

Request for Proposals
For
City of Billings
Aviation and Transit Department
MET Transit Division
TRANSIT DEVELOPMENT PLAN





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Section 1: General Information

Request For Proposals (RFP) - Transit Development Plan

THE ABOVE DESCRIPTION MUST APPEAR ON ALL PROPOSALS AND RELATED CORRESPONDENCE. **THIS IS NOT AN ORDER**

PROPOSALS MUST BE <u>RECEIVED</u> NO LATER THAN: October 15, 2021 at 5:00 pm (MST)	RFP INITIATIVE: Transit Development Plan (TDP)
<ul style="list-style-type: none">All Consultants must respond in detail to each element of this RFP in order to be considered for contract award.All proposals must be mailed and emailed to contact person at the address below. Proposers must provide five (5) hard copies and one electronic copy of the proposal.	
SEND ALL CORRESPONDENCE TO THE CONTACT BELOW:	
City of Billings – MET Transit 1705 Monad Road Billings, MT 59101	Or
<p>Rusty Logan, Transit Manager Email: loganr@billingsmt.gov PHONE: (406) 657-8221 FAX: (406) 657-8419</p>	



Section 2: Agency Information and Background

Agency Overview

The City of Billings MET Transit Division (City) provides public ground transportation to the city of Billings in Yellowstone County, Montana. Billings is a designated urban area with a population of over 110,000 within the city limits. As such, the area is served by a Municipal Planning Organization (MPO) that includes representation from the City of Billings, Yellowstone County, the City/County Planning Board, and the State of Montana Department of Transportation (MDT). MET Transit is the designated recipient in the urbanized area of Federal Transit Administration (FTA) section 5307 funds and carries all the responsibilities stemming from this designation. The MET Transit Division operates within the Aviation and Transit Department of the City of Billings; the City is governed by a Mayor and ten (10) member City Council which serves as the transit agency's governing board.

Background

MET Transit has 19 daily fixed-routes operating Monday thru Friday, and seven routes on Saturdays, covering approximately 43.52 square miles almost exclusively within the City of Billings city limits. Most routes operate at one-hour service frequency in a "pulse" setup with buses simultaneously arriving to and departing from the two MET Transit Transfer Center locations and a common transfer location at a high school in the northern part of the city. Many of the fixed-routes are focused on providing service to students as well as daily peak commuters. Annual fixed-route ridership in FY2019 was 427,913; due to the COVID-19 health crisis, ridership fell to 373,146 in FY20 and 284,306 in FY21.

MET Transit also directly provides complementary para-transit service (MET Plus) for riders unable to use the fixed route service due to a disability. MET Plus is an origin to destination service for persons certified as eligible. FY19 annual ridership for paratransit was 46,304, with numbers decreasing to 35,414 in FY20 and 23,415 in FY21. MET contracts with both the Adult Resource Alliance as well as the State of Montana Developmental Disabilities Bureau to provide subscription services and expanded services outside of minimum required paratransit services.

In 2016, MET Transit addressed findings of its previous TDP through elimination of redundant fixed-route services and expansion of all day service on various routes. However, these re-alignments did not have the immediate intended effect of growth in ridership and overall improvement of convenience of the system. While ridership was showing small signs of growth in 2019 from previous years, the COVID-19 pandemic severely interrupted this trend. In 2020, daily ridership declined due to distance learning, commuters working from home, and business closure; however, FY22 ridership is slowly showing signs of recovery.

The MET Transit Division currently employees 56.5 employees consisting of 6.5 management positions, 3 mechanics, 2 facilities personnel, 4 dispatcher/customer service reps, and 41 transit operators. The Division has 3 facility locations including the aforementioned two transfer centers as well as the main operations/administration facility which houses management offices and operations areas, as well as fleet maintenance and storage areas.

MET Transit operates using several funding sources including FTA grants, Montana Department of Transportation grants generally passed through from FTA funding sources, local mills, advertising, and fare revenues. The annual operating expense budget is approximately \$5.9 million. MET Transit is setup as an "enterprise" fund, meaning MET does not receive funding from the City of Billings general fund; similarly, other City departments and operations do not have access to the transit division funds as the operating mills and revenue are designated specifically for transit use only.

In recent years, MET Transit has implemented a number of technology solutions including the addition of on-board Wi-Fi on fixed-route buses, a mobile app that allows real time bus tracking via the DoubleMap AVL system, implementation of the Touchpass electronic fares system, and new paratransit dispatching



and scheduling software with EcoLane. MET has also recently purchased 17 new 32-foot buses to replace the aging fleet using federal grants and other sources. Further, MET Transit also added Automatic Passenger Counters (APCs) and is currently in process of having the devices validated for use. Along with these changes, MET Transit has also created a shared position with the Aviation Division to internalize marketing, advertising management and outreach.

MET Transit's largest challenges include the need for additional funding, lack of transit specific/supportive infrastructure, difficulty with recruiting and maintaining an operator workforce, and lack of ridership demand as more people work from home.

Section 3: Objectives

This RFP is issued by City of Billings (City) for the purpose of obtaining competitive proposals from qualified consultant teams with expertise in developing five-year Transit Development Plans (TDP). It is the intent of the City to review and assess the RFP responses to determine which proposal best meets the needs of the City. Proposers are expected to provide their best and most competitive proposal.

Previous documents that address transit or may have an impact on transit have been developed by both the City and the MPO; as part of the TDP plan development, these studies and documents will need to be reviewed and assessed. These documents include, but are not limited to, the following:

- Long Range Transportation Plan
- City and County Growth Plans
- Unified Planning Work Program (UPWP)
- Billings Area Coordinated Human Services Transportation Plan
- MET Transit Public Transportation Agency Safety Plan (PTASP)
- MET Transit Asset Management Plan (TAM)
- MET Transit Public Participation Plan
- City of Billings Equipment Replacement Plan (ERP)
- City of Billings Technology Replacement Plan (TRP)
- City of Billings Complete Streets Progress Report (2020)

The key objectives of the Transit Development Plan are:

- Evaluate current MET Transit operations in regards to providing transit service to the area.
- Identify transit needs of the community.
- Identify opportunities to restructure service to expand frequency, hours, and areas.
- Identify the best and most efficient ways to increase ridership with the current resources.
- Make recommendations on increasing the sustainability and viability of the system.
- Assess current performance of MET Transit in regards to compliance with federal management standards and make recommendations on improving data keeping for compliance and informed decision making.
- Provide a five-year plan to implement recommendations and suggestions for improvements of transit service including annual goals for implementation.

All recommendations and plans must comply with all Federal, State, and Local regulations.

Attachment F, the Intent to Respond form, must be completed and emailed or faxed at least three (3) days prior to the advertised RFP due date.



Section 4: Scope of Work

Below is a general outline of the anticipated scope of work. However, the final scope of work will be negotiated with the successful proposer. This scope is not necessarily all-inclusive, and the Proposer may include additional tasks and integrate innovative approaches to successfully complete the project. At a minimum, the Consultant will be expected to establish detailed analyses, recommendations, and/or deliverables for the following tasks:

Task 1: Project Management and Coordination

The consultant will be required to manage the study and coordinate with other entities, as well as bear responsibility for all documentation and equipment needs. The consultant will identify a project lead from their team to act as a direct point of contact for MET's Transit Manager and other City of Billings staff.

The consultant should expect bi-weekly progress meetings with MET's Transit Manager as well as once monthly meetings with a Study Review Committee including Aviation and Transit Administrative staff. The consultant shall prepare an agenda for each monthly meeting. Bi-weekly and monthly meetings may occur via video conference.

Consultant will be required to prepare documentation of expenses and submit invoices monthly along with monthly progress reports. Progress reports shall include the following:

- Work performed during the report period
- Upcoming tasks
- Upcoming study milestones
- Status of overall plan schedule
- Any identified issues

All invoices and progress reports will be due by the second Tuesday of each month to ensure timely payment.

Task 2: Community Engagement

In compliance with the City of Billings MET Transit Public Participation Plan, the consultant will develop, implement and facilitate community engagement to gain input from community members from the study area. Efforts should focus on transit dependent populations, current ridership, low income communities, potential riders, and businesses/organizations. Broad community engagement and support is critical to the success of this plan.

The consultant shall report monthly to a Study Review Committee comprised of City staff, MPO representatives, and other area stakeholders. The consultant may make recommendations on committee membership.

The consultant should propose engagement methods they think would be most successful in the planning effort to solicit participation from the public, especially focusing on groups identified above. The consultant proposal should include the number, type, and strategy for each community engagement effort. The consultant is expected, at a minimum to:

- Provide an anticipated timeline for public outreach.
- Hold at least one public meeting for data gathering purposes and public feedback.
- Develop methods of consistent and effective communication to keep the public informed and engaged during the study, including use of social media and websites.
- Review and include information gathered from the MET Transit January 2020 Community Wide Transit Survey and conduct new surveys to gather updated data.
- Provide recommendations on key business and agency partnerships to develop and foster within the community.
- Reference innovative partnership and business engagement strategies that have proved effective in similar communities.



- Be available for meetings to present plan recommendations to the City Council and approving boards. Consultant will be responsible for developing and providing the presentations.

The consultant shall be required to submit in the proposal its approach on how it will reach out to the community during the process. The approach should address:

- How the consultant plans to hold public meetings and implement other outreach.
- Methods employed including types of engagement the consultant regularly uses to accomplish outreach tasks.
- The number of meetings anticipated.
- When meetings and outreach will occur.

Scheduling and development of each outreach task/event/meeting should occur well in advance of any proposed event in order to provide adequate time for staff review as well as notice to the public.

Public outreach and feedback should be utilized in support of plan recommendations.

Task 3: Data Collection and Analysis of Conditions

The consultant shall gather and analyze existing conditions related to transit service provided by MET Transit. Data gathered will include, but is not limited to:

- An assessment of current available resources including
 - Personnel
 - Fleet and fleet composition
 - Facilities
 - Other assets including technology implementations and bus stop infrastructure
 - Funding
- Existing measurements and plan integration including the Transit Asset Management Plan, goals identified in the Public Transit Agency Safety Plan, the Public Participation Plan, and the Billings Area Coordinated Human Services Transportation Plan
- Existing data gathering practices in support of required reporting, planning, and decision making
- Current and historic fare structures
- Current advertising concession program
- Current and historic ridership
- Current routes, timetables including route frequency, and hours of operation

Analysis of data shall include, but is not limited to:

- Recommendations on the current and future fare structures based on comparison data from similar sized communities/transit agencies.
- Suggestions on additional technology implementations if necessary.
- Suggestions for improving advertising concession program.
- Suggestions for improving public outreach and engagement.
- Potential alternative funding sources to help MET achieve sustainability.
- Identification of capital needs as related to current service.
- Identification of modified or additional staffing needs.
- Address data gathering practices and make recommendations to support internal program performance tracking to support data-driven decision making and reporting.

Task 4: Service Analysis and Scenario Development

Utilizing data gathered as well as public feedback and outreach results, consultant will develop scenarios with recommendations on restructure of transit service, expansion of transit service, and/or maintenance of existing service. MET Transit will provide the consultant access to MET's service with Remix Transit Planning software for the duration of the study. The consultant is expected, at a minimum to:

- Develop scenarios to achieve a mix of routes and services that can operate under both available and expanded resources; scenarios should focus on maximizing ridership and improving passenger experience. Scenarios should assess or include:



- Recommendations on multi-modal connectivity if applicable.
- Expansion or realignment of services in under or unserved areas of the city.
- Expansion or modification of service hours, including weekends and evenings.
- Expansion to a larger service area, including outside of the Billings city limits.
- Steps required for maintenance of existing service if no changes are implemented.
- Transit frequency and the time it takes to traverse the service area using transit.
- Passenger transfers between routes (one-seat ride vs transferring).
- On-time performance.
- Recommendations on moving to a designated stop system from the current flag stop system, including initial stop spacing and location.
- To support the above scenarios, the plan should also include:
 - Funding options to achieve goals on a cost neutral basis.
 - Cost analysis for each scenario or factor.
 - Identification of capital needs for each scenario
- Suggest transfer center and bus stop improvements, passenger amenity improvements, and other customer service items.

Task 5: Goals, Priorities, and Performance Measures

The consultant shall lead goal making exercises to set the stage for consideration and implementation of recommended system improvements over a five-year period. The exercise should include development of supportive policies if necessary, meeting identified transit needs, and filling or mitigating gaps in transit service. Data gathered, as well as community feedback, should be taken into consideration in development of goals.

The consultant should report on existing common performance measures and recommend ways for MET to develop, track, and report internal performance measures; this may include development of tools for utilization by MET staff. Upon completion of this task, MET Transit should have a cohesive mission, vision, and values statement with supporting goals.

Task 6: Final Plan and Summary

The consultant shall provide a draft of the Transit Development Plan to MET administration and the Study Review Committee at least one (1) month prior to the approval process in order to integrate comments and recommendations. This draft may be provided as an electronic PDF format or other common format, such as Microsoft Word. After draft review, the consultant will develop and compile the final Transit Development Plan to be presented for adoption by City Council and other approving bodies. The final plan shall include all elements listed above including appendices detailing any technical elements that cannot be integrated into the final plan; details of public engagement activities and efforts, including all comments received, shall be included.

The final plan shall also include a Plan Summary which communicates all plan aspects in an easy to read and understand format. The summary shall provide the information in a concise format with supporting graphics and highlight recommendations. Summaries relating to existing conditions, issues, community engagement, plan development, goals, and implementation recommendations shall be included.

Task 7: Deliverables

As previously mentioned, the consultant will provide an electronic copy of the draft plan for review. Upon final completion and approval, the consultant will be responsible for providing six (6) bound hard copies and an electronic PDF copy of the study to MET Transit. All meeting summaries, appendices, technical analyses, and supporting documents shall be included. All data and plan products, including shapefiles and other applicable GIS or electronic routing files, design files, surveys, and other files shall be provided to the City of Billings MET Transit at the completion of the study.



Section 5: Information for Proposer

Disclaimer

This RFP does not form or constitute a contractual document. The City shall not be liable for any loss, expense, damage or claim arising out of the advice given or not given or statements made or omitted to be made in connection with this RFP. The City also will not be responsible for any expenses which may be incurred in the preparation of this RFP. This RFP is not to be construed as a contract or commitment of any kind.

Instructions to Proposers

The purpose of the proposal is to demonstrate qualifications, competence, and capacity of the consultant seeking to provide the services specified in the RFP for the City of Billings MET Transit system. The proposal should demonstrate qualifications and experience of the firm to undertake this project, specify the approach and methodology that will be used to best meet the RFP requirements, and communicate the specific information regarding the staff that will be responsible for carrying out the project. If a subcontractor will be utilized for any portion of the project, the proposal should include specific information regarding the subcontractor as well as information regarding the capacity in which the subcontractor will be used.

Proposers should include lists of projects with similar size, scope, type, and complexity that the firm has successfully completed in the past as well as provide a list of client references for similar projects.

Examination of Documents

Before submitting the proposals, the proposer shall:

- (a) Carefully examine the Objectives and Scope of Work as well as all other attached documents;
- (b) Fully inform yourself of the existing conditions and limitations;
- (c) Include with the proposal sufficient information to cover all items required in the specifications.

Proposal Modifications

In addition to any other information and documentation requested in this RFP, any forms provided herein shall be included in the submitted proposal. Modifications, additions or changes to the terms and conditions of this request for proposals may be cause for rejection of the proposal. Proposals submitted without required forms may be rejected.

Signature

All proposals shall be typewritten or prepared in ink and must be signed in longhand by the proposer or proposer's agent or designee, with his/her usual signature. A proposal submitted by a partnership must be signed with the partnership name to be followed by the signature and designation of the partner signing. Proposals by corporations must be signed with the legal name of the corporation, followed by the name and signature of an authorized agent or officer of the corporation. Proposals submitted by a proprietorship must be signed by the owner and the name of each person signing shall be typed or printed legibly below the signature.

Withdrawal of Proposals

Proposers may withdraw their proposal by written request at any time prior to the due date set for receiving proposals.

Prices Honored

The proposer must honor their quote for a period of ninety (90) days after the RFP due date.



Certification

The proposer certifies that the proposal has been arrived at independently and has been submitted without any collusion designed to limit competition. The proposer further certifies that the materials, products, services and/or goods offered herein meet all requirements of the stated specifications and are equal in quality, value and performance with highest quality, nationally advertised brand and/or trade names.

Insurance Requirements

The proposer certifies that it/they can comply with the City insurance requirements of :

1. Workers' compensation and employer's liability coverage as required by Montana law.
2. Commercial general liability, including contractual and personal injury coverage's -- \$750,000 per claim and \$1,500,000 per occurrence.
3. Automobile liability -- \$1,500,000 per accident.
4. Professional liability in the amount of \$1,500,000 per claim.

Each policy of insurance required by this Section shall provide for no less than 30 days' advance written notice to the City prior to cancellation.

The City shall be listed as an additional insured on all policies except Professional Liability and Worker's Compensation Policies.

In addition, all policies except Professional Liability and Worker's Compensation shall contain a waiver of subrogation against the City.

Proposer shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Proposer shall maintain workers' compensation insurance coverage for all members and employees of Proposer's business, except for those members who are exempted as independent contractors under the provisions of §39-71-401, MCA.

The successful proposer will be required to purchase a City business license and complete the new vendor forms in order to be eligible for payment.

Prohibited Activities and Spoofing

Licensor and its officers, employees, agents, subcontractors, and affiliated users, shall not violate or attempt to violate the security of the City or State of Montana's network or interfere or attempt to interfere with the systems, networks, authentication measures, servers or equipment, or with the use of or access to the network by any other user. Such prohibited activity includes (i) accessing or logging into a server where access is not authorized; (ii) unauthorized probing, scanning, or testing the security or vulnerability of the City or State's network or other systems; and (iii) attempting to portray itself as the City or State or an affiliate of the City or State or otherwise attempting to gain access, without authorization, via the network or systems to any account or information technology resource not belonging to Proposer or its officers, employees, agents, subcontractors, and affiliated users. Proposer shall not perform unauthorized spoofing or scanning of any kind, including user account identity. Systems shall not spoof the billings.mt.gov or mt.gov domains or engage in Email Spoofing. Email spoofing is the creation of email messages with a forged sender address. For example, Email spoofing includes creating or sending emails using the City or State's domain.



Disposition of Proposals

All materials submitted in response to this RFP become public records under Article II, Section 9 of the Montana Constitution and §§ 2-6-102 and 7-1-4144, MCA and may be distributed by written request pursuant to Montana's Constitutional Right to Know or Public Records Acts.

Information provided in response to this RFP will be held in confidence and will not be revealed or discussed with competitors prior to award of Contract by Council. However, one copy of each proposal submitted shall be retained for the official files of the Department and will become public record after award of the Contract. Fee or Price schedules submitted, but not reviewed by the City, do not become a public record and shall only be retained for official files.

Records and materials that are constitutionally protected from disclosure are not subject to the provisions of this section.

The Proposer understands that, if selected, the City reserves the right to provide its opinion publicly and privately regarding the Proposer's performance.

Questions

Questions regarding the Request for Proposals contents must be sent to the contact person listed in Section 1 no later than **5 business days** prior to due date for proposals. The City will make every effort to provide a written response within **2 business days**. Whenever responses to inquiries would constitute a modification or addition to the original RFP, the reply will be made in the form of an addendum to the Request for Proposals, a copy of which will be posted on the City's website and forwarded to all Proposers who have submitted an "Intent to Respond" form (Attachment F).

Proposer must submit their questions via email using the "Master Q & A" form found in **Attachment E**, and provide, at a minimum, the following:

- Proposer's name, requester, and appropriate contact information.
- The question, clearly stated.
- Specific reference to the applicable Request for Proposals section(s).

RFP Response Submission

Upon the submission of the RFP response, the Proposer acknowledges that all information is accurate and complete.

All proposals must be mailed (5 hard copies) and emailed (electronic version) to the contact person listed in Section 1.

RFP Process Proposed Timeline	Dates
Advertise for Proposals:	09/24/2021
Preliminary Council memo due:	09/29/2021
Proposals must be <u>received</u> by 5:00PM:	10/15/2021
Evaluate and choose:	10/20/2021
Finalized Council memo and contract due:	11/03/2021
Council meeting:	11/08/2021

Evaluation and Council related dates are subject to change.



Section 6: RFP Evaluation and Selection Processes

Initial Evaluation

Proposals received will undergo an initial review to determine:

- Compliance with instructions stated in the RFP
- Compliance with proposal submittal date

Phase II Evaluation

The evaluation of supplier's proposals will include scoring on a scale of 0-100, as well as dollars per point, as follows:

- **35 POINTS MAX**
The consultant's and firm's experience with similar projects, including the consultant's ability, familiarity, and involvement in handling similar types of activities. This will include the consultant's record of past performance on similar projects, including quality of work, ability to meet deadlines, and ability to control costs.
- **20 POINTS MAX**
Specific qualifications of the project manager and key staff's experience related to the development of similar plans as well as availability of staff to dedicate time to the project.
- **45 POINTS MAX**
The consultant's understanding of project, the proposed project approach and methodology, project work plan, and project management techniques. This will include consideration of the consultant's current workload, availability of resources to meet the proposed plan requirements, and the proposed timeline for completion of the project.
- Once proposals are scored based upon the technical criteria, proposal cost per point will be established by utilizing the proposal's price divided by the proposal's overall score. This will provide a price per point to be evaluated by the City of Billings.

It is the intent of the City of Billings to award the contract to the proposal determined to have the best value when considering overall scoring on the technical criteria in conjunction with the proposal's cost per point. Proposals will be compared for overall value offered and will not be based solely on the lowest price or price per point; award will be determined based upon the value offered by the merits of each proposal.

The City reserves the right to conduct interviews with all or some of the Proposers at any point during the evaluation process. However, the City may determine that interviews are not necessary. In the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating firms using the above-stated criteria.

The City also reserves the right to make such additional investigation, as it deems necessary to establish the competence and financial stability of any firm submitting a proposal.

The City of Billings reserves the right to reject any and all submitted proposals.



ATTACHMENT A

SAMPLE CONSULTANT AGREEMENT

THIS AGREEMENT is made and entered into _____ by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as "**CITY**," and _____, of _____, hereinafter referred to as "**CONSULTANT**."

WITNESSETH:

WHEREAS, the **CITY** proposes to _____ and desires to hire **CONSULTANT** as an independent contractor to perform the services as described in the Scope of Work attached hereto as Exhibit "A" and by this reference made a part hereof.

WHEREAS, the **CITY** has authority to contract for such services, and;

WHEREAS, the **CONSULTANT** represents that he/she is fully qualified to perform such services personally and is in compliance with the Montana Statutes relating to the provisions of such services.

NOW THEREFORE, 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: **CITY** agrees to hire **CONSULTANT** as an independent contractor to perform the services as described in the Scope of Work attached hereto as Exhibit "A" and by this reference made a part hereof. In performing these services, the **CONSULTANT** shall at all times comply with all federal, state and local statutes, rules and ordinances applicable. These services and all duties incidental or necessary therefore, shall be performed diligently and completely and in accordance with professional standards of conduct and performance.

2. TERM: This **AGREEMENT** shall be for a period of _____ years, from the execution of this **AGREEMENT**. This **AGREEMENT** may be extended for _____ one year options by mutual agreement of both parties, in writing, thirty (30) days prior to termination of each term.

3. PAYMENT: In consideration of the services provided by the **CONSULTANT** under this **AGREEMENT**, the **CITY** agrees to pay **CONSULTANT** a price not to exceed \$_____.



Except as otherwise specified herein, the **CONSULTANT** shall invoice the **CITY** monthly (or on such other basis as the Parties may mutually determine) for all services rendered pursuant to this **AGREEMENT**. Such invoices shall specify the services provided to the **CITY** during the preceding month and identify the applicable fees, and shall be accompanied by reasonable documentation or other reasonable explanations supporting such charges.

Except as otherwise specified herein, the **CITY** shall pay, net of applicable withholding tax, if any, the **CONSULTANT** for said invoice within thirty (30) days after receipt.

In the event scope of work issues arise, the **CONSULTANT** shall immediately discuss them with the Project Manager for the **CITY**. It is understood that the **CONSULTANT** will not perform any work that the **CITY** deems outside the scope prior to receiving written approval from the **CITY**, and at a rate agreed upon by both parties. Any payment for work not agreed upon by the **CITY** shall be denied.

The prices established in this **AGREEMENT** may be extended to other political subdivisions within the State of Montana solely at the **CONSULTANT'S** discretion.

4. INDEPENDENT CONTRACTOR STATUS: The parties agree that **CONSULTANT** is an independent contractor for purposes of this **AGREEMENT** and is not to be considered an employee of the **CITY** for any purpose. **CONSULTANT** is not subject to the terms and provisions of the **CITY's** personnel policies handbook and may not be considered a **CITY** employee for workers' compensation or any other purpose. **CONSULTANT** is not authorized to represent the **CITY** or otherwise bind the **CITY** in any dealings between **CONSULTANT** and any third parties.

5. INDEMNITY:

The **CONSULTANT** SHALL:

- A. Indemnify, defend and save **CITY**, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of **CONSULTANT** or its agents or employees.
- B. Not indemnify, defend, save and hold the **CITY** harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of the **CITY** occurring during the course of or as a result of the performance of the **AGREEMENT**.
- C. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both the **CITY** and the **CONSULTANT**, the **CONSULTANT** shall indemnify, defend, save, and hold the **CITY**



harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the **CONSULTANT'S** or any subcontractor's wrongful or negligent acts occurring as a result from the **CONSULTANT'S** performance pursuant to this **AGREEMENT**.

The **CITY** SHALL:

- D. Indemnify, defend and save **CONSULTANT**, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of **CITY** or its agents or employees.
- E. Not indemnify, defend, save and hold the **CONSULTANT** harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of the **CONSULTANT** occurring during the course of or as a result of the performance of the **AGREEMENT**.
- F. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both the **CONSULTANT** and the **CITY**, the **CITY** shall indemnify, defend, save, and hold the **CONSULTANT** harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the **CITY'S** or any subcontractor's wrongful or negligent acts occurring as a result from the **CITY'S** performance pursuant to this **AGREEMENT**.

6. **INSURANCE:**

- G. The **CONSULTANT** shall maintain in good standing the insurance described in this Section. Before rendering any services under this **AGREEMENT**, the **CONSULTANT** shall furnish the **CITY** with proof of insurance in accordance with this Section.

The **CONSULTANT** shall provide the following insurance:

1. Workers' compensation and employer's liability coverage as required by Montana law.
2. Commercial general liability, including contractual and personal injury coverage's -- \$750,000 per claim and \$1,500,000 per occurrence.
3. Automobile liability -- \$1,500,000 per accident.
4. Professional liability in the amount of \$1,500,000 per claim.



Each policy of insurance required by this Section shall provide for no less than 30 days' advance written notice to the **CITY** prior to cancellation.

The **CITY** shall be listed as an additional insured on all policies except Professional Liability and Worker's Compensation Policies.

CONSULTANT shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA.

CONSULTANT shall maintain workers' compensation insurance coverage for all members and employees of **CONSULTANT's** business, except for those members who are exempted as independent contractors under the provisions of §39-71-401, MCA.

CONSULTANT shall furnish **CITY** with copies showing one of the following: **(1)** proof of registration as a registered contractor under Title 39, Chapter 9, MCA; **(2)** a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or **(3)** proof of exemption from workers' compensation granted by law for independent contractors.

Specific Insurance Requirements for Cyber/Data Information Security:

CONSULTANT shall purchase and maintain cyber/information security insurance coverage with combined single limits for each wrongful act of \$2,000,000 per occurrence to cover the unauthorized acquisition of personal information such as social security numbers, credit card numbers, financial account information, or other information that uniquely identifies an individual and may be of a sensitive nature in accordance with §2-6-1501, MCA through §2-6-1503, MCA.

If **CONSULTANT** maintains higher limits than the minimums shown above, the **CITY** requires and shall be entitled to coverage for the higher limits maintained by the **CONSULTANT**. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the **CITY**.

Such insurance must cover, at a minimum, privacy notification costs, credit monitoring, forensics investigations, legal fees/costs, regulatory fines and penalties, and third party liability settlements or judgements as may be caused by any act, omission, or negligence of the **CONSULTANT'S** officers, agents, representatives, assigns or subcontractors.

Note: If occurrence coverage is unavailable or cost-prohibitive, the **CITY** will accept 'claims made' coverage providing the following conditions are met:



1. The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work;
2. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work; and,
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of three (3) years after completion of work.

7. AGREEMENTS OF CONSULTANT: As an inducement to the execution of this **AGREEMENT** by the **CITY** and in consideration of the agreements to be performed by the **CITY**, the **CONSULTANT** agrees that:

A. Qualifications

The **CONSULTANT** is qualified to perform the services to be furnished under this **AGREEMENT** and is permitted by law to perform such services, and all personnel engaged in the work shall be qualified and so permitted to do the work they perform.

B. Solicitation of Agreement

The **CONSULTANT** has not employed any person to solicit this **AGREEMENT** and has not made, and will not make, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, or other compensation in connection with the procurement of this **AGREEMENT**.

C. Facilities and Personnel

The **CONSULTANT** has and will continue to have proper facilities and personnel to perform the services and work agreed to be performed.

D. Subcontracting

None of the work or services covered by this **AGREEMENT** shall be subcontracted without the prior approval of the **CITY**.

E. Affidavits of Compliance

The **CONSULTANT** will, if requested by the **CITY**, furnish the **CITY** affidavits certifying compliance with the provisions of this Section.

8. AGREEMENTS OF CITY:



- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the **CITY'S** portion of the project as designated in the scope of work.
- B. Name a Project Manager who shall be the liaison between the **CONSULTANT** and the **CITY**. For this project, the Project Manager for **CONSULTANT** designated is _____ and the Project Manager for the **CITY** designated is _____.

9. NONDISCRIMINATION:

- A. **CONSULTANT** shall, in performance of work under this Agreement, 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. **CONSULTANT** is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Any subletting or subcontracting by **CONSULTANT** subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016. **CONSULTANT** agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and 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 Agreement.
- B. The **CONSULTANT** shall state, in all solicitations or advertisements for employees to work on jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical impairment/disability.

The **CONSULTANT** and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which prohibit discrimination against qualified protected veterans and/or qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

The **CONSULTANT** and any **SUBCONSULTANT** shall abide by the requirements of 41 CFR 60-1.4, which states employees or applicants



may not be discharged or in any other manner discriminated against because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the **CONSULTANT'S** legal duty to furnish information.

- C. The **CONSULTANT** shall comply with any and all reporting requirements that may apply to it that the **CITY** may establish by regulation.
- D. The **CONSULTANT** shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.
- E. The **CONSULTANT** shall include the provisions of Subsections A through D of this Section in every subcontract or purchase order under this **AGREEMENT**, so as to be binding upon every such subcontractor or vendor of the **CONSULTANT** under this **AGREEMENT**.
- F. The **CONSULTANT** agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

10. PERMITS, LAWS, AND TAXES: The **CONSULTANT** shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this **AGREEMENT**. All actions taken by the **CONSULTANT** under this **AGREEMENT** shall comply with all applicable statutes, ordinances, rules and regulations. The **CONSULTANT** shall pay all taxes pertaining to its performance under this **AGREEMENT**.

11. NONWAIVER: The failure of either party at any time to enforce a provision of this **AGREEMENT** shall in no way constitute a waiver of the provision, nor in any way affect the validity of this **AGREEMENT** or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

12. CONFLICT OF INTEREST: **CONSULTANT** shall exercise reasonable care and diligence to prevent any actions or conditions which could result in a conflict with **CITY'S** interest. During the term of this Agreement, **CONSULTANT** shall not accept any employment or engage in any consulting work which creates a conflict of interest with **CITY** or in any way compromises the services to be performed under this Agreement. **CONSULTANT**



shall immediately notify **CITY** of any and all violations of this Section upon becoming aware of such violation.

13. **SUCCESSORS AND ASSIGNS:** This **AGREEMENT** and all of the covenants hereof shall inure to the benefit of and be binding upon the **CITY** and the **CONSULTANT** respectively and his partners, successors, assigns, and legal representatives. Neither the **CITY** nor the **CONSULTANT** shall have the right to assign, transfer, or sublet his interest or obligations hereunder without written consent of the other party.
14. **CHANGES IN WORK:** Any change in the scope of **CONSULTANT'S** services as stated in this **AGREEMENT** for whatever reason, will be negotiated between the **CITY** and the **CONSULTANT** and an amendment to this **AGREEMENT** will be issued with the appropriate change of services and **AGREEMENT** fee noted.
15. **LEGAL RELATIONS:** The **CONSULTANT** shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done.
16. **TERMINATION OF AGREEMENT:** The right is reserved by the **CITY** to terminate this **AGREEMENT** at any time upon not less than thirty (30) days written notice to the **CONSULTANT**.

In the event the **CITY** terminates this **AGREEMENT**, the **CONSULTANT** shall be paid for the amount of work performed or services rendered to date of termination per the **AGREEMENT** fee.

17. **ENDORSEMENTS:** The **CONSULTANT** shall furnish signatures, statements, or other suitable means to signify responsible endorsement of work on all reports furnished by him.
18. **SYSTEM SECURITY:** The **CONSULTANT** shall ensure systems delivered under this Agreement are adequately secure. For purposes of this Agreement, adequate security is defined to require compliance with federal and State of Montana security requirements and to ensure freedom from those conditions that may impair the **CITY** or State's use of its data and information technology or permit unauthorized access to the **CITY** or State's data or information technology.

The **CITY** and State have established control standards and policies that align with the NIST Cybersecurity Framework. The latest revision of NIST SP 800-53 is used for control adherence evaluation established after developing a security categorization utilizing FIPS PUB 199. Thus, **CONSULTANT** shall provide reasonable proof, through independent audit reports, security scans of operating systems, code or the technology environment provided; that the system specified



under this Agreement meets or exceeds federal and State of Montana security requirements to ensure adequate security and privacy, confidentiality, integrity, and availability of the **CITY** or State's data and information technology. Annual assurance statements shall be delivered to the Contract Liaison. Annual assurance statements must contain a detailed accounting of the security controls provided and must be in the form of a NIST Security Assessment Report or FedRAMP Security Assessment Report.

Prohibited Activities and Spoofing. **CONSULTANT**, Licensor and its officers, employees, agents, subcontractors, and affiliated users, shall not violate or attempt to violate the security of the **CITY** or State's network or interfere or attempt to interfere with the **CITY** or State's systems, networks, authentication measures, servers or equipment, or with the use of or access to the **CITY** or State's network by any other user. Such prohibited activity includes (i) accessing or logging into a server where access is not authorized; (ii) unauthorized probing, scanning, or testing the security or vulnerability of the **CITY** or State's network or other systems; and (iii) attempting to portray itself as the **CITY** or State, or an affiliate of the **CITY** or State, or otherwise attempting to gain access, without authorization, via the **CITY** or State's network or systems to any account or information technology resource not belonging to **CONSULTANT**, Licensor or its officers, employees, agents, subcontractors, and affiliated users ("Spoofing"). **CONSULTANT** or Licensor shall not perform unauthorized Spoofing or scanning of any kind, including user account identity. Systems shall not Spoof the billings.mt.gov or mt.gov domains or engage in Email Spoofing. Email Spoofing is the creation of email messages with a forged sender address. For example, Email Spoofing includes creating or sending emails using the **CITY** or State's domain.

19. **OWNERSHIP OF DOCUMENTS:** All information relating to the project and prepared under the terms of this **AGREEMENT**, including reports, data, recommendations, exhibits, analyses, and plans shall be deemed the property of the **CITY**. Reproducibles of all notes, reports, and plans shall be made available at the **CITY'S** request.
20. **PUBLIC INFORMATION:** The **CONSULTANT** shall not issue any statements, releases, or information for public dissemination without prior written approval of the **CITY**. All materials related to this **AGREEMENT** and services provided are considered public records under Article II, Section 9 of the Montana Constitution and §§ 2-6-102 and 7-1-4144, MCA and may be distributed by written request pursuant to Montana's Constitutional Right to Know or Public Records Acts.
21. **PROPRIETARY RIGHTS:** If patentable discoveries or inventions should result from work required herein, all rights accruing from such discoveries or inventions shall be the property of the **CITY**.



22. **RECORDS:** The **CONSULTANT** shall maintain accounting records and other evidence pertaining to the cost incurred and to make the records available at all times during the **AGREEMENT** term and for three (3) years from the date of final payment. Such accounting records and other evidence pertaining to the cost incurred will be made available for inspections authorized by the **CITY** and copies thereof shall be furnished if requested.
23. **ATTORNEY'S FEES AND COSTS:** That in the event it becomes necessary for either Party to this **AGREEMENT** to retain an attorney to enforce any of the terms or conditions of the **AGREEMENT** or to give any notice required herein, then the prevailing Party or the Party giving notice shall be entitled to reasonable attorney's fees and costs.
24. **LITIGATION LOCATION:** The parties agree that this **AGREEMENT** shall be governed in all respects by the laws of the state of Montana, and the parties expressly agree that venue shall be in the Montana Thirteenth Judicial District County for Yellowstone County and there shall be no other venue for resolution of disputes arising from the **AGREEMENT** or the performance of its terms.
25. **MODIFICATION AND AMENDMENTS:** That any amendment or modification of this **AGREEMENT** or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this **AGREEMENT**.

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

CITY OF BILLINGS, MONTANA _____

(PRINT BUSINESS NAME ABOVE)

**CHRIS A. KUKULSKI,
CITY ADMINISTRATOR**

(Or WILLIAM A. COLE, MAYOR – if going to Council)

SIGNATURE

PRINT NAME

APPROVED AS TO FORM:

PRINT TITLE



CITY ATTORNEY'S OFFICE

ATTEST:

DENISE BOHLMAN, CITY CLERK



ATTACHMENT B

FTA REQUIRED CLAUSES

For clarification purposes, Contract and Agreement throughout these clauses shall mean the same thing.

It is a requirement of the Federal Government that activities financed, in part, with Federal funds and performed by a third party contractor and its subcontractors on behalf of a Federal grantee must be carried out in accordance with Federal requirements. Activities performed resulting from the original Contract to this and any other prior or subsequent Contract amendments thereto are financed, in part, by a grant from the United States Department of Transportation (U.S. DOT), Federal Transit Administration (FTA), and are therefore subject to the applicable grant terms, conditions, and regulations. Accordingly, any **CONTRACTOR** and its subcontractors performing activities under this Contract must adhere to the Federal regulations stated herein as a condition of satisfactory performance. All subcontracts and subcontractors employed as a result of this Contract are subject to the same conditions and regulations as set forth herein unless specifically exempted. The prime **CONTRACTOR** shall ensure that its subcontractors at all tiers are made aware of and comply with these Federal regulations. The prime **CONTRACTOR** will be held liable for compliance failures by its subcontractors. Failure to comply will render the prime **CONTRACTOR** responsible for damages and/or Contract termination.

INCORPORATION OF FTA TERMS

General Contract provisions include, in part, certain standard terms and conditions required by U.S. DOT, whether or not expressly set forth in the Contract provisions. All contractual provisions required by U.S. DOT, as set forth in FTA Circular 4220.1F, as amended, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The **CONTRACTOR** shall not perform any act, fail to perform any act, or refuse to comply with any City of Billings, Aviation and Transit Department, MET Transit Division (hereinafter referred to as **MET**) requests that would cause **MET** to be in violation of the FTA terms and conditions.

ACCESS TO RECORDS AND REPORTS **(For Contracts of \$100,000 or Greater Only)**

1. Record Retention. The **CONTRACTOR** will retain and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
2. Retention Period. The **CONTRACTOR** agrees to comply with the record retention requirements in accordance with 2 CFR § 200.333. The **CONTRACTOR** shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
3. Access to Records. The **CONTRACTOR** agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.



4. Access to the Sites of Performance. The **CONTRACTOR** agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

LOBBYING RESTRICTIONS
(For Contracts of \$100,000 or Greater Only)

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Contractor's Authorized Official: _____

Name of Contractor's Authorized Official: _____

Title of Contractor's Authorized Official: _____

Date: _____



ENERGY CONSERVATION

The **CONTRACTOR** agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act.

RECORDS RETENTION/AUDIT AND INSPECTION OF RECORDS

1. The **CONTRACTOR** shall permit the authorized representatives of **MET**, the U.S. DOT, and the Comptroller General of the U.S., or any of their duly authorized representatives, access to any books, documents, papers and records of the **CONTRACTOR**, which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions of the **CONTRACTOR** relating to its performance under the Contract until the expiration of three years after final payment under this Contract.
2. The **CONTRACTOR** further agrees to include in all subcontracts hereunder a provision to the effect that the subcontractor agrees that **MET**, the U.S. DOT, and the Comptroller General of the U.S., or any of their duly authorized representatives shall, until the expiration of three years after final payment under the subcontract, have access to and the right to examine any books, documents, papers, and records of the subcontractor directly pertinent to this Contract.
3. The periods of access and examination described above, for records that relate to:
 - a) Appeals under the dispute clause of this Contract.
 - b) Litigation or the settlement of claims arising out of the performance of this Contract.
 - c) Costs and expenses of this Contract to which an exception has been taken by the Comptroller General of the U.S. or any of his duly authorized representatives.

Shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

FEDERAL CHANGES

CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures, and directives, including, without limitation, those listed directly or by reference in the Agreement (Form FTA MA (2) dated October 1995) between **MET** and FTA, as they may be amended or promulgated from time to time during the term of this Contract. **CONTRACTOR'S** failure to so comply shall constitute a material breach of this Contract.

RECYCLED PRODUCTS

The **CONTRACTOR** agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S. C. 6962), including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

The **MET** and **CONTRACTOR** acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the **MET**, **CONTRACTOR**, or any other party (whether or not a party to the Contract) pertaining to any matter resulting from the underlying Contract. The **CONTRACTOR** agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.



PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The **CONTRACTOR** acknowledges and agrees as follows:

1. The **CONTRACTOR** acknowledges that the requirements of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to the Project. Accordingly, by signing the underlying Contract, the **CONTRACTOR** certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or it may make pertaining to the underlying Contract or the FTA assisted project for which this Contract work is being performed. In addition to other penalties that may be applicable, the **CONTRACTOR** also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the **CONTRACTOR** to the extent the Federal Government deems appropriate.
2. The **CONTRACTOR** also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government in connection with an urbanized area formula project financed with Federal assistance authorized by 49 U.S.C. § 5307, the Government reserves the right to impose on the **CONTRACTOR** the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1), to the extent the Federal Government deems appropriate.

DAVIS-BACON ACT

All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor.

PREVAILING WAGE AND ANTI-KICKBACK

For all prime construction, alteration, or repair contracts in excess of \$2,000 awarded by FTA, the **CONTRACTOR** shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The **CONTRACTOR** will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, the **CONTRACTOR** shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the **CONTRACTOR** agrees to pay wages not less than once a week. The **CONTRACTOR** shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, "contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." The **CONTRACTOR** is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.



CERTIFICATION OF CONTRACTOR REGARDING DEBARMENT, SUSPENSION, OTHER INELIGIBILITY, AND VOLUNTARY EXCLUSION

Title 49 CFR Part 29 and Executive Order 12549 establish regulations pertaining to DOT and other Federal contractors at any tier, and procedures applicable to their debarment, suspension, ineligibility, or exclusion from participation in any DOT or other Federal contracts. **CONTRACTORS** are required to review the above regulations and to complete and submit a Certification Regarding Debarment, Suspension, Other Ineligibility and Voluntary Exclusion (Section 1.4.15), or furnish an explanation as to why the Certification cannot be provided. The **CONTRACTOR** agrees by submitting the Bid/Proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by **MET**. The **CONTRACTOR** further agrees by submitting this Bid/Proposal that it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transaction", in all lower tier covered transactions over \$25,000 and in all solicitations for lower tier contracts.

DEBARMENT CERTIFICATION

The **CONTRACTOR**, _____, certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
2. Have not, within a three-year period preceding this Bid/Proposal, been convicted of or had a civil judgment rendered against them for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public function (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in Paragraph 2. of this certification.
4. Have not, within a three-year period preceding this Bid/Proposal, had one or more public transactions (Federal, State, or local) terminated for cause or default.

Where the **CONTRACTOR** is unable to certify to any of the statements in this certification, such **CONTRACTOR** shall attach an explanation to this Bid/Proposal.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE ABOVE FIRM, TO MAKE THIS AFFIDAVIT.

CONTRACTOR

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PRIVACY ACT

The following requirements apply to the **CONTRACTOR** and its employees that administer any system of records on behalf of the Federal Government under any contract:

1. The **CONTRACTOR** agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C.552a. Among other things, the **CONTRACTOR** agrees to obtain the express consent of the Federal Government before the **CONTRACTOR** or its employees operate a system of records on behalf of the Federal Government. The **CONTRACTOR** understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Contract.
2. The **CONTRACTOR** also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

(A) **Goal** MET Transit sets an overall DBE goal every three years.

While the expected percentage of DBE participation may vary from contract to contract due to availability of DBE's, MET believes the overall goals to be realistically obtainable over the year. The amount of DBE participation will be determined by the dollar value of the work subcontracted to DBE's, as compared to the total value of all work performed under this contract and/or by the percentage of the net profit that the parties agree will be shared by DBE's where a joint venture is entered into for the completion of the project.

(B) **Instructions to Bidders and Contractors** It is the policy of MET that equal opportunity to participate in its procurement will be provided to DBEs. To accomplish this objective, MET requires, as applicable, all bidders and Contractors to complete and return with the Proposal submittals, all DBE Forms (included in the Exhibit Section of these Solicitation Documents), which obligates the **CONTRACTOR** to assert a good faith effort to attain the specified goal for DBE participation. A bidder/contractor may satisfy the requirements of DBE Form A by having DBE status, by subcontracting portions of the work to DBEs, and/or by entering into a joint venture with DBEs.

(C) **Requirements, Terms and Conditions**

A DBE is defined as a small business concern that is owned and controlled by socially and economically disadvantaged individuals. These socially and economically disadvantaged individuals must own 51 percent of the business, and they must control the management of the business. Socially and economically disadvantaged individuals include Women, Black Americans, Hispanic Americans, Asian-Pacific Americans, Asian-Indian Americans, or any other minorities or individuals found to be disadvantaged by the Small Business Administration (SBA), pursuant to Section 8(a) of the Small Business Act.

To be accepted as a qualified DBE, a contractor must be certified as a DBE by MDOT before the time of proposal submittal. MDOT's DBE certification application forms are available, for contractors interested in securing MDOT DBE certification prior to proposal opening, online at www.mdt.mt.gov/business/contracting/civil/dbe.shtml.



NOTICE OF FEDERAL REQUIREMENTS

New Federal laws, regulations, policies, and administrative practices may be established after the date of this Contract, which may apply to this Contract. If Federal requirements change, the changed requirements will apply to the Contract or the performance of work under the Contract as required. All standards or limits set forth in this Contract to be observed in the performance of the work are minimum requirements.

FLY AMERICA REQUIREMENTS

1. Definitions. As used in this clause:
 - a) "International air transportation" means transportation by air between a place in the U.S. and a place outside the U.S., or between two places both of which are outside the U.S.
 - b) "U.S." means the 50 States, the District of Columbia, and outlying areas.
 - c) "U.S. flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.
2. When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, recipients, and others use U.S. flag air carriers for U.S. Government financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the U.S., in the absence of satisfactory proof of the necessity for foreign flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the U.S., for international air transportation secured aboard a foreign flag air carrier if a U.S. flag air carrier is available to provide such services.
3. If available, the Contractor, in performing work under this contract, shall use U.S. flag carriers for international air transportation of personnel (and their personal effects) or property.
4. In the event that the Contractor selects a carrier other than a U.S. flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S. Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S. flag air carrier was not available or it was necessary to use foreign flag air carrier service for the following reasons. See FAR § 47.403. (State reasons):

(End of statement)

5. The Contractor shall include the substance of this clause, including this paragraph (5), in each subcontract or purchase under this contract that may involve international air transportation.

(End of Clause)



TERMINATION

The Recipient acknowledges and agrees as follows:

(A) Termination for Convenience: MET may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in MET's best interest. The Contractor shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to MET to be paid the Contractor. If the Contractor has any property in its possession belonging to MET, the Contractor or will account for the same, and dispose of it in the manner MET directs.

(B) Termination for Default (Breach or Cause): If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, MET may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by MET that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, MET, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience

(C) Opportunity to Cure: MET In its sole discretion may, in the case of a termination for breach or default, allow the Contractor (an appropriately short period of time) in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to MET's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from MET setting forth the nature of said breach or default, MET shall have the right to terminate the Contract without further obligations to Contractor. Any such termination for default shall not in any way operate to preclude MET from also pursuing all available remedies against Contractor and its sureties for said breach or default.

(D) Waiver of Remedies for any Breach: In the event that MET elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by MET shall not limit MET's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

CIVIL RIGHTS

The following requirements apply to the underlying contract:

(A) Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. 12132, and Federal transit law at 49 U.S.C. 5332, the **CONTRACTOR** agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age or disability. In addition, the **CONTRACTOR** agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(B) Equal Employment Opportunity. The following equal employment opportunity requirements apply to the underlying contract:



(1) Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. 2000e, and Federal transit laws at 49 U.S.C. 5332, the **CONTRACTOR** agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor", 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, Equal Employment Opportunity", as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity", 42 U.S.C. 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the project. The **CONTRACTOR** agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the **CONTRACTOR** agrees to comply with any implementing requirements FTA may issue.

(2) Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 623 and Federal transit law at 49 U.S.C. 5332, the **CONTRACTOR** agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the **CONTRACTOR** agrees to comply with any implementing requirements FTA may issue.

(3) Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. 12112, the **CONTRACTOR** agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act", 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the **CONTRACTOR** agrees to comply with any implementing requirements FTA may issue.

The **CONTRACTOR** also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

ACCESS REQUIREMENTS FOR PERSONS WITH DISABILITIES ADA

The **CONTRACTOR** agrees to comply with the requirements of 49 U.S.C. 5301(d) which expresses the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement those policies. The **CONTRACTOR** also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. 12101 et seq., which Federal regulations, including any amendments thereto:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)", 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance", 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board/ U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles", 36 C.F.R. Part 1192 and 49 C.F.R. part 38;



- (4) U.S. DOT requires the provision of accessible facilities and services, and with the following regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services", 28 C.F.R. Part 35;
- (5) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities", 28 C.F.R. Part 36;
- (6) U.S. GSA regulations, "Accommodations for Physically Handicapped", 41 C.F.R. subpart 101-19;
- (7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
- (9) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and
- (10) Any implementing requirements FTA may issue.

PATENT RIGHTS AND RIGHTS IN DATA: INTELLECTUAL PROPERTY RIGHTS

This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The **CONTRACTOR** shall grant the AGENCY intellectual property access and licenses deemed necessary for the work performed under this Agreement and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Agreement and shall, at a minimum, include the following restrictions: Except for its own internal use, the **CONTRACTOR** may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the **CONTRACTOR** authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this agreement, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes," any subject data or copyright described below. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party. a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and A-52 b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.
2. Unless FTA determines otherwise, the **CONTRACTOR** performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.



3. Unless prohibited by state law, upon request by the Federal Government, the **CONTRACTOR** agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the **CONTRACTOR** of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The **CONTRACTOR** shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
4. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
5. Data developed by the **CONTRACTOR** and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the **CONTRACTOR** identifies those data in writing at the time of delivery of the Contract work.
6. The **CONTRACTOR** agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.



ATTACHMENT C

DISADVANTAGED BUSINESS ENTERPRISE CERTIFICATIONS AND FORMS

DBE Form A

DBE STATUS

The Contractor hereby certifies that: _____
(Firm Name)

1. **Is – is not** (check one) a Disadvantaged Business Enterprise (DBE).

Note to Contractor: If the Contractor is a DBE, then the Contractor must provide proof of DBE certification by Montana Department of Transportation (MDT) with proposal submittal.

2. **Is – is not** (check one) a participant of a joint venture in this Proposal.

Note to Contractor: If the Contractor is a participant of a joint venture, then the Contractor must complete DBE Form "Schedule B: Information for Determining Joint Venture Eligibility" (unless all joint venture firms are minority owned). If the Contractor is not a participant, then the Contractor should write "N/A" on DBE Form Schedule B.

3. **Will – will not** (check one) involve DBE firms in this project.

Note to Contractor: If the Contractor will involve DBE firms, then the Contractor must complete DBE Form D "Record of Participation by DBE Firms." If the Contractor will not involve DBE firms, then the Contractor should write "N/A" on DBE Form D. In either case, the Contractor shall submit DBE Form E "DBE Unavailability Certification" for every DBE firm from which the Contractor unsuccessfully sought to secure DBE participation. DBE Form E and/or DBE Form D shall be submitted at the same time as the list of subcontractors (if requested) or shall accompany the Contractor's Proposal.

SIGNATURE: _____ DATE: _____

TITLE: _____

**DBE Form B*****LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR***

TO: _____
(Name of Prime or General Contractor)

The undersigned intends to perform work in connection with the above project as (check one):

an individual
 a corporation

a partnership
 a joint venture

The DBE status of the undersigned is confirmed on the attached DBE Form A. The undersigned is prepared to perform the following described work in connection with the above project (specify in detail particular work items or parts thereof to be performed).

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows:

Items	Project Commencement Date	Project Completion Date
1.		
2.		
3.		
4.		
5.		

_____ percent of the dollar value of this DBE subcontract will be sublet and/or awarded to non-disadvantaged contractors and/or non-disadvantaged Vendors. The undersigned will enter into a formal agreement for the above work with you conditioned upon your execution of a contract with the City of Billings, Aviation and Transit Department, MET Transit Division.

Name of DBE Firm: _____

Date: _____

Signature: _____

Title: _____

**DBE Form C*****DBE AFFIDAVIT***

NOTE: THIS PAGE MUST BE COMPLETED BY THE DBE CONTRACTOR.

I HEREBY DECLARE AND AFFIRM that I, _____

(Name)

am the _____ and duly authorized representative
(Title)

of the firm _____
(Name of Corporation or Joint Venture)

whose address and phone number are _____

and further affirm that I am a DBE as defined by the City of Billings, Aviation and Transit Department, MET Transit Division in the specifications, and that I will provide information if requested by the City of Billings, Aviation and Transit Department, MET Transit Division to document this fact.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE ABOVE FIRM, TO MAKE THIS AFFIDAVIT.

(Affiant)

(Date)



DBE Form D

RECORD OF PARTICIPATION BY DBE FIRMS

NOTE: THIS FORM MUST BE FILLED OUT BY THE CONTRACTOR (OFFEROR) AND SHOULD INCLUDE A GENERAL DESCRIPTION OF WORK TO BE PERFORMED. MATERIALS AND/OR SUPPLIES UNDER THIS CONTRACT MUST BE LISTED BELOW.

Name of DBE Firm _____

Address _____

Description of Work _____

Materials/Supplies _____

Name of DBE Firm _____

Address _____

Description of Work _____

Materials/Supplies _____

Name of DBE Firm _____

Address _____

Description of Work _____

Materials/Supplies _____

Name of DBE Firm _____

Address _____

Description of Work _____

Materials/Supplies _____

TOTAL PERCENTAGE DBE PARTICIPATION _____

I _____ certify that the information given above on behalf of the

(Name)

Contractor is true and correct, and that as _____

(Position)

of the Contractor, of the proposer, I attest that I **have** – **have not** (check one) met the assigned DBE Goal for this Contract of ____%.

(Signature)



DBE Form E

DBE UNAVAILABILITY CERTIFICATION

Project: _____

Contractor's Name: _____

To demonstrate a good faith effort to utilize DBEs, contractors and Vendors who cannot meet their DBE participation goals must respond to either Item A or Item B below. Please use one sheet per DBE firm contracted.

ITEM A:

Name of DBE Firm Contacted: _____

Form of Proposal Sought (i.e., unit prices, etc.): _____

Dates Contacted: _____

Method of Contact: _____

Results: _____

To the best of my knowledge and belief, the above DBE contractor was unavailable (exclusive of unavailability due to lack of agreement on price) for work on this project, or unable to prepare a proposal for the following reason(s):

I, _____, _____, _____, _____,
(Name) (Title)
of _____, do hereby certify that the
above
(Contractor's Firm)

information is true and correct, and that I have made a good faith effort as documented in ITEM A above to obtain DBE participation in the performance of this Contract.

(Signature)

(Date)

I, _____ of _____
(Name) (DBE Company Name)
was offered an opportunity to propose on the above project on _____.
(Date)

The above statement is a true and accurate account of why I did not submit a proposal on this project.

(Signature)

(Title)

(Date)



DBE Form E

ITEM B: *CERTIFICATION OF NO OPPORTUNITY FOR DBE PARTICIPATION*

There exists no opportunity for subcontracting as part of this project. It is the general practice of _____ to perform all work of this nature solely with its own work

(Name of Contractor)
force, and to do otherwise would constitute a violation of industry standards.

I, _____, _____, _____
(Name) (Title)

of _____, do hereby certify that the above information is
(Name of Contractor)

true and correct, and that I have made a good faith effort as documented in ITEM B above to obtain DBE participation in the performance of this Contract.

(Signature)

(Date)

DBE Form Schedule B

INFORMATION FOR DETERMINING JOINT VENTURE ELIGIBILITY

This form must be completely filled out. If an item does not apply to you or your organization, write "NA" in the appropriate space.

NOTE: This form need not be completed if all joint venture firms are minority owned.

1. Name of Joint Venture: _____
2. Address: _____
3. Phone Number: _____
4. Identify the firms that comprise the joint venture.

(a) Describe the role of the DBE firm in the joint venture (attach extra sheets if necessary):



(b) Describe very briefly the experience and business qualifications of each non-DBE joint venture (attach extra sheets if necessary):

5. Nature of the joint venture's business:

6. Provide a copy of the joint venture agreement.

7. What is the claimed percentage of DBE Ownership? _____

8. Ownership of joint venture: (This need not be completed if described in the joint venture agreement, provided in Question 6.)

(a) Profit and loss sharing: _____

(b) Capital contributions, including equipment: _____

(c) Other applicable ownership interests: _____

9. Control of and participation in this Contract. Identify by name, race, sex, and "firm" those individuals (and their titles) who are responsible for day-to-day management and policy decision making including, but not limited to, those with prime responsibility for:

	Name	Race	Sex	Title
Final Decisions				
Estimating				
Marketing				
Sales				
Hiring/Firing of Management Personnel				
Purchaser of Major Items/Supplies				
Supervision of Field Operations				
Other				

NOTE: If, after filing this Schedule B and before the completion of the joint venture's work on the Contract covered by this regulation, there is any significant change in the information submitted, the joint venture must inform the grantee either directly or through the prime contractor if the joint venture is a subcontractor.



ATTACHMENT D

CONDITIONS AND NON-COLLUSION FORM

To receive consideration, this form must be signed in full by a responsible, authorized agent, officer, employee or representative of your firm.

CONDITIONS AND NON-COLLUSION AGREEMENT

We have read and agree to the conditions and stipulations contained herein and to the Standard Terms and Conditions contained on the attached.

We further agree to furnish the services specified at the prices stated herein, to be delivered to the location and on that date set forth herein.

In signing this proposal, you also certify that you have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a proposal; that this proposal has been independently arrived at without collusion with any other proposer, competitor or potential competitor; that this proposal has not been knowingly disclosed prior to the due date and time to any other proposer or competitor; that the above statement is accurate under penalty of perjury.

Legal Name of Firm/Corporation	Authorized Signature
Address	Printed Name
City/State/Zip	Title
Date	Telephone Number



ATTACHMENT E

MASTER Q & A FORM

PROJECT: Transit Development Plan

Master Q&A	Any questions regarding this Request for Proposals should be submitted according to the process outlined below. The City will make every effort to answer within two (2) days of receiving the questions.
Q&A Process	<ol style="list-style-type: none">1. Prepare questions or concerns on the template provided.2. Complete the table in full, providing a date for each question and a section of the RFP to reference (if applicable).3. Submit the completed form via email to loganr@billingsmt.gov. Attach associated documents as necessary. <p>Please contact 406-657-8218 with any questions regarding this process.</p>

Questions from: _____ **Company:** _____

Email Address: _____

#	Date	Reference Section	Question or Comment	City Response
1				
2				
3				
4				



ATTACHMENT F

INTENT TO RESPOND FORM

RFP: Transit Development Plan

Dated _____

Fax or email the following Intent to Respond form to within three (3) days of RFP date even if your company chooses NOT to participate in the RFP.

To: **City of Billings**

Attn: Rusty Logan, Transit Manager

Fax: (406) 657-8419

Email: loganr@billingsmt.gov

From:

Contact Name
Company Name
Company Address

Phone Number
Fax Number
Email Address

We intend to respond to this RFP by the specified due date:

Yes _____ No _____

Company Name _____ Date _____

Contact Name (please print) _____ Title _____

Signature of Contact Person

By signing the above, I certify that I am authorized by the Company named above to respond to this request.



ATTACHMENT G

PROPOSER CONTACT INFORMATION

A. Company Contacts

Primary Contact Person (Name):	
Title/Function:	
Address	
Business Hours Phone:	
Fax:	
Internet E-mail Address:	
Name of Person Responding to Request:	
Title/Function:	
Address:	
Phone:	
Fax:	
Internet E-mail Address:	

B. General Company and Financial Information

Company Name:	
Headquarters Address:	
City, State, ZIP	
Headquarters Phone:	
Headquarters FAX:	
Company Owned By:	
Percent % Ownership:	
Years In Business	
Name of CIO	
Name of CEO/President:	