

JOHN MACDONALD, LLC LOBBYING AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2020 by and between the **CITY OF MISSOULA, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, 435 Ryman, Missoula, Montana 59802, hereinafter referred to as “City,” and **JOHN MACDONALD CONSULTING, LLC**, 512 Clarke Street, Helena, MT 59601, hereinafter referred to as “Contractor.”

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Purpose:** Provide lobbying, monitoring and legislative reporting services that promote the City’s interests during the 2021 Legislative Session.
2. **Term of Agreement:** The initial term for this Agreement shall be December 1, 2020 to April 30, 2021.
3. **Scope of Work:** Contractor will perform the work and provide the services in accordance with the requirements of the Scope of Services attached hereto as Exhibit A; and
4. **Timeline and Reporting:** Contractor shall perform work as set forth in Exhibit A. Contractor shall provide the City with status reports as required by the Scope of Services.
5. **Payment:** The total compensation to be paid in response to appropriate written request for payment for service under this agreement shall not exceed \$32,000, and payment thereof shall be made at the times, in the amounts and to the parties hereinafter specified:
 - a) City shall pay the Contractor \$2,000.00 due at signing to cover pre-legislative session work, including bill drafting and attendance at any required interim committee meetings.
 - b) Contractor shall bill City \$7,500 once per month for the months of January, February, March and April, 2021.
 - c) No travel expenses will be reimbursed during the length of this contract.
 - d) In the event the City requests services, which would cause the Contractor to exceed the amount stated above, the City and Contractor may agree to amend this agreement.
6. **Records:** Contractor shall maintain reasonable and sufficient records incident to the performance of this Agreement to enable the City to document the performance of this Agreement. Contractor shall provide access to those records by the City and any independent auditor and to representatives of the state or federal government.
7. **Independent Contractor Status:** The parties agree that Contractor is an independent contractor for purposes of this Agreement.

Each party will furnish to the other such cooperation and assistance as may be reasonably required and specified hereunder. However, at all times, each party shall remain an independent contractor with respect to the other. Employees and agents of each party will not be deemed to be employees or agents of the other party. Contractor will perform or provide its services free from the supervision, direction or control of the City.

8. **Professional Service:** Contractor agrees that all services and work performed hereunder will be accomplished in a professional manner.
9. **Compliance with Laws:** Contractor agrees to comply with all federal, state and local laws, ordinances, rules and regulations, including the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA.
10. **Required Licenses:** Contractor agrees to maintain all required licenses including a business license for the City of Missoula if applicable.
11. **Nondiscrimination and Affirmative Action:** Contractor agrees that all hiring by Contractor of persons performing this Agreement will be on the basis of merit and qualification and there shall be no discrimination in employment on the basis of race, ancestry, color, physical or mental disability, religion, national origin, sex, age, marital or familial status, creed, ex-offender status, physical condition, political belief, public assistance status or sexual orientation, gender identity or expression, except where these criteria are reasonable bona fide occupational qualifications. Contractor further agrees to comply with the City's Affirmative Action policy attached hereto as Exhibit B.
12. **Default and Termination:**
 - a. **Termination for cause.** If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, the other party, at its option, may terminate this Agreement and be released from all obligations if the default is not cured within ten (10) days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in Section 14 of this Agreement.
 - b. **Termination without cause.** Either party may terminate this agreement without cause by providing the other party a sixty (60) day written notice of its intent to terminate the agreement.
13. **Modification and Assignability:** This document and its attachments contain the entire agreement between the parties and no statements, promises or inducements made by either party or agents of either party, which are not contained in this written Agreement, may be considered valid or binding. This Agreement may not be enlarged, modified or altered except by written agreement signed by both parties hereto. The Contractor may not subcontract or assign Contractor's rights, including the right to compensation or duties arising hereunder, without the prior written consent of City. Any subcontractor or assignee will be bound by all of the terms and conditions of this Agreement.
14. **Public Access to Information:** Contractor acknowledges that the City is a local government entity and its records are subject to disclosure under Montana Law. Certain information may be protected from disclosure. Protected information includes confidential criminal justice information, information concerning an individual privacy interest, legitimate trade secrets and other constitutionally protected proprietary information and certain information relating to individual or public safety. The parties agree to confer prior to disclosure of information relating to this Agreement and its performance which may include protected information.

15. Principal Contacts:

All notices, demands, consents and reports must be given in writing and delivered personally or mailed to the following designated contacts:

The City’s designated contacts are:

Dale Bickell, CSD
435 Ryman
Missoula, Montana 59802
(406) 552-6001

Contractor’s designated contact is:

John MacDonald
512 Clarke Street
Helena, MT 59601
(406) 465-3558

16. Applicability: This Agreement and any extensions hereof shall be governed and construed in accordance with the laws of the State of Montana. In the event of litigation concerning this Agreement, venue shall be in the 4th Judicial District in and for the County of Missoula, Montana.

17. Severability. Should any part of this Agreement be deemed invalid or unenforceable under applicable law, that provision shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of said provision or the remaining provisions of this Agreement.

18. Waiver. No waiver of compliance with any provision or condition of this Agreement shall constitute a waiver of any other provision or condition previously waived as to new circumstance or events.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF MISSOULA

CONTRACTOR

By: _____
Mayor John Engen

By: _____
John MacDonald

By: _____
Jim Nugent, City Attorney

ATTEST

Martha L. Rehbein, CMC, City Clerk

EXHIBIT A
Scope of Services

Referenced to and made a part of the Professional Services Agreement between the City of Missoula and John MacDonald Consulting, LLC, dated _____, 2020.

Under the terms of the Professional Services Agreement, Contractor will provide the following services or tasks or work products:

1. Contractor will perform lobbying, monitoring and legislative reporting services that promote the City's interests during the 2021 Legislative Session.

In general, the Contractor will:

- a) Monitor legislation that has been mutually agreed to as it proceeds through the legislative process;
- b) Identify and advise the City of legislation that might be of interest to the City;
- c) Write and deliver testimony at legislative hearings; and
- d) Work with the City, individual legislators, state agency personnel and other lobbyists and organizations as necessary to adequately promote the legislative interests of City;
- e) Register as a lobbyist with Commissioner of Political Practices Office. Timely file any and all lobbyist reporting forms associated with representing the City of Missoula.
- f) Provide the City with the necessary information and documentation required to prepare lobbyist reports for submittal to the Commissioner of Political Practices office:
 - 1) Specific subjects of legislation authorized to promote, oppose, or modify on behalf of the City;
 - 2) Provide dates, bill numbers, and whether the purpose is to promote, oppose, or to modify the introduction or enactment of legislation on behalf of the City;
 - 3) Provide the date lobbying activities ceases on behalf of the City;
 - 4) Provide other detailed lobbyist information as requested and required by the Commissioner of Political Practices office.

2. Contractor will provide periodic updates and/or date to the City of Missoula on tasks and accomplishments of general and specific services listed above.

EXHIBIT B
Affirmative Action/EEO Policy

NON-DISCRIMINATION. All hiring shall be on the basis of merit and qualification and there shall be no discrimination in employment on the basis of race, ancestry, color, physical or mental disability, religion, national origin, sex, age, marital or familial status, creed, ex-offender status, physical condition, political belief, public assistance status, sexual orientation or gender identity/expression, except where these criteria are reasonable bona fide occupational qualifications.

AFFIRMATIVE ACTION POLICY. Contractors, subcontractors, sub grantees, and other firms doing business with the City of Missoula must be in compliance with the City of Missoula's Affirmative Action Plan, and Title 49 Montana Codes Annotated, entitled "Human Rights" or forfeit the right to continue such business dealings.

The City's Affirmative Action Policy Statement is:

The Mayor of the City of Missoula or the Mayor's designee may adopt an affirmative action plan to provide all persons equal opportunity for employment without regard to race, ancestry, color, handicap, religion, creed, national origin, sex, age, or marital status. In keeping with this commitment, we are assigning to all department heads and their staff the responsibility to actively facilitate equal employment opportunity for all present employees, applicants, and trainees. This responsibility shall include assurance that employment decisions are based on furthering the principle of equal employment opportunity by imposing only valid requirements for employment and assuring that all human resource actions are administered on the basis of job necessity.

Specific responsibility for developing, implementing, monitoring and reporting are assigned to the City Human Resource staff under the supervision and direction of the Chief Administrative Officer and the Mayor.

It is the policy of the City of Missoula to eliminate any practice or procedure that discriminates illegally or has an adverse impact on an "affected" class. Equal opportunity shall be provided for all City employees during their terms of employment. All applicants for City employment shall be employed on the basis of their qualifications and abilities.

The City of Missoula, where practical, shall utilize minority owned enterprises and shall ensure that subcontractors and vendors comply with this policy. Failure of subcontractors and vendors to comply with this policy statement shall jeopardize initial, continued, or renewed funds.

Our commitment is intended to promote equal opportunity in all employment practices and provide a positive program of affirmative action for the City of Missoula, its employees, program participants, trainees and applicants.