the buildings became commercial in nature, resulting in unwanted impacts. Some past projects with impacts on residential neighborhoods have been identified through citizen complaints regarding large buildings of questionable uses and through specific properties staff has had to deal with. The proposed amendments take a somewhat creative approach to addressing the matter through limited lot coverage and requiring conditional use review for relatively high lot coverage on lots without primary buildings, which offers flexibility while protecting residential areas from unwanted impacts.*
- *Land Use Objective LU.7.c: "City Zoning Code will comply with state statute and best practices." This objective is to promote Land Use Goal LU.7: "Ensure that the City zoning code is properly administered and enforced, and provides for safe, efficient development that is in the best interests of the City.". The zoning updates will promote this goal and objective by adding regulations that will better address accessory buildings on lots without primary buildings, which is in the best interests of the City by addressing problematic, recurring types of questionable uses, and by following best practices to provide uniform*

zoning regulations that also avoid gray areas that drive complaints, citizen concerns, and unwanted land uses in residential areas.

- *Action 16: "Update the zoning regulations to clarify procedures, meet the community's land use and development needs, and provide flexibility while protecting existing residents." This action is to promote Land Use Objective LU.1.a/Goal LU.1, Economic Goal E.1* (*Foster sustained economic growth in Miles City), and others. The proposed updates have been drafted to clarify zoning requirements for accessory buildings, which have driven citizen complaints. The zoning regulations will remain flexible while protecting residents of residential districts from uses that have become problematic and unpredictable. The proposed updates are consistent with and carry out Action 16 and will promote the associated goal and objective.*
- *Section 7, Land Use (page 62) states the following: "The Zoning Ordinance should be regularly reviewed by staff and the City's zoning commission and amended as necessary." Updating the zoning regulations to address recent trends and the community's needs follows the policy to regularly review and update the zoning code.*
- *Section 7, Land Use (page 65) states the following: "A key tool for Miles City to be resilient to these expected projections will be to guide future land uses through the Miles City zoning codes. The zoning text must be revised to provide clear guidelines so that the zoning map and regulations can be a more effective tool to implement this growth policy. The zoning map must be revised to reflect current conditions and expected future trends. The zoning map will be revised as proponents of future development proposals, and land uses to approach the city with zone change requests, and the city will work on revising the zoning map to guide the planning area with land use designations in appropriate geographic, physical, and social settings." Updating the zoning regulations to reflect current conditions, expected future trends and the community's needs follows the above-stated policy.*

Approval of the proposed text amendments would support the above-listed goals, objectives, actions, and stated policies, and not be contrary to the Growth Policy. As such, the text amendments are in accordance with the 2025 Miles City Growth Policy.

b. To secure safety from fire and other dangers;

Finding 1-b: *The amendments being proposed are intended to provide for improved clarity and address recent trends that have driven citizen complaints. The amendments are not expected to have a noticeable effect on safety from fire or other dangers.*

c. To promote public health, safety, and general welfare; and

Finding 1-c: *The amendments being proposed are intended to provide for improved clarity and address recent trends that have driven citizen complaints. Specifically addressing citizen concerns and staff issues with administration of accessory buildings on otherwise vacant lots in residential areas will help the zoning code function better overall and in a manner that addresses recent land use trends that negatively impact the general welfare of the public. The amendments are expected to have a positive effect on general welfare by improving City administration of the zoning code. The amendments are not expected to have a noticeable effect on public health or safety.*

d. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

Finding 1-d: *The amendments being proposed are intended to address recent problematic trends and improve clarity and are not likely to have any specific or measurable change to the facilitation of the adequate provision of water, sewerage, schools, parks and other public requirements.*

(2) In reviewing and making recommendations or decisions on zoning amendments, the administrator, zoning commission, and city council shall also consider:

a. Reasonable provision of adequate light and air;

Finding 2-a: *The amendments being proposed are intended to better address recent problematic trends, improve clarity in the zoning code regarding buildings of questionable uses in residential areas, and may improve the facilitation of the adequate provision of light and air by limiting development of large buildings of questionable uses in residential neighborhoods through limiting lot coverage on lots without primary buildings except through review and approval of Conditional Use Permits to address and condition projects on a case-by-case basis.*

b. The effect on motorized and non-motorized transportation systems;

Finding 2-b: *The amendments being proposed are intended to address recent problematic trends and improve clarity. Limiting potential non-residential uses initially proposed as forms of accessory buildings without primary uses for them to be accessory to would limit potential impacts on City streets and sidewalks in residential zones.*

c. The promotion of compatible urban growth;

Finding 2-c: *The updates would limit the proliferation of large buildings of questionable uses that are not accessory to residential buildings in residential districts, which are often not entirely compatible with the purposes of the City zoning code or consistent with the general welfare of the community. The proposed amendments address uses that tend to be incompatible with residential neighborhoods. Furthermore, the updates are intended to address recent*

problematic trends and improve clarity of the zoning regulations, which in turn will further promote compatible urban growth.

d. The character of the district, and its peculiar suitability for particular uses; and

Finding 2-d: *The limitations to better address accessory buildings in residential districts such as large garages and shops to require them to be accessory to a primary building or of limited size will limit the proliferation of non-residential uses in the residential districts. The amendments will maintain character of the districts and better ensure suitability of uses.*

e. Conserving the value of buildings and encouraging the most appropriate use of the land throughout the jurisdictional area.

Finding 2-e: *Requiring accessory buildings such as garages and shops to be accessory to a primary building or to require Conditional Use Permit reviews for relatively high lot coverage development when a primary building is not proposed or existing will limit the proliferation of non-residential uses in the residential districts, which will conserve the value of buildings and encourage appropriate residential uses by not allowing buildings of questionable or non-residential uses.*

f. Whether the proposal might be considered illegal spot zoning. Factors to be considered include whether the proposed land use is significantly different from the prevailing use in the area; whether the area of the proposed zone change is relatively small not only in terms of acreage, but from the perspective of the number of separate landowners who would benefit from the proposed change; and whether the change would amount to special legislation designed to benefit only one or a few landowners at the expense of the surrounding landowners or general public. In order for spot zoning to be considered illegal, all three of the factors must be present.

Finding 2-f: *The proposed amendments are text amendments only, and not a zone change that could be determined illegal spot zoning. The amendments for accessory buildings and/or limited lot coverage on lots without primary buildings are intended to apply on a City-wide basis in residential districts. Because these regulations would apply on a City-wide basis in the residential districts and do not benefit one or a few property owners, none of the spot zoning factors are present.*

(3) Other criteria include whether the amendment:

a. Corrects an inconsistency in the zoning; and

Finding 3-a: *The text amendments are intended to correct an inconsistency in the zoning. The current regulations not requiring "accessory" buildings and uses to be accessory to a primary building tends to have unintended consequences that are being addressed with flexible requirements.*

b. Addresses changing conditions or furthers a specific public challenge such as the need for affordable housing, economic development, mixed use development or sustainable environmental features.

Finding 3-b: *The amendments are intended to provide for improved administration and clarity of the zoning regulations on a City-wide basis to addresses recent staff and community challenges, specifically large accessory buildings of questionable uses that are not accessory to a primary building, and often consume lots leaving them not available for residential uses. The uses being addressed by the amendments are intended to address changing conditions and specific public challenges.*

Reviewer's and Zoning Commission's conclusion on the above findings:

Based on the above findings, the proposed text amendments comply with the applicable criteria, and are therefore appropriate.

G) Zoning Commission Recommendation:

The Zoning Commission recommends the City Council adopt this report and findings and further recommend the City Council approve the text amendments of the proposed ordinance. Upon passage of the ordinance by City Council, the official Miles City zoning code will be amended with an effective date thirty (30) days after its final passage and approval.

CITY OF MILES CITY

Zoning Commission

PO Box 910
Miles City, MT 59301

Public Hearing & Meeting Minutes

September 16, 2026
5:30 pm

The Miles City Zoning Commission met at 5:30 pm in the City Hall Conference Room. Chairperson (CP) Leif Ronning called the meeting to order at 5:30 pm and requested a roll call. Zoning Members (ZMs) present were Leif Ronning, Melynda Hould, and Amber Rainey. Steve Palmeri was absent. Also present were Planner Joel Nelson (via Zoom) and Public Works Director (PWD) Samantha Malenovsky as she served as recorder. A quorum was present. Refer to attached sign-in sheet for visitors/citizens.

Approval of Minutes: CP Ronning called for approval of the minutes from the August 13, 2026 meeting.

> ***ZM Rainey moved to approve the minutes from the August 13th meeting, as written, second by ZM Hould. Motion approved 3-0.*

Citizen/Visitor Request: None

Unfinished Business:
Two draft ordinances amending the test of the City zoning code to address accessory buildings and/or lot coverage on lots without primary buildings in residential districts.
-Please see two draft ordinances attached. The Zoning Commission is asked to choose one and give staff guidance on any potential revisions, to be reviewed with a preliminary report with recommended finding at the next meeting

Planner Nelson explained that Option 1 draft ordinance has the same language that was presented and recommended by the Zoning Commission before, but was denied by council. Option 2 is based off the August 13th zoning commission discussion which would limit lot coverage of accessory buildings that are constructed without a primary residence. If there is no primary building Option 2 would also require a conditional use permit if the accessory building covers over half of the allowed maximum lot coverage permitted. The intent is that accessory buildings do not cover the majority of a lot in a residential area without a primary residential structure also being constructed. This will also hopefully help curb the issues with large accessory buildings being built in residential areas that could potentially be used as a commercial structure, which is currently an enforcement issue for staff. There is no preliminary report with findings attached to these draft ordinances, this will be addressed at the next meeting.

ZM Hould felt that Option 1 was presented and rejected before so would prefer not to recommend option 1 again. Option 2 looks very confusing and cumbersome for the public and staff. It was asked how the percentages where figured and why each one of the presented districts had different

percentages. Planner Nelson explained that currently each district has a different maximum lot coverage and that the percentages for the accessory lot coverage is half of the current maximum lot coverage per district. A conditional use permit could be applied for if an applicant would like to go over the half of the maximum lot coverage, but below the maximum lot coverage.

ZM Hould stated that the purpose of this ordinance change is to address accessory buildings that are currently allowed to be constructed on a majority of the property, thus address the issue with the large garages/shops. She did some research and noticed that the average square footage of a building in a residential district is about 1,000 square feet. She proposed that an owner could build an accessory structure on a property but leave enough square footage so that a 1,000 square foot residence could be built in the future.

ZM Palmeri wrote a letter to the Zoning Commission where he proposed a limit to the total area of a secondary structure to 22% of the lot size. ZM Hould stated that percentage does not seem like the best way to limit an accessory structures size but maybe change the height instead.

There was lengthy discussion concerning the height of a primary and an accessory building. A primary building has a larger height allowance than an accessory building.

ZM Rainey has the same opinion as ZM Hould that Option 1 is not useful as it doesn't allow for building any sort of accessory structure without a primary structure. Option 2 is extremely cumbersome between all the residential districts and could cause additional work and confusion on staff and the public. She also likes setting aside a certain square footage of a lot for the future construction of a residence. She discussed allowing an accessory to encompass 45% of a lot in all residential districts and/or leaving a certain square footage for the future development of a residential home.

There was discussion on defining an accessory building and a primary building, Planner Nelson refereed to current zoning code which states a *Primary building*:

> The main *building* on a property, which houses the principal use of the property, and to which all other *buildings* and uses on the premises are accessory. Said *building* must follow IRC (2021) Sections R305, 306, 307, and 302.6, or subsequent promulgations of the same as may be adopted by the city. Further, a *primary building* in the residential zone context must have, at minimum, one bedroom, one bathroom, and one kitchen. (Section 24-201.)

Carey Swenson, 619 S. Sewell, keeps hearing residential and to the normal citizen that means a house. Have something that states the primary building on a residential lot must be residential, not a shop. Sounds like the commission is trying to accommodate someone who wants to build a shop. ZM Hould explained that she is trying to not take away anyone's property rights and try to accommodate everyone.

Hardy Deming, 803 S. Strevell, the more regulations there are the more it will stifle development. Provide flexibility for development.

After further discussion and greater clarification, the committee is leaning toward recommending Option 2 as presented.

New Business: *(none)*

Any Other Comments/Discussion: There was discussion on having a training session put on by Jerry Grebenc with Montana League of Cities and Towns for the Zoning Commission in parallel with Planning Board and Board of Appeals. This will be discussed at next meeting.

Next meeting is scheduled for Wednesday, October 21 at 12:00 pm to continue recommendation on accessory buildings.

Adjournment: With no further business, on motion, the meeting adjourned at 6:30 pm.

Leif Ronning
Zoning Commission Chair

Samantha Malenovsky
Recorder/Public Works Director

CITY OF MILES CITY

Zoning Commission

PO Box 910
Miles City, MT 59301

Public Hearing & Meeting Minutes

October 21, 2026
12:00 pm

The Miles City Zoning Commission met in the City Hall Conference Room. Chairperson (CP) Leif Ronning called the meeting to order at 12:00 pm and requested a roll call. Zoning Members (ZMs) present were Leif Ronning, Melynda Hould, Steve Palmeri, and Amber Rainey. Also present were Planner Joel Nelson (via Zoom) and Public Works Director (PWD) Samantha Malenovsky as she served as recorder. A quorum was present. Refer to attached sign-in sheet for visitors/citizens.

Approval of Minutes: CP Ronning called for approval of the minutes from the September 16, 2026 meeting.

> ***ZM Rainey moved to approve the minutes from the September 16th meeting, as written, second by ZM Palmeri. Motion approved 4-0.*

Citizen/Visitor Request: None

Unfinished Business:
Public Hearing: Draft ordinance amending the text of the City zoning regulations in residential districts to address accessory building without primary buildings on the same lots by requiring Conditional Use Permits in the residential districts for certain ranges of lot coverage on lots without primary buildings, and add complimentary language regarding accessory buildings on lots without primary buildings in residential districts to encourage such developments to place the lot coverage in a manner that leaves lots open for future development.

Planner Nelson explained the Ordinance which was proposed by staff and discussed at September 16th meeting. The draft Ordinance and preliminary report/findings reflect that discussion. The proposed ordinance allows for an accessory building, without a primary building, to be constructed on a lot in residential districts that is only allowed to cover 50% of the minimum lot coverage of that district. Any lot coverage between the 50% minimum lot coverage and the minimum lot coverage, of that district, will need to apply for a conditional use permit. Any proposal to exceed the minimum lot coverage is prohibited. This will keep the lot open to future development for a primary building. The staff report is based off the proposed updates with findings, this is based off of Ordinance 1409 being effective.

ZM Palmeri had concerns that the Ordinance does not address the overall issue of an accessory building being used as a commercial business.

There was further discussion on other ways to potentially address this issue with an overall

consensus that this proposed ordinance would be the best way to try and address the issue.

There was discussion on defining a residence and a business within the zoning ordinance.

New Business:
Preliminary Report and Recommendation to City Council: Please see attached preliminary Zoning Commission report/finds on the proposed ordinance.

> *** ZM Hould moved to recommend approval of the preliminary report/finding on the proposed ordinance, as presented, seconded by CP Ronning. Motion approved 4-0.*

Any Other Comments/Discussion: None

Adjournment: With no further business, on motion, the meeting adjourned at 12:30 pm.

Leif Ronning	Samantha Malenovsky
Zoning Commission Chair	Recorder/Public Works Director