

DEPARTMENT OF ADMINISTRATION

STANDARD FINANCIAL REVIEW CONTRACT

This Contract is made this _____ day of _____, 20_____, by and among

Certified Public Accountant
("Contractor"),

Government Entity
("Entity"),

and the **Montana Department of Administration, Local Government Services Bureau ("State")**, acting under the authority of Title 2, Chapter 7, Part 5, of the Montana Code Annotated. **The State's mailing address, phone number, and e-mail address are PO Box 200547, Helena, MT 59620-0547; (406) 444-9101; and LGSBhelp@mt.gov.**

1. **Effective Date:** This contract is in effect once the State approves and signs it. The Contractor may not begin any financial review work until the approval and signature occur. If a Contractor begins work before approval and signature, and the State subsequently does not approve the contract, the Contractor may not receive compensation for the work performed.
2. **Term and Payment:** The financial review period covered by this contract begins _____, 20_____, and ends _____, 20_____, inclusive.
 - a. The Entity shall pay the Contractor for the financial review work based on time and necessary out-of-pocket expenses, which will not exceed: \$

The fees are set out in Appendix A, attached hereto, and incorporated by reference.
 - b. The Entity may withhold ten percent (10%) of the fee for the financial review until the final report has been delivered by the Contractor and accepted by the Entity. At this time, the Entity will release the retainage.
3. **Financial Review:** The Contractor shall conduct a financial review of the Entity, as described below:
 - a. The financial review must follow the standards established by the American Institute of Certified Public Accountants in its Statements on Standards for Attestation Engagements, AT-C Section 215, "Agreed-Upon Procedures Engagements" and AT-C Section 315, "Compliance Attestation."
 - b. The Contractor shall apply the procedures specified in Appendix B, attached hereto, and incorporated by reference.
 - c. Regarding the application of the agreed-upon procedures, if matters come to the Contractor's attention by other means that significantly contradict the subject matter or written assertion related thereto in the Contractor's report, the Contractor shall include these matters in its report as additional findings/recommendations, as required by AT-C Section 215.41.
 - d. the financial review of any school district must also include, where applicable, the extracurricular fund for pupil functions.
 - e. The Contractor shall immediately notify the Entity and the State in writing of any material irregularities

it discovers. If the Entity is a school district or special education cooperative, the Contractor shall immediately notify the Office of Public Instruction in writing.

4. **Entity's Annual Financial Report:** The Entity shall prepare its annual financial report no later than the date specified in Appendix A. If the Entity cannot prepare its annual financial report by this date, it shall notify the Contractor and the State in writing before the specified date.
5. **Beginning the Financial Review:** The Contractor shall begin the financial review fieldwork following the schedule established in Appendix A.
6. **Completion of Financial Review:** The Contractor shall deliver the financial review report to the Entity and the State following the schedule established in Appendix A. If the Contractor cannot deliver the financial review report to the Entity and the State on the date specified in the Appendix, the Contractor shall notify the Entity and the State in writing of that fact and the reason(s) for the delay. All financial reviews must be completed, and the reports issued within one year from the close of the fiscal year are covered by the financial review.
7. **Due Date Extension:** The State may grant an extension to the Entity for filing the financial review report beyond the one-year due date stated in paragraph 6 above. To do so, the Entity shall request an extension to the State in writing. It shall show good cause for the delinquency or demonstrate that the failure to meet the deadline in paragraph 6 above resulted from circumstances beyond the Entity's control. The State will determine what constitutes good cause or circumstances beyond the Entity's control based on the facts of each case.
8. **Written Report to Entity:** The Contractor shall render a single, written report for the Entity reviewed, which must include:
 - a. an accountant's report on the results of applying agreed-upon procedures following AT-C Sections 215 and 315 as established by the American Institute of Certified Public Accountants, and
 - b. schedules as specified in Appendix B.
9. **Entity Representations:** The Entity shall furnish written representations to the Contractor, as specified in Appendix C, attached hereto, and incorporated by reference.
10. **Exit Interview:** Before submitting the final financial review report, the Contractor shall hold an exit review conference to discuss the financial review results with those charged with governance and other appropriate Entity officials and employees. The Contractor shall ensure that all members of the governing body and key members of management are notified of this exit conference. The Contractor further agrees that before submitting the final report, it will not discuss the financial review findings with anyone other than the Entity or the State. However, once the Contractor delivers the final financial review report, the report is then deemed to be a public record.
11. **Report Distribution:** The Contractor and Entity shall file copies of the financial review report as specified below:
 - a. The Contractor shall provide the Entity with the number of copies of the financial review report specified in Appendix A. The cost of those copies is included in the total price for the engagement as set out in paragraph 2.a., above, and in Appendix A.

- b. Upon request by the Entity, the Contractor shall provide additional copies of the financial review report at a price per copy agreed upon by the Entity and Contractor.
- c. The Contractor shall provide the State with an electronic copy of the financial review report at no charge. The report must be submitted to the State simultaneously when the Contractor delivers the final financial review report to the Entity. The Contractor shall advise the State, at the time of submitting the electronic report, of the date the final report was delivered to the Entity; the date of the financial review report; the actual number of hours the Contractor spent conducting the financial review; and the total fee billed the Entity.
- d. If the Entity is a school district or associated cooperative, the Contractor shall provide copies of the financial review report to the Office of Public Instruction and the county superintendent of schools at no additional charge.
- e. If the Entity is a city or town fire department relief association disability and pension fund, the Contractor shall provide one copy of the financial review report to the city or town clerk at no additional charge.

12. **Entity Response to Report:** Within 30 days after receiving the financial review report, the Entity shall notify the State in writing regarding what action it plans to take to correct any deficiencies identified or contained in the financial review report. If the Entity is a school district or special education cooperative, the Entity shall also send a copy of this notification to the Office of Public Instruction.

13. **Independence of Contractor:** The Contractor certifies that, as required by generally accepted attestation standards, it and its principals and employees are independent in all matters regarding this engagement. The Contractor shall neither arrange for nor accept other work with the Entity that could in any way impair the Contractor's compliance with professional independence standards. If the State requires, the Contractor shall provide documentation that independence has been maintained in both mind and appearance as required by professional standards.

14. **Contractor and Subcontractors:** The Contractor shall not assign any rights, subcontract, or delegate contract duties without the Entity's and State's prior written consent.

The Contractor is the prime contractor and is responsible, in total, for all work of any subcontractors. Any subcontractors performing financial review work shall be on the Roster of Independent Auditors authorized to conduct audits and financial reviews of Montana local governments maintained by the State. The Contractor is responsible to the Entity and the State for the acts and omissions of all subcontractors or agents and persons directly or indirectly employed by such subcontractors or agents. There is no contractual relationship between any subcontractor and the State.

15. **State Participation in Conferences:** The State may participate in all entrance and exit conferences between the Entity and Contractor, as well as all major conferences held in conjunction with the financial review of the Entity.

16. **Access to Records:** The Contractor shall give the State and, when the law requires, the Montana Legislative Audit Division access to the Contractor's work programs, supporting working papers, time records, and all other documents relating to the financial review. Access to these documents must be provided at the State's offices in Helena, Montana. Access to working papers includes the right of the State to obtain copies of working papers, as is reasonable and necessary. The Contractor shall make the work programs and supporting working papers available to the State for use by the State or other public accounting firms as directed by the State in future financial reviews or audits of the Entity. The Contractor shall retain the financial review report, work programs, and supporting working papers for a minimum of five years from the date of the financial review report unless the State notifies the Contractor to extend the retention period.

If professional standards or other applicable laws, rules, or regulations require a longer retention period, the Contractor shall retain the above materials for that specified period.

17. **State Review of Report:** As provided by ARM 2.4.410, the State shall review the Contractor's financial review report. If the State determines that reporting requirements have not been met, it will notify the Entity and the Contractor of the significant issues of noncompliance. The Contractor shall correct the identified deficiencies within 60 days of notification.
18. **Independent Contractor Status:** The Contractor is an independent contractor, and neither its principals nor its employees are employees of the State or Entity for any purpose.
19. **Workers' Compensation:** The Contractor certifies that it carries Workers' Compensation for its employees and has either elected Workers' Compensation or has an approved Independent Contractor's Exemption covering the Contractor while performing work under this contract. (Montana Code Annotated, Title 39, Chapter 71).
20. **Indemnity:** The Contractor shall defend and indemnify the State and Entity, their elected and appointed officials, agents, and employees from and against all claims, causes of action, damages, liabilities, court costs, and attorney fees in favor of the Contractor's employees or third parties for bodily or personal injuries, death, or damage to property arising from the acts or omissions or alleged acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors under this contract. This defense and indemnification obligation does not apply to acts or omissions arising from the sole negligence of the State or Entity under this contract. This defense and indemnity obligation survives the termination or expiration of this contract.

If the Contractor is or may be obligated to pay any cost, settlement, judgment, fine, penalty, or similar award or sanction as a result of a claim, investigation, or other proceeding instituted by any third party, then to the extent that such obligation is or may be a direct or indirect result of the Entity's intentional or knowing misrepresentation or provision to the Contractor of inaccurate or incomplete information in connection with this engagement, and not any failure on the Contractor's part to comply with professional standards, the Entity shall defend and indemnify the Contractor against such obligations.

21. **Insurance – Commercial General Liability:** The Contractor shall maintain for the duration of the contract, at its cost and expense, occurrence coverage insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Contractor, and/or its agents, employees, representatives, assigns, or subcontractors. The Contractor's insurance coverage shall be primary insurance for the Contractor's negligence with respect to the State and Entity and their elected officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the State and Entity and their officers, officials, employees, or volunteers shall be more than the Contractor's insurance and shall not contribute to it.

Professional Liability: The Contractor shall purchase and maintain occurrence coverage to cover claims that may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or subcontractors.

Note: If occurrence coverage is unavailable or cost-prohibitive, the state will accept 'claims made' coverage provided the following conditions are met: 1) the commencement date of the contract must not fall outside the effective date of insurance coverage, and it will be the retroactive date for insurance coverage in future years, and 2) the claims made policy must have a three-year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

The State and Entity may require complete copies of insurance certificates during this contract's term.

22. Compliance with Laws:

- a. The Contractor shall, in the performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders, including but not limited to the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. The Contractor is the employer to provide healthcare benefits and pay any applicable penalties, fees, and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Any subcontracting by the Contractor subjects subcontractors to the same provisions.
- b. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016, the Contractor agrees that the hiring of persons to perform this contract will be made based on merit and qualifications. There will be no discrimination based on race, color, sex, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this contract.

23. Accommodations for Work: The Entity shall provide the Contractor with reasonable space to conduct the financial review and respond promptly to requests for information as well as all necessary books and records. Support for clerical, equipment, and reproduction services shall be agreed upon by the Entity and the Contractor as specified in Appendix A.

24. Termination Before Financial Review Commences: Before the commencement of the financial review, either the Contractor or the Entity, with the State's consent or the State alone, may terminate this contract for cause if another party has breached a material term or condition of this contract or violated an applicable law or regulation. The non-breaching party shall provide the other party written notice of the breach and allow 20 days to remedy the breach.

The Contractor and the Entity may agree to terminate this contract without cause before the commencement of the financial review. If such a termination occurs, the State shall consent to the termination upon written notification by the Contractor and the Entity of their agreement to terminate this contract.

25. Termination After Financial Review Commences: After the financial review has commenced, but before the financial review report has been issued, either the Contractor or the Entity, with the State's consent, or the State alone, may terminate this contract for cause if another party has breached a material term or condition of this contract or violated an applicable law or regulation. The non-breaching party shall provide the other party written notice of the breach and allow 20 days to remedy the breach. If the Contractor is the breaching party and fails to remedy the breach, the Contractor is not entitled to the fee set out in this contract. This is the Entity's and the State's sole remedy. If the Entity is the breaching party, the Entity shall pay the Contractor a pro rata portion of the fee set out in this contract based on the percentage of work completed at the time of termination. This is the Contractor's sole remedy.

The Contractor and the Entity may agree to terminate this contract without cause after the financial review has commenced but before the financial review report has been issued. If such a termination occurs, the State shall consent to the termination upon written notification by the Contractor and the Entity of their agreement to terminate this contract.

26. Contractor Compliance with CPE and Quality Control Review: The Contractor certifies compliance with the continuing professional education requirements and the external quality control review requirements set out in Government Auditing Standards, as established by the Comptroller General of the United States. The State may require the Contractor to provide evidence that it has met the above requirements.

27. **Time is of the Essence:** Time is of the essence regarding all provisions of this contract.
28. **Governing Law and Venue:** This contract is governed by the laws of Montana. The parties agree that any litigation concerning this contract in which the State is named as a party must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana. Each party shall pay its own costs and attorney fees, except as otherwise allowed in this contract. The parties also agree that any litigation concerning this contract in which the State is not named as a party must be brought in the State of Montana Judicial District in the County where the Entity is located. Each party shall pay its own costs and attorney fees, except as otherwise allowed in this contract.
29. **Notice:** All notices under this contract must be in writing and will be deemed given if delivered personally, by mail, certified, return receipt requested, or by e-mail. All notices will (a), if delivered personally, be deemed given upon delivery, (b), if delivered by mail, be deemed given upon receipt, or (c), if delivered by e-mail, be deemed given upon receipt.
30. **Invalid Provision:** If any provision of this contract is held to be illegal or unenforceable and the parties' rights or obligations will not be materially and adversely affected, such provision will be (a) severed from the contract, (b) the contract will be interpreted as if such provision was never a part of the contract and (c) the remaining provisions will stay in effect.
31. **Authority:** Each party represents that the person signing this contract has the authority to bind that party.
32. **Entire Agreement:** This contract and the attached Appendices contain the entire understanding and agreement of the parties. No modification or amendment hereto is valid unless it is reduced to writing, signed by the parties, and made a part of this contract.

The Contractor, Entity, and State have executed this Standard Financial Review Contract on the date first above written:

Certified Public Accountant

Firm Name

By: _____
Authorized Representative

Date: _____

Printed Name: _____

Governmental Entity

Entity Name

Date: _____

By: _____
Authorized Representative

Title: _____

Printed Name: _____

**Montana Department of Administration,
Local Government Services Bureau**

Approved By: _____

Date: _____

Title: _____

Printed Name: _____

APPENDIX A

Financial Review Under This Contract

GOVERNMENTAL ENTITY (ENTITY): _____

Address: _____
(Street Address or PO Box)

Telephone: _____ (Address Line 2)
_____, MT 59 _____
(City/Town) (Zip Code)

Contact Person(s) and E-Mail Address(es)

**PUBLIC ACCOUNTANT or
ACCOUNTING FIRM (CONTRACTOR):** _____

Address: _____
(Street Address or PO Box)

Telephone: _____ (Address Line 2)
_____, _____
(City, State) (Zip Code)

Contact Person(s) and E-Mail Address(es)

1. Financial Review Period and Dates of Engagement:

- This financial review will cover the fiscal year ending:
_____, 20_____
Month/Day Year
- Date to commence financial review work: _____
- Date to submit final financial review report to Entity and State: _____

2. Time and Price for Engagement:

- Estimated total hours: _____
- Price for professional personnel \$ _____
- Price for travel \$ _____
- Price for report preparation \$ _____
- Total price for this engagement \$ _____

3. Date Entity's Annual Financial Report will be available: _____

4. Number of copies of financial review report Contractor will provide to Entity: _____

5. The Entity will provide clerical, equipment, and photocopying or reproduction services to the Contractor as follows: _____

APPENDIX A – continued:

IN WITNESS WHEREOF:

Certified Public Accountant

Firm Name

By: _____
Authorized Representative

Date: _____

Printed Name: _____

Governmental Entity

Entity Name

Date: _____

By: _____
Authorized Representative

Title: _____

Printed Name: _____

**Montana Department of Administration,
Local Government Services Bureau**

Approved By: _____

Date: _____

Title: _____

Printed Name: _____

APPENDIX B

Financial Review of a City/Town Under This Contract

- A. In conducting a financial review of a city/town under this standard financial review contract, the Contractor shall apply the following procedures:
1. Obtain the Government's annual financial report required to be prepared by State law, and determine whether:
 - The financial statements internally balance and reconcile, and agree to the Government's underlying accounting records, and
 - Beginning net asset and fund balance amounts reported on the government-wide and fund financial statements agree to related ending net asset and fund balance amounts on prior-year financial statements.
 2. Determine whether the Government performed monthly reconciliations of total cash and investments per the accounting records with deposits and investments held in financial institutions.
 3. Determine whether the Government has a policy requiring that its cash receipts be deposited intact on a timely (at least weekly or in accordance with the Government's policy) basis with a financial institution, and verify that, for several selected weeks throughout the year, deposits were made per this policy.
 4. Determine whether the Government maintained documentation of capital assets and related depreciation schedules and that this documentation supports the amount of net capital assets and depreciation expense reported in the accounting records.
 5. Determine whether the Government maintained documentation for all long-term liabilities recorded in the accounting records, including but not limited to bonds, notes and loans, capital leases, compensated absences, and judgments.
 6. Examine general journal entries prepared during the year, and verify that:
 - All adjustments to the fund balance and net position accounts, including prior period adjustments, were supported by explanatory documentation and approved by the governing body, and
 - All transfers made were allowable under State law.
 7. Determine whether the governing body received and reviewed the following on a monthly basis:
 - A report comparing budgeted revenues and budgeted appropriations with the year-to-date actual revenues and actual expenditures,
 - A copy of the bank reconciliation for all deposits/investments,
 - A report of cash balances, receipts, and disbursements,
 - Supporting documentation for all expenditures/expenses.

8. Identify all claims in excess of \$80,000 and determine whether any contracts for purchasing vehicles, machinery, equipment, supplies, construction, repair, or maintenance in excess of that amount were given to the lowest responsible bidder after advertisement for bids. Determine whether the bidding process was documented in governing body meeting minutes.
9. Verify that:
 - The final budget was adopted by resolution.
 - The “Tax Levy Summary Schedule” in the Government’s budget document was accurately prepared, and cash reserves were within the statutory limitations and were not negative.
 - If applicable, any amendments to the final budget were adopted as required; and
 - Total expenditures for each governmental fund did not exceed the budgeted appropriations for the fund (i.e., final budget as legally amended).
10. Obtain a copy of the Government’s worksheet(s) for the “Determination of Tax Revenue and Mill Levy Limitations, Section 15-10-420 MCA” and verify the accuracy of the worksheet(s). Compare the “Authorized mill levy” from this worksheet(s) to the actual mills levied per the budget resolution and determine whether the Government complied with the tax levy limitations. If the actual mills levied exceeded the worksheet’s authorized mill levy, verify that the Government had documentation to support these additional mills.
11. Verify the accuracy of recorded tax revenue by multiplying the Government’s taxable valuation with the total mills levied; note any 5% or greater variances. Verify the accuracy of recorded taxes receivable by comparing them with taxes receivable reported by the county.
12. For any single source of revenue that the Government received with specific terms/conditions for its receipt and use (e.g., grants, State allocations) and that represented 25% or greater of total revenues for the fiscal year, review the terms/conditions of that revenue source and verify that the Government complied with those terms/conditions.

B. The financial review report for a city/town must contain the following schedules:

Schedules A.1. and A. 2. will present the Government’s government-wide Statement of Net Assets and Statement of Activities as of and for the fiscal year ended June 30, _____, in the format required by generally accepted accounting principles.

Schedules B.1 through B. ____ will present the Government’s governmental, proprietary, and fiduciary fund statements, as applicable, as of and for the fiscal year ended June 30, 20_____, in the format required by generally accepted accounting principles.

Schedule C will present findings resulting from performing the agreed-upon procedures specified in this Appendix.

APPENDIX C
(Sample Representation Letter)
(To be presented on the local government's letterhead)

[Date] *[Note: should be the same as the date of the Independent Accountant's Report]*

To: [Independent Accountant]

We are providing this letter in connection with your agreed-upon procedures engagement of [name of local government] for the fiscal year ended June 30, 20_____.

To the best of our knowledge and belief, we confirm the following representations made to you during your engagement.

- a. We acknowledge our responsibility for maintaining the accounting records and preparing the annual financial statements for [name of local government].
- b. Information presented in our annual financial statements accurately reflects the information in our underlying financial accounting system.
- c. We have made available to you all records relevant to the agreed-upon procedures.
- d. There are no material transactions that have not been properly recorded in the accounting records underlying the financial statements.
- e. We acknowledge our responsibility for designing and implementing programs and controls to prevent and detect fraud.
- f. We have no knowledge of any fraud or suspected fraud affecting [name of local government] that we have not disclosed.
- g. We acknowledge our responsibility for complying with the specified requirements*.
- h. We acknowledge our responsibility for establishing and maintaining effective internal control over compliance.
- i. We believe we have complied with the specified requirements* and have maintained effective internal controls over that compliance.
- j. We have disclosed to you all known noncompliance.
- k. We have made available all documentation related to compliance with the specified requirements*.
- l. We have disclosed any communications from regulatory agencies, internal auditors, and other practitioners concerning possible noncompliance with the specified requirements*, including communications received between June 30, 20_____, and [date of accountant's report].
- m. We have disclosed any known noncompliance occurring subsequent to the fiscal year ending June 30, 20_____.
- n. We acknowledge that the procedures performed are appropriate for the intended purpose of the engagement.

[Mayor]

Date

[Clerk/Finance Officer]

Date

**Note: Specified requirements are those legal compliance requirements in the Montana Code Annotated (MCA) referenced in the Agreed-Upon Procedures Report.*