



Request for Proposals

For

2023 BILLINGS URBAN AREA LONG RANGE TRANSPORTATION PLAN UPDATE



Request For Proposals

Table of Contents

SECTION 1: GENERAL INFORMATION

SECTION 2: RULES GOVERNING COMPETITION

SECTION 3: BACKGROUND AND SCOPE OF WORK

SECTION 4: PROPOSAL AND SUBMISSION REQUIREMENTS

SECTION 5: EVALUATION CRITERIA AND SELECTION PROCESS

ATTACHMENT A – STANDARD TERMS AND CONDITIONS

ATTACHMENT B – CONDITIONS AND NON-COLLUSION FORM

ATTACHMENT C – MASTER Q & A FORM

ATTACHMENT D – DBE GOALS AND NON-DISCRIMINATION NOTICE

ATTACHMENT E – PROJECT BOUNDARY



REQUEST FOR PROPOSALS For Professional Services to the Billings Metropolitan Planning Organization (Billings MPO)

SECTION 1 – GENERAL INFORMATION

1.1 Purpose

The City of Billings (City) on behalf of the Billings Metropolitan Planning Organization (Billings MPO) is soliciting proposals from qualified Consultants to develop an update to the 2023 Billings Urban Long-Range Transportation Plan (LRTP). The LRTP must comply with all requirements of the Infrastructure Investment and Jobs Act (IIJA). This proposal solicitation process will be completed through the City of Billings (City) on behalf of the Billings MPO, therefore, many references to the process will identify the City has the requester/reviewer.

1.2 General Submission Information

The City intends to award a single contract for these consulting services. The proposal should address the Consultant's capabilities for performing all aspects of the project development process while presenting specific project information and substantiating the Consultant's methodologies and approach for completing the work requested.

1.3 Questions

Questions regarding this proposal shall be submitted to

Billings MPO
Attention: Scott Walker, Transportation Planning Coordinator
Department: Planning & Community Services Department
Address: 2825 3rd Avenue North, 4th Floor, Billings, MT 59101
Phone number: 406-247-8661
Email: walkers@billingsmt.gov

from 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

1.4 Preparation Costs

The City shall not be responsible for proposal preparation costs, nor for costs including attorney fees associated with any (administrative, judicial or otherwise) challenge to the determination of the highest-ranked Proposer and/or award of contract and/or rejection of proposal. By submitting a proposal each Proposer agrees to be bound in this respect and waives all claims to such costs and fees.



SECTION 2 – RULES GOVERNING COMPETITION

2.1 Examination of Proposals

Proposers should carefully examine the entire RFP, any addenda thereto, and all related materials and data referenced in the RFP. Proposers should become fully aware of the nature of the Work and the conditions likely to be encountered in performing the Work.

2.2 Proposal Acceptance Period

Award of this proposal is anticipated to be announced within **forty-five (45) calendar days**, although all offers must be completed and irrevocable for **ninety (90) days** following the submission date.

2.3 Confidentiality

The content of all proposals will be kept confidential until the selection of the Contractor is publicly announced. At that time the selected proposal is open for review. After the award of the Contract, all proposals will then become public information.

2.4 Proposal Format

Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of the Proposer's capabilities to satisfy the requirements of this RFP. Emphasis should be placed on:

- Conformance to the RFP instructions
- Responsiveness to the RFP requirements
- Overall completeness and clarity of content

2.5 Signature Requirements

All proposals must be signed. An officer or other agent of a corporate vendor, if authorized to sign Contracts on its behalf; a member of a partnership; the owner of a privately-owned vendor; or other agent if properly authorized by a Power of Attorney or equivalent document may sign a proposal. The name and title of the individual(s) signing the proposal must be clearly shown immediately below the signature.

2.6 Proposal Submission

Five (5) copies of the proposal must be received by the MPO prior to March 4, 2022 by 5:00 p.m. MST. All copies of the proposals must be under sealed cover and plainly



marked. Proposals shall not exceed more than 10 pages (can be double-sided) including the signed Conditions and Non-Collusion form. Any and all cover letters, staff resumes/qualifications should only be included with a version of the proposal placed on a flash drive included in the sealed envelope. Proposals shall be delivered or mailed to:

Billings MPO

Attention: Scott Walker, Transportation Planning Coordinator

Department: Planning & Community Services Department

Address: 2825 3rd Avenue North, 4th Floor, Billings, MT 59101

Phone number: 406-247-8661

Email: walkers@billingsmt.gov

2.7 News Releases

News releases pertaining to the award resulting from the RFPs shall not be made without prior written approval of Billings MPO.

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

2.9 Modification/Withdrawal of Proposals

A respondent may withdraw a proposal at any time prior to the final submission date by sending written notification of its withdrawal, signed by an agent authorized to represent the agency. The respondent may thereafter submit a new or modified proposal prior to the final submission date. Modifications offered in any other manner, oral or written, will not be considered. A final proposal cannot be changed or withdrawn after the time



designated for receipt, except for modifications requested by the City after the date of receipt and following oral presentations.

2.10 Oral Change/Interpretation

No oral change or interpretation of any provision contained in this RFP is valid whether issued at a pre-proposal conference or otherwise. Written addenda will be issued when changes, clarifications, or amendments to proposal documents are deemed necessary by the Municipality.

2.11 Late Submissions

PROPOSALS NOT POSTMARKED BY THE DATE AND TIME SPECIFIED IN THE COVER LETTER WILL NOT BE CONSIDERED AND WILL BE RETURNED UNOPENED AFTER RECOMMENDATION OF AWARD.

2.12 Rejection of Proposals

The City of Billings reserves the right to reject any or all proposals if determined to be in the best interest of the City.

SECTION 3 – BACKGROUND AND SCOPE OF WORK

Background

In 2018, the Billings Metropolitan Planning Organization (MPO) adopted a [Long Range Transportation Plan](#) (LRTP) that is the framework to guide the development and implementation of a multimodal transportation system. The planning process included a comprehensive update of the goals and objectives, assessed 2017 land use and transportation conditions and forecasts for the target year of 2040, and developed a preferred funding scenario for a balanced multi-modal transportation system.

For urbanized areas exceeding a population of 50,000, the existence of a Metropolitan Planning Organization (MPO) is necessary to meet federal requirements for *obtaining* and *expending* federal transportation funds. Specifically, the federal government requires that each urbanized area, as a condition to the receipt of federal capital or operating assistance, have in place a *continuing, cooperative, and comprehensive transportation (3-C) planning process*. This 3-C process must result in plans and programs consistent with the comprehensively planned development of the urbanized area. In order to demonstrate that a 3-C planning process is being implemented the MPO must periodically prepare and adopt a minimum 20-year long-range transportation plan (per the requirements of 23 CFR 450.306, 316 and 322). To satisfy federal planning requirements the MPO has prepared a Scope of Services to hire a consultant team (hereby known as the Consultant(s)) to assist with the development and adoption of the next Long Range Transportation Plan (LRTP).



The LRTP update will have 2045 as the target horizon year. The adopted plan must be fiscally constrained and implementable by the appropriate local and state transportation agencies. The LRTP will improve on long-range and short-range strategies/actions that lead to the development of an integrated multimodal transportation system to facilitate the safe and efficient movement of people and goods. It will be developed with regards to the intent and requirements of the Infrastructure Investment and Jobs Act (IIJA), and requirements stipulated by the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Montana Department of Transportation (MDT). The 2045 LRTP update will continue to be multimodal in nature including transit, pedestrian facilities, bikeways and highway/street transportation, and other transportation systems including truck and rail.

The following is a list of the minimum work required under this contract. Additional tasks and work elements may be added or deleted during contract negotiations. Upon conclusion of the negotiation process and before proceeding with work tasks, the selected consultant will be required to prepare a final work plan for inclusion into a contract agreement. The consultant will be required to complete all work under this contract within the budget for this project by August 31, 2023.

The objectives of the 2023 Long Range Transportation Plan Update are:

- Update existing conditions and long-term outlook for the Billings urban area transportation system.
- Ensure the LRTP update includes appropriate performance-based planning that meets federal, state and local requirements and community goals.
- Ensure consistency with area infrastructure plans such as the [2016 Billings Area Bikeway and Trail Master Plan](#).
- Identify opportunities to increase consistency between the LRTP and other regional plans and policies such as the Billings and Lockwood Growth Policies, [Billings Community Transportation Safety Plan](#), the City of [Billings Complete Streets Policy](#), [annexation policies](#), [Capital Improvement Programs](#), and other infrastructure plans.
- Develop analyses and recommendations on how Billings transportation system can be enhanced or improved through emerging technologies such as signal optimization and Intelligent vehicle-to-infrastructure communication systems, and electric vehicle usage.
- Evaluate long-term financial outlook and transportation system improvement costs in order to better align funding with plan goals.
- The consultant will develop a 2019 base year travel demand model with associated documentation outlining model development, parameters, and model validation and reasonableness checks per Federal Highway Administration's



(FHWA) Travel Model Improvement Program (TMIP). Consultant will provide and input projected growth for future year model (2045) and complete model alternative runs. The Billings MPO Area Travel Demand Model will be available for use if so desired by the successful consultant. This model was developed in the Trans Cad format. In addition, the MPO has developed a 2016 Household Travel Survey if requested by successful consultant.

- The 2018 and subsequent amendments list transportation projects broken into committed, recommended, and illustrative types. Develop a review and prioritization process to evaluate existing listed projects and identify new projects. This process will be used for the Project Oversight Committee, Local Officials and interested public.

Project Tasks – Scope of Work

Throughout the Transportation Planning Process, the Consultant shall provide the following:

- Provide weekly project management reports to the City/County Planning Division.
- Provide copies of any public announcements and community meeting sign-in sheets (or similar)
- Steering Committee Meetings' minutes (or similar)

Task 1: Project Schedule, Work Plan, Steering Committee Activity

Required analysis:

- The consultant shall develop and present a proposal outlining all work and deliverables of the 2045 Long Range Transportation Plan update. The MPO staff will use this work plan to monitor and assess progress of the LRTP update. This includes, but is not limited to a detailed project schedule that identifies key task deadlines and/or milestones, presentations, and public involvement activities. The consultant shall also provide a work plan that outlines the project approach including coordination with the MPO Project Manager, expectations for LRTP Committee meetings, expectations for public involvement activities and involvement of planners and community stakeholders (public and private sector).

Task 2: Public Involvement Plan

Required analysis:

- This project will include a robust public involvement process. The consultant's public participation plan shall be consistent with the MPO's [2018 Public Participation Plan](#). In order to gather significant input on local concerns, the consultant shall assist staff in conducting activities in the community such as meetings, open houses and/or workshops to address transportation related concerns in the urbanized area.



- In addition to open houses, workshops and committee meetings, the MPO encourages innovative public involvement and strategies to underrepresented and disadvantaged populations. The consultant will be expected to present a plan that incorporates innovative and wide-ranging list of involvement activities with elements that complement each other. Additional activities that may be considered in the public participation plan include, but are not limited to:
 - Focus group interviews;
 - On-line forums and virtual open-houses;
 - Interactive on-line mapping and input opportunities;
 - Surveys
 - Dedicated project website;
 - Social media

Task 3: Existing Conditions and Deficiencies Review

The consultant should review existing relevant background data and documentation to develop an updated summary of existing conditions within the Planning Area and identify existing transportation system deficiencies. The MPO staff will provide all background data and information.

Identification of deficiencies should consider all modes of transportation and include safety, connectivity, integration, congestion/level of service, travel time, people and goods movement, maintenance and preservation, and mobility and accessibility.

Required analysis:

- In support of travel demand model development, the MPO will provide data from the Billings/Yellowstone County Household Travel Survey. MDT will provide shapefiles for the 2019 road network containing roadway characteristics and AADT information and 2019 Traffic Analysis Zones (TAZ) with socioeconomic data. The travel demand model will be used to simulate existing 2019 travel patterns, forecast future traffic volumes and allow for analysis of alternative transportation improvements.
- Existing conditions for level of service/congestion shall be obtained.
- Review and analyze progress on performance measure identified in the 2018 update.

Background data and information to review (not limited to):

- 2018 Long-Range Transportation Plan
- Transportation and land use considerations of the Billings and Lockwood Growth Policies
- 2016 Bike and Trail Master Plan



- Locally adopted Planning Studies, public facilities plans and related development regulations
- 2016 Community Transportation Safety Plan and associated crash data
- 2020-2024 Transportation Improvement Program Amendment II
- Census Bureau data

Task 4 – 2045 Transportation System Needs Assessment and Project List Update

The consultant shall conduct a future year (2045) transportation system needs assessment, utilizing the existing conditions analysis, current project lists and prioritization, and future growth scenarios in the City of Billings and Lockwood Growth Policies.

The needs assessment will be used to inform the update and development of a revised set of projects, building off the project lists included in the 2018 LRTP and identifying new priorities.

In addition to the future needs assessment and proposed project lists necessary to address those needs, the MPO desires to more explicitly address the role emerging technologies can and should take in achieving our plan goals. Technology examples include communications technology and intelligent transportation systems (ITS). The consultant should be prepared to develop research, recommendations, and gather community priorities for emerging technology.

Required analysis:

- The consultant will work with the MPO and MDT to identify the most efficient use of resources to move people and goods in and through the Metropolitan Planning Area. Use of the existing conditions and deficiencies analysis shall inform the future needs assessment, and preferred outcomes of the project list update shall reinforce and support performance measures.
- Evaluation and update of project descriptions, recommended improvements, and cost estimates to accurately reflect deficiencies, needs assessment, and performance measures.
- Evaluation and recommendations on how emerging technologies will support Billings future transportation system and recommended actions necessary to support or manage these systems.

Task 5 – Financial Plan

Federal regulations regarding the development of long-range transportation plans require that a financial plan that demonstrates how the adopted transportation plan can be implemented is provided and that the recommended project list be fiscally-constrained.



Required Analysis:

- Early in the process, the consultant should work with the MPO and MDT staff to identify projected funding resources (throughout the lifetime of the plan), including both public and private sources (federal, state, and local) and by mode as necessary. This task will likely require coordination with other entities.
- The consultant should analyze public input data collected throughout the planning process to develop potential funding priorities.

Task 6 – Plan Implementation Recommendations

The 2018 LRTP required extensive updates to the Safety and Security chapters and the development of Performance Measure. The 2023 LRTP update should continue to include up-to-date information and requirements and update/identify community goals and implementation, including roles and responsibilities of related agencies such as the MDT, City and County.

Required analysis:

- Clear graphics and a summary of goals established in the 2018 LRTP.
- Evaluation of current funding and design priorities, and development of recommended priorities to implement plan goals.

Identification of additional policies or procedures that can help achieve more diverse modes of transportation.

Task 7 – Prepare Draft 2023 Long Range Transportation Plan

The draft phase of the LRTP will include a review and adoption process and will require the consultant to attend various local government review and action meetings. These meetings can be in-person or via Zoom or related platform. These meetings will provide an opportunity for the consultant to present an overview of the LRTP, answer questions and provide guidance on the contents of the plan. The required meetings include: Technical Advisory Committee (TAC); Yellowstone County Board of Planning (Planning Board), this meeting will include a public hearing; Billings City Council (City); Yellowstone Board of County Commissioners (BOCC); and, the final meeting of the adoption process, Policy Coordinating Committee (PCC).

Required analysis:

- The consultant shall work with the MPO to gather all information collected during previous tasks, including technical resources and public input, to develop a Draft 2023 Long-Range Transportation Plan, which includes a project list that is



financially constrained and meets all federal requirements.

- Throughout the review and adoption phase, the consultant shall edit and amend any portion of the LRTP deemed needed for the successful adoption of the plan.

Task 8 – Prepare Final 2023 Long Range Transportation Plan

After final adoption by the PCC, the consultant shall deliver to the MPO:

- 2023 Billings Urban Area Long Range Transportation Plan to include:
 - 15 printed copies
 - 1 electronic writable format
 - 1 digital interactive website pdf. copy

SECTION 4 – PROPOSAL AND SUBMISSION REQUIREMENTS

To achieve a uniform review process and obtain the maximum degree of comparability, the proposals shall be organized in the manner specified below. Proposals shall not exceed more than 10 pages (can be double-sided) including the signed Conditions and Non-Collusion form. Any and all cover letters, staff resumes/qualifications should only be included with a version of the proposal placed on a flash drive included in the sealed envelope.

SECTION 5 – EVALUATION CRITERIA AND SELECTION PROCESS

5.1 Evaluation Criteria

Submittals will be evaluated in accordance with the following criteria:

• Experience of Consultant to fulfill the Scope of Work	(0-30 Points)
• Project Methodology and Approach	(0-40 Points)
• Key Project Staff and Sub Consultants	(0-5 Points)
• Cost	(0-25 Points)
Maximum Score	100 Points

The proposal with the lowest cost receives the maximum points allowed. All other proposals receive a percentage of the points available based on their cost relationship to the lowest. This is determined by applying the following formula:
(Lowest Cost/Cost Being Evaluated) x maximum points available = awarded points

The MPO reserves the right to conduct interviews with all or some of the Proposers at any point during the evaluation process. However, the MPO 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 MPO 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.

SECTION 6 – CONTRACT NEGOTIATION PROCESS

The highest-ranked Proposer(s) may be invited to enter into Contract negotiations with the MPO. If an agreement cannot be reached with the highest-ranked Proposer, the MPO shall notify the Proposer and terminate negotiations. The second highest Proposer may be contacted for negotiations. This process may continue until successful negotiations are achieved. However, the MPO reserves the right to terminate negotiations with any Proposer should it be in the MPO's best interest. The MPO reserves the right to reject any and all proposals submitted.



ATTACHMENT A

STANDARD TERMS AND CONDITIONS

In case of default by the successful proposer or failure to deliver the goods or services within the time specified, the City Purchasing Agent, after written notice, may procure them from other sources and hold contractor responsible for excess costs occasioned thereby.

The specifications attached to the instructions to proposers establish a standard of quality desired by the City of Billings. Any proposer may submit quotations on any article which substantially complies with these specifications as to quality, workmanship and service. The City of Billings reserves the right to make its selections of materials or services purchased, based on its best judgment as to which articles substantially comply with the requirements of the specifications. This RFP is not to be construed as a contract or commitment of any kind.

No alteration in any of the terms, conditions, delivery, quality, or specifications will be effective without prior written consent of the City of Billings.

No exception to delivery or service dates shall be allowed unless prior written approval is first obtained from the City of Billings.

The contractor warrants all articles supplied under this contract to conform to specifications herein. The contractor will deliver a warranty stating that all articles supplied under the contract are fit and sufficient for the purpose manufactured, merchantable, and free from defects.

The contractor agrees not to be discriminate against any client, employee or applicant for employment or for services, because of race, creed, color, national origin, sex or age with regard to, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or recruitment advertising; layoffs and termination; rates of pay or other forms of compensation; selection for training; rendition of services. It is further understood that any contractor who is in violation of this shall be barred forthwith from receiving awards of any purchase order for the City unless a satisfactory showing is made that discriminatory practices have terminated and that a reoccurrence of such acts are unlikely.

The City reserves the right to cancel and terminate this contract forthwith upon giving 10 days written notice to the contractor. (This provision does not apply to the purchase of materials and equipment. A purchase order for materials and equipment is a binding contract.)

Should either party employ an attorney or attorneys or utilize the services of in-house attorneys to enforce any of the provisions hereof or to protect its interest in any manner arising under this contract, the non-prevailing party in any action pursued in a court of competent jurisdiction agrees to pay to the prevailing party all reasonable costs, damages, expenses, and attorneys' fees, including fees for in-house attorneys, expended or incurred in connection therewith.



Where applicable, possible or required, the proposer is required to submit descriptive literature, sample material, design sketches and detailed shop drawings. Failure to submit required items may result in rejection of the proposal or termination of contract.

The successful proposer may not make any advertising or sale use of the fact that contract items are being used by purchaser and other approved agencies, under penalty of contract termination. News releases pertaining to the award resulting from the RFPs shall not be made without prior written approval of the City of Billings.

This Agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suit between the parties arising out of this Agreement shall be the State of Montana Thirteenth Judicial District Court, Yellowstone County.

The contractor may not assign or subcontract the agreement, or the right to receive reasonable performance of any act called for by the contract, shall be deemed waived by a waiver by City of a breach thereof as to any particular transaction or occurrence.

Regardless of FOB point, contractor agrees to bear all risks of loss, injury, or destruction of goods and materials ordered herein and such loss, injury, or destruction shall not release contractor from any obligation hereunder.



ATTACHMENT B

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 C

MASTER Q & A FORM

PROJECT: 2023 BILLINGS URBAN AREA LONG RANGE TRANSPORTATION PLAN UPDATE

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 walkers@billingsmt.gov Attach associated documents as necessary. <p>Please contact Scott Walker, Transportation Planning Coordinator, 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 D

DBE GOALS AND NON-DISCRIMINATION NOTICE

DBE Goals

There are no DBE/WBE goals for this work, but firms are strongly encouraged to utilize DBE firms if applicable. A Montana certified DBE Consultant list is available and can be found on the MDT web page, <http://www.mdt.mt.gov/business/contracting/civil/dbe.shtml>

Nondiscrimination Compliance

Consultants will be subject to Federal and Montana nondiscrimination laws and regulations (see attached notice).

Rev. 01/2022

Montana Department of Transportation (“MDT”) is committed to conducting all of its business in an environment free from discrimination, harassment, and retaliation. In accordance with State and Federal law MDT prohibits any and all discrimination and protections are all inclusive (hereafter “protected classes”) by its employees or anyone with whom MDT does business:

Federal protected classes

Race, color, national origin, sex, sexual orientation, gender identity, age, disability, income-level & Limited English Proficiency

State protected classes

Race, color, national origin, parental/marital status, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, religion/creed, social origin or condition, genetic information, sex, sexual orientation, gender identification or expression, ancestry, age, disability mental or physical, political or religious affiliations or ideas, military service or veteran status, vaccination status or possession of immunity passport

For the duration of this contract/agreement, the PARTY agrees as follows:

(1) Compliance with Regulations: The PARTY (hereinafter includes consultant) will comply with all Acts and Regulations of the United States and the State of Montana relative to Non- Discrimination in Federally and State-assisted programs of the U.S. Department of Transportation and the State of Montana, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

(2) Non-discrimination:

- a. The PARTY, with regard to the work performed by it during the contract, will not discriminate, directly or indirectly, on the grounds of any of the protected classes in the selection and retention of subcontractors, including procurements of materials and leases of equipment, employment, and all other activities being performed under this



contract/agreement.

- b. The PARTY will provide notice to its employees and the members of the public that it serves that will include the following:
 - i. A statement that the PARTY does not discriminate on the grounds of any protected classes.
 - ii. A statement that the PARTY will provide employees and members of the public that it serves with reasonable accommodations for any known disability, upon request, pursuant to the Americans with Disabilities Act as Amended (ADA).
 - iii. Contact information for the PARTY's representative tasked with handling non-discrimination complaints and providing reasonable accommodations under the ADA.
 - iv. Information on how to request information in alternative accessible formats.
- c. In accordance with Mont. Code Ann. § 49-3-207, the PARTY will include a provision, in all of its hiring/subcontracting notices, that all hiring/subcontracting will be on the basis of merit and qualifications and that the PARTY does not discriminate on the grounds of any protected class.

(3) Participation by Disadvantaged Business Enterprises (DBEs):

- a. If the PARTY receives federal financial assistance as part of this contract/agreement, the PARTY will make all reasonable efforts to utilize DBE firms certified by MDT for its subcontracting services. The list of all currently certified DBE firms is located on the MDT website at mdt.mt.gov/business/contracting/civil/dbe.shtml
- b. By signing this agreement, the PARTY assures MDT that:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

- c. The PARTY must include the above assurance in each contract/agreement the PARTY enters.

(4) Solicitation for Subcontracts, Including Procurement of Materials and Equipment:

In all solicitations, either by competitive bidding, or negotiation, made by the PARTY for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the PARTY of the PARTY's obligation under this contract/agreement and all Acts and Regulations of the United States and the State of Montana related to Non-Discrimination.

(5) Information and Reports: The PARTY will provide all information and reports



required by the Acts, Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by MDT or relevant US DOT Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the PARTY will so certify to MDT or relevant US DOT Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(6) Sanctions for Noncompliance: In the event of a PARTY's noncompliance with the Non- discrimination provisions of this contract/agreement, MDT will impose such sanctions as it or the relevant US DOT Administration may determine to be appropriate, including, but not limited to:

- Withholding payments to the PARTY under the contract/agreement until the PARTY complies; and/or
- Cancelling, terminating, or suspending the contract/agreement, in whole or in part.

(7) Pertinent Non-Discrimination Authorities: During the performance of this contract/agreement, the PARTY, for itself, its assignees, and successor in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Federal

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airways Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age



Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*).
- Executive Order 13672 prohibits discrimination in the civilian federal workforce on the basis of gender identity and in hiring by federal contractors on the basis of both sexual orientation and gender identity.

State

- Mont. Code Ann. § 49-3-205 Governmental services;
- Mont. Code Ann. § 49-3-206 Distribution of governmental funds;
- Mont. Code Ann. § 49-3-207 Nondiscrimination provision in all public contracts.

(8) Incorporation of Provisions: The PARTY will include the provisions of paragraph one through seven in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and/or directives issued pursuant thereto. The PARTY will take action with respect to any subcontract or procurement as MDT or the relevant US DOT Administration may direct as a means of enforcing such provisions including sanctions for



noncompliance. Provided, that if the PARTY becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the PARTY may request MDT to enter into any litigation to protect the interests of MDT. In addition, the PARTY may request the United States to enter into the litigation to protect the interests of the United States.



City of Billings

Yellowstone County

ATTACHMENT E PROJECT LOCATION

