

RESOLUTION NO. 4642

A RESOLUTION TO ANNEX, PURSUANT TO TITLE 7, CHAPTER 2, PART 45, MCA, CERTAIN LANDS WHOLLY SURROUNDED BY THE CITY OF MILES CITY, MONTANA, TO-WIT: ALL LOTS ON THE PLAT OF LAST CHANCE SUBDIVISION, INCLUDING ALL STREETS, AVENUES AND RIGHTS-OF-WAYS SHOWN ON SAID PLAT

WHEREAS, pursuant to Title 7, Chapter 2, Part 45, Montana Code Annotated (MCA), the City of Miles City may include as part of the City any platted or unplatted tract or parcel of land that is wholly surrounded by the City upon passing a resolution of intent, giving notice, and passing a resolution of annexation;

AND WHEREAS, such an area as described below is wholly surrounded by the City;

AND WHEREAS, in the judgment of the City Council of the City of Miles City, Montana, it is in the best interests of the City that the boundaries of the City be extended to include the following described land within the corporate limits of the City of Miles City:

All lots on the Plat of Last Chance Subdivision, including all streets, avenues and rights-of-ways shown on said Plat as granted and donated to the use of the public, according to the official plat on file in the Office of the Clerk and Recorder of Custer County, as Document No. 186600; said subdivision being situated in the S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, Township 8 North, Range 47 East, P.M.M., in Custer County, Montana; said tract platted by the subdivision according to the Plat thereof being more particularly described as follows, to-wit :

Beginning at a point being the southwest corner of Tract B, Certificate of Survey No. 123655, which is a 2 inch aluminum capped rebar located at the intersection of Batchelor Street and Sewell Avenue, said point being the POINT OF BEGINNING;
thence S.89°59'02"E., a distance of 657.43 feet;
thence S.00°10'11"E., a distance of 986.24 feet;
thence S.89°46'22"W., a distance of 657.24 feet;
thence N.00°10'50"W., a distance of 989.03 feet to the POINT OF BEGINNING.

Containing 649,203.98 square feet or 14.9037 acres, more or less.

AND WHEREAS, the area to be annexed hereunder includes the full width of the public streets and rights-of-way, and all public infrastructure and associated public land and easements, including any infrastructure installed under public streets or roadways that are within the property being annexed, in accordance with §7-2-4211, MCA.

AND WHEREAS, the land within the area to be annexed hereunder is not a part of any

incorporated city or town, and the land is not used for agricultural, mining, smelting, refining, transportation, or any industrial or manufacturing purpose; or for the purpose of maintaining or operating a golf or country club, an athletic field or aircraft landing field, a cemetery, or a place for public or private outdoor entertainment or any purpose incident thereto;

AND WHEREAS, pursuant to §7-2-4506 and §7-2-4732, MCA, a plan for the provision of services to the area annexed hereunder, attached as Exhibit 'B', has been created and will be adopted by resolution to annex, and services will be provided in accordance with that plan and Miles City's Plan for Annexation and Extension of Services adopted by Resolution No. 3872.

AND WHEREAS, the owner of said property to be annexed has signed and caused to be recorded with the Office of the Clerk and Recorder of Custer County a waiver of any right of protest to the annexation of the subject property into the City of Miles City as evidenced by Document No. 186601; said waiver runs with the land and is binding upon successors and assigns;

AND WHEREAS, pursuant to §7-2-4502, MCA, "Protest not available", wholly surrounded land is annexed, if so resolved by the city or town council, whether or not a majority of the real property owners of the area to be annexed object, and the question of annexing the wholly surrounded land is not subject to being voted on by the registered voters of the area to be annexed.

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

1. The following described territory and real property is hereby annexed and included within the corporate boundaries of the City of Miles City, Montana, to-wit:

All lots on the Plat of Last Chance Subdivision, including all streets, avenues and rights-of-ways shown on said Plat as granted and donated to the use of the public, according to the official plat on file in the Office of the Clerk and Recorder of Custer County, as Document No. 186600; said subdivision being situated in the S ½ NW ¼ NE ¼ SE ¼, SW ¼ NE ¼ SE ¼ of Section 34, Township 8 North, Range 47 East, P.M.M., in Custer County, Montana; said tract platted by the subdivision according to the Plat thereof being more particularly described as follows, to-wit :

Beginning at a point being the southwest corner of Tract B, Certificate of Survey No. 123655, which is a 2 inch aluminum capped rebar located at the intersection of Batchelor Street and Sewell Avenue, said point being the POINT OF BEGINNING;
thence S.89°59'02"E., a distance of 657.43 feet;
thence S.00°10'11"E., a distance of 986.24 feet;
thence S.89°46'22"W., a distance of 657.24 feet;
thence N.00°10'50"W., a distance of 989.03 feet to the POINT OF BEGINNING.

Containing 649,203.98 square feet or 14.9037 acres, more or less.

2. Exhibit 'A' is a map that shows the location of the annexed area;

3. A plan for the extension of services to the area annexed herein has been created and is hereby adopted with this resolution to annex, and services will be provided in accordance with that plan and Miles City's Plan for Annexation and Extension of Services adopted by Resolution No. 3872. See Exhibit 'B'.

4. The area annexed herein shall be included in Ward three (3).

5. The City Clerk provided the required notice in the Miles City Star that a resolution of intention to annex has been passed and the Clerk accepted written comments. Such comments have been presented, heard, and considered at the regularly scheduled meeting of the City Council in the Council Chambers at City Hall, 17 S. 8th Street, Miles City, Montana on the 9th day of September, 2025 at 6:00 p.m.

6. Upon passage of this Resolution, the Clerk shall promptly make and certify under the seal of the City of Miles City a copy of the record of this Resolution as entered upon the minutes and file such certified record with the Clerk and Recorder of Custer County, Montana. Upon the filing of such record the annexation of the real property described herein shall be complete and the real property annexed herein shall thereafter be a part of the City of Miles City.

7. Upon passage of this Resolution, the City staff shall promptly initiate the process to update the official Miles City zoning district map to provide for zoning district designations for the area annexed herein.

**SAID RESOLUTION PASSED AND ADOPTED BY A DULY
CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES
CITY, MONTANA, THIS 9th DAY OF SEPTEMBER, 2025.**

Dwayne Andrews, Mayor

ATTEST:

Mary Rowe, City Clerk

EXHIBIT 'A'

MAP OF ANNEXATION AREA OF LAST CHANCE SUBDIVISION

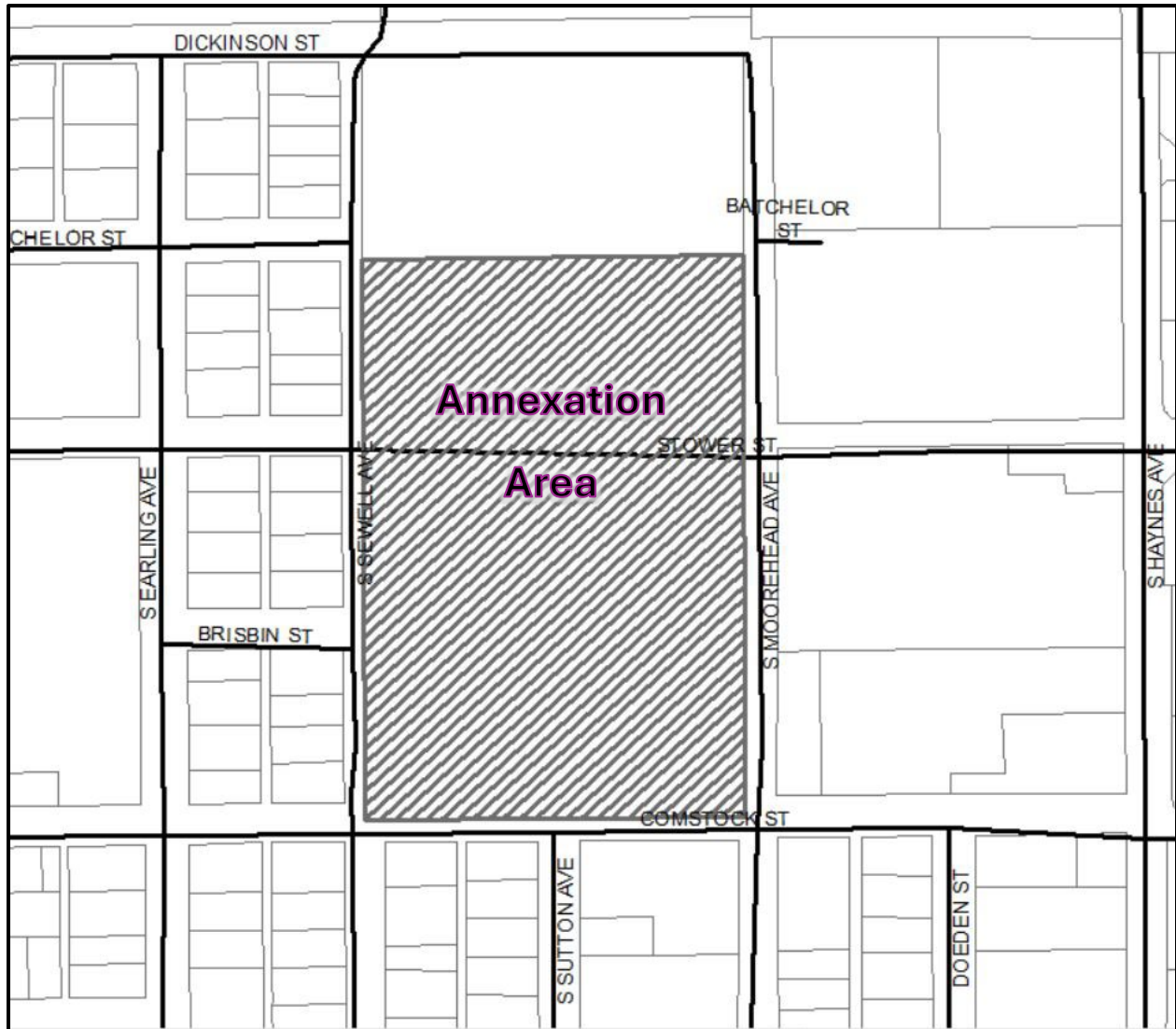


EXHIBIT ‘B’
PLAN FOR EXTENSION OF SERVICES
FOR ANNEXATION OF LAST CHANCE SUBDIVISION

INTRODUCTION:

This plan is intended to comply with the requirements of §7-2-4506 and §7-2-4732, MCA for the City of Miles City’s annexation of the Last Chance Subdivision, which is wholly surrounded by and contiguous to the City. Pursuant to §7-2-4732, MCA, a long-range plan for extension of services must show anticipated development a minimum of 5 years into the future and show how the municipality plans to extend services for territory to be annexed. Services to the wholly-surrounded Last Chance Subdivision will be available and provided according to this plan and the City’s “Plan for Annexation and Extension of Services” adopted by Resolution No. 3872. The services listed below will be provided at substantially the same level of service as the rest of the City. As required by annexation statutes, no part of the annexed area is included within the boundary of another incorporated municipality.

The Last Chance Subdivision was reviewed and approved by Custer County, with participation by the City. The City provided comments on the subdivision in anticipation of annexing the property and providing services, and the County conditioned the subdivision in a manner that makes annexation and provision of City services feasible; for instance, the streets were improved to City standards, municipal water and sewer mains and service lines were extended to ensure each lot has access to City water and sewer services, fire hydrants were installed, and stormwater infrastructure provided. Sidewalks will be required upon individual lot development per City code.

Municipal zoning for the site is yet to be determined. The City anticipates applying interim zoning initially and determining long-term, permanent zoning for the site that will likely be similar to the current County zoning in terms of development intensities. Because the infrastructure is currently in place to serve future occupants, services will be provided at substantially the same level of service as the rest of the City, even upon full build-out if that occurs within 5 years of annexation.

The 2025 Miles City Growth Policy does not project the population of the community increasing over the next 5 years; however, the growth policy indicates there is a relatively high vacancy rate for housing units (related to the fact that many housing units not available to the residents for housing) and relatively old housing units on average. The Growth Policy states there is an expressed need for additional housing options in the City. Furthermore, much of the City’s residential development is within the 100-year floodplain where improvements to housing stock are challenging, whereas the area to be annexed is outside the 100-year floodplain and relatively free of development constraints. As such, it is expected that instead of substantially increasing the population and impacting services provided by the City overall, that the population of the City will be slightly redistributed. Considering the area to be annexed is currently wholly surrounded by the City, with existing City streets serving the area and other City infrastructure already in place,

services can be provided in an efficient manner, with relatively minimal increase in costs of services. Increases in costs of services, such as those from additional street and other infrastructure maintenance and needs for emergency services, will be offset by the increased tax base as new development comes on the City tax rolls. The City Council may also create new, or expand existing special districts, such as those provided for in Title 7, Chapter 12, Part 44, MCA, “Special Provisions for Street Maintenance Districts” for street maintenance, and Title 7, Chapter 12, Part 43, MCA “Special Provisions for Special Improvement Lighting Districts” for street lighting.

The area is included within Map 11 of the 2025 Miles City Growth Policy as an area of potential annexation and represented as “Annexation Area #9” of Miles City’s Plan for Annexation and Extension of Services adopted by Resolution No. 3872, which states, “*The City plans to encourage development and annexation of this area.*” This annexation conforms to the growth policy, with the area being a potential annexation area identified by the growth policy and by the City Planner notifying the Custer County Commissioners of the annexation plans.

The following are the services to be provided to the annexed area and the specific plans for extensions of those municipal services based on anticipated development a minimum of 5 years into the future, which may include full build-out of the Last Chance Subdivision with a mixture of new homes, multi-family buildings, and commercial buildings:

POLICE PROTECTION SERVICES:

The area is currently served by the Custer County Sheriff’s Office. The Miles City Police Department would officially assume jurisdiction upon annexation. It is unlikely there will be a significant change in immediate needs for City law enforcement services as there is no development currently within the area to be annexed. Within 5 years, new homes, multi-family buildings, and businesses could be constructed within the subdivision, and the resulting needs for law enforcement services will be offset by the increased tax base as new development comes on the City tax rolls. It should be noted that being surrounded on three sides by City streets, and with another City street going through the subdivision, the wholly-surrounded area will be a very efficient and logical expansion of the incorporated area of the City of Miles City, thus resulting in minimal increases in the costs of services provided by the Miles City Police Department relative to other potential expansions of the City.

FIRE PROTECTION SERVICES:

Fire protection is currently provided to the area by the Custer County Fire Department. Once annexed, fire protection service responses will be provided by Miles City Fire & Rescue in the same manner as it is to all other occupants in the City. Within 5 years, new homes, multi-family buildings, and businesses could be constructed within the subdivision, and the resulting needs for fire protection services will be offset by the increased tax base as new development comes on the City tax rolls. The Fire Department would also provide building inspections and plan reviews for compliance with the current fire codes. The costs of service would be relatively low, in part because

of the vacant status and any new development will be required to meet current fire and building codes. With existing streets serving the area, and other City infrastructure already in place, including fire hydrants recently installed, services can be provided in an efficient manner, with relatively minimal increase in costs of services.

The annexation area is not included within the boundaries of any fire district organized under the authority of §7-33-2101, MCA.

GARBAGE COLLECTION SERVICES:

The City of Miles City does not provide garbage collection or disposal services within the City limits or surrounding area. A private company provides solid waste collection services in Miles City and the extended area and delivers the solid waste to the Custer County landfill. The Miles City Area Solid Waste District Board contracts with a private company to manage Custer County's Class II solid waste landfill, which serves the needs of both Miles City and the greater unincorporated area. With the landfill being managed by the same entity and solid waste hauling services being provided by the same hauler regardless of annexation, and the City not providing solid waste collection services, the current garbage collection service provider is expected to provide services to the area to be annexed on substantially the same basis and in the same manner as those services are provided within the rest of the municipality prior to annexation.

STREETS AND STREET MAINTENANCE:

The area to be annexed is framed on three sides by City streets: South Sewell Avenue on the west side, Comstock Street on the south side, and South Moorehead Avenue on the east side. Stower Street runs through the subdivision between Block 1 and Block 2 of the Last Chance Subdivision. The three perimeter streets were previously dedicated as half-streets with 30' dedications on historic subdivision plats, and have been maintained by the City. With the platting of the Last Chance Subdivision, the other halves of those rights-of-ways were dedicated to the public. Stower Street is located within a 68' wide road easement to Custer County. The streets were recently improved to acceptable standards as a requirement of the Custer County subdivision review and approval. Peila Way was dedicated to the public on the Last Chance Subdivision plat, with the street improved as part of the subdivision. The street improvements included curbs, gutters, and associated stormwater management facilities. All street-related infrastructure is in place to access the lots within the area to be annexed, with the exception of future sidewalks, which are further addressed below.

In accordance with §7-2-4211, MCA, the annexation must include the full width of the public streets and rights-of-way, and all public infrastructure and associated public land and easements, within the property being annexed. Upon annexation, the City will assume maintenance of the publicly-dedicated streets. The City previously maintained South Sewell Avenue, Comstock Street, and South Moorehead Avenue. The additions of ±640 linear feet of Stower Street and ±260 linear feet of Peila Way will add approximately 900 feet or ±0.17-mile of streets to the approximately 89

miles of streets and alleys the City currently maintains within the City limits. The increase of 0.191% of streets added to the City's maintenance responsibilities is relatively minimal, particularly given that the majority of the increased street maintenance will be directed to a segment of Stower Street that connects to the rest of City-maintained Stower Street on each end. Maintenance of the public streets will be conducted in accordance with standard operating procedures of the City on substantially the same basis as the rest of the City.

The City Council may also create new, or expand existing special districts for street maintenance, such as those provided for in Title 7, Chapter 12, Part 44, MCA, "Special Provisions for Street Maintenance Districts".

Sidewalks:

Sidewalks are an important component of an efficient, walkable transportation system. The sidewalks along the streets within the Last Chance Subdivision were not constructed as part of the subdivision improvements. Despite the City commenting on the preliminary plat application that the subdivider's improvement plans should include the sidewalks on the subdivision side of South Moorehead Avenue, South Sewell Avenue, and Comstock Street adjacent to the development, along both sides of this block of Stower Street, as well as on both sides of Peila Way and around the cul-de-sac, the County governing body did not require sidewalks to be installed prior to final plat approval. Instead, a condition of preliminary plat approval stated, "*Installation of sidewalks between all lots and streets, constructed to City of Miles City sidewalk standards, must be completed prior to structure construction on each individual lot. Certificates of Occupancy shall not be issued until this condition is satisfied.*" Similar language was incorporated into the private covenants for the subdivision, which informs owners that sidewalk construction shall conform to City standards and completed before a Certificate of Occupancy will be issued by the City Building Inspector. Although the City is not a party to the private covenants and assumes no responsibility to enforce or interpret the private covenants, the covenants do inform prospective purchasers of City requirements for sidewalks. The City *does* have the authority to enforce Sec. 20-41 of City code, which addresses construction of sidewalks, including the requirements that "*All persons who reside within a six-block radius of a church, school, convenience store or supermarket shall construct a city sidewalk*" and "*All city sidewalks must be six feet wide.*" Considering these City requirements along with Sec. 20-11 of City code's requirement that the owner of property within the City limits shall be responsible for maintaining the areas between the city street and the surveyed and platted boundaries of the owner's property, sidewalk construction and maintenance will have no impact on the provision of City services with the annexation. It should also be noted that the subdivision's engineering plans for streets, water and sewer infrastructure, and stormwater included plans for future sidewalks such that their installations will not impact stormwater.

Street lighting:

The area being annexed does not have street lighting installed on the sides of the streets in the annexed area. The City Council may create new, or expand existing special districts for street lighting, such as those provided for in Title 7, Chapter 12, Part 43, MCA “Special Provisions for Special Improvement Lighting Districts”.

WATER AND WASTEWATER UTILITY SERVICES:

The wholly surrounded area has City water and sewer mains and service lines that were extended to serve each lot within the recent subdivision. Leading up to the County subdivision review process, the City Department of Public Utilities confirmed with the developer the City’s water and sewer systems have sufficient capacities to provide service, and as such, agreed to provide water and sewer utility services to the subdivision.

Once annexed into the City all tax burdens for services will be shared equally and on the same basis as current city residents across the entire municipality. As development occurs and buildings are connected to the municipal water and sewer systems, new users will be assessed the necessary fees associated with the connections, and pay water and sewer rates to cover the costs of City utility services.

There are no special districts currently providing services to the area. The area is located within the Custer County Water and Sewer District, so customers within the area may be assessed fees as a result of being within the district, but there are no water and sewer services currently provided by the district to transfer to the City. The City provides water and sewer services to the district and its customers. The area to be annexed includes all public infrastructure and associated public land and easements, including any infrastructure installed under public streets or roadways that are within the property being annexed, in accordance with §7-2-4211, MCA. This infrastructure includes the water and sewer lines recently extended within the public rights-of-ways and easements dedicated for the purpose of providing services to the lots. It is the City’s understanding that the infrastructure was not turned over to the district; therefore, the City will assume control of the infrastructure.

PLAN TO FINANCE EXTENSION OF SERVICES:

The area currently has the infrastructure in place for water and sewage services, streets, curbs, and gutters. Additional capital improvements are not needed to provide adequate services stipulated by §7-2-4732 and §7-2-4731, MCA.

Per §7-2-4732(4), MCA, the entire municipality tends to share the tax burden for these services, and as such, the area may be annexed without a bond issue under the provisions of Title 7, Chapter 2, Part 47.

Within 5 years as new homes, multi-family buildings, and commercial buildings are constructed within the annexed area, there will be an increased tax base as new development comes on the tax

rolls and assessed City taxes. The resulting needs for street and utility maintenance and emergency services are expected to be offset by the increased taxes.

The City Council may also choose to create new, or expand existing special districts, such as those provided for in Title 7, Chapter 12, Part 44, MCA, “Special Provisions for Street Maintenance Districts” for street maintenance, and Title 7, Chapter 12, Part 43, MCA “Special Provisions for Special Improvement Lighting Districts” for street lighting.