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FLATHEAD COUNTY
PLANNING & ZONING OFFICE

BLACKTAIL RD PATH-LAKESIDE
UPN: 7681

CTEP PROJECT SPECIFIC AGREEMENT

THIS AGREEMENT is made and entered into by and between the State of Montana, acting by and through its Department of Transportation, hereinafter called the "State," and the County of Flathead, hereinafter called the "Grantee". This Agreement is effective on the date of the final signature by the State.

WITNESSETH THAT:

WHEREAS, the Grantee proposes to develop and construct a Community Transportation Enhancement Program (CTEP) project, UPN 7681, titled BLACKTAIL RD PATH-LAKESIDE (hereinafter the "project"); and,

WHEREAS, the State and the Grantee recognize the need to develop and construct the project, and are willing to share in its costs in accordance with this agreement; and,

WHEREAS, in accordance with the State's agreement with the Federal Highway Administration (FHWA) of the U.S. Department of Transportation, the State must ensure that certain requirements are met in order for the State to fulfill its obligations to the FHWA and for the project to be eligible for federal funds. Accordingly, the State includes federal requirements, which are among those hereinafter set forth, for this project, and the Grantee agrees to them, and,

WHEREAS, the estimated cost of the project's development and construction is $270,076; and,

WHEREAS, the financial participation for the project development and construction will in part be with federal-aid funds made available in federal fiscal 2012; and,

WHEREAS, the federal-aid funds provided are described in the Catalog of Federal Domestic Assistance (CFDA), number 20.205, Highway Planning and Construction under the U.S. Department of Transportation FHWA; and,

WHEREAS, it is understood that all costs associated with the project in excess of these federal-aid funds will be financed by the Grantee; and,

WHEREAS, this document must be executed and submitted to the State before the project development and construction process will be authorized to start; and,

NOW, THEREFORE, in consideration of the covenants herein contained, the parties agree that:

The Grantee will develop a CTEP project described as: the design and construction of approximately one mile of hard-surfaced bicycle and pedestrian path to include ADA features.

The project will be located in the Lakeside area, along US Highway 93 adjacent to the Homestead Restaurant parking lot extending south and west along Blacktail Road to a point approximately 970 feet east of the intersection with Creek View Drive. The project includes a bridge over Stoner Creek.

The purpose of this project is to provide safe and convenient pedestrian facilities.

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The initial estimated federal-aid cost to be requested for the development and construction of this project, by federal-aid account, is as follows:

Federal-Aid Program Account by Project Phase (Maximum CTEP Share)

[9102] Preliminary Engineering (86.58% CTEP) (including environmental documentation)	$	10,803
[9202] Right-of-Way/Easement Acquisition (86.58% CTEP)	$	3,151
[9302] Incidental Construction (64.93% CTEP) (utility relocation involvement)	$	3,151
[9402] Construction Engineering (86.58% CTEP) (including contract administration and inspections)	$	9,903
[9502] Construction (86.58% CTEP)	$	243,068
Total	**$**	**270,076**

Flathead County	Project	CTEP Funds	Local Match	Additional Contribution
Direct Costs	$ 270,076	$ 233,832	$ 36,244	$ -0-
TOTAL	**$ 270,076**	**$ 233,832**	**$ 36,244**	**$ -0-**

NOTE: Above table does not include indirect costs. Indirect costs will be applied to the CTEP fund share at the rate corresponding to the time the reimbursements are made.

The Grantee will:

1. Be responsible for the $36,244 local match. The Federal cost participation (CTEP funds) will be $270,078 of the estimated total project cost of $270,076. The Grantee will be responsible for 100% of all costs exceeding the proposed $270,076 that may be required to complete the project.

2. Attest they have read and understand the CTEP manual located at: http://www.mdt.mt.gov/publications/docs/manuals/mdt_ctep_manual.pdf. including all State and Federal laws, rules and regulations applicable to the CTEP program.

3. Develop and prepare all of the necessary design plans, specifications, estimates, and contract documents for the project in accordance with the CTEP Manual. The selection and retention of any individual or firm to provide or furnish any engineering or design related services will be based upon qualifications in accordance with the CTEP Manual's Consultant Services procedures.

4. Solicit for competitive bids and award a contract to construct the project. The solicitation for the construction contract may be by competitive bid or limited solicitation, so long as the cost does not exceed $50,000; should the project's construction cost exceed $50,000, it must be by competitive bid. The Grantee will administer any construction contract and provide the supervision, inspection and documentation required to ensure the project is completed satisfactorily. The State will perform a final project review to ensure substantial compliance with project plans, specifications and estimates.

5. Provide documentation necessary to comply with applicable environmental requirements, including the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (NHPA) and Section 4(f) of the DOT Act.

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6. Complete and submit the applicable supporting documentation to the State for review and concurrence prior to beginning the next step in the project's development or construction process, as identified in the CTEP Manual.

7. Submit a claim for cost reimbursement no more than monthly and no less than quarterly detailing items and quantities of acceptable work completed that period to the CTEP Office for the project development and/or construction costs incurred. The request will be accompanied by documentation substantiating the amount requested and identifying the applicable federal share.

8. Agree to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine compliance with this Agreement. The Grantee agrees to create and retain records supporting this Agreement for a period of three years after the completion date of this Agreement or the conclusion of any claim, litigation or exception relating to this Agreement taken by the State of Montana or a third party.

9. Service, maintain, and pay the cost of operating the project described in this agreement.

General Provisions:

10. The Grantee understands and agrees this agreement is subject to the requirements of OMB Circular A-133; non-federal entities that expend $500,000 or more in a year in federal expenditures will have a single audit conducted.

11. The parties understand and agree that this agreement is subject to the requirements of Section 17-1-106, MCA, which requires the State to fully recover indirect costs (IDC) from the Federal share of costs and any other participating parties. The current IDC rate is 11.08% and the parties further understand and agree that as of October 1, 2009 the Grantee's share of IDC will be paid by MDT per subsection (3). Note: If this project extends across more than one fiscal year, more than one annual rate will be involved, as the rate may change during the life of the project.

12. Except for any suits, claims, actions, losses, costs or damages which are solely the result of the negligent acts or omissions or misconduct of State employees, the Grantee agrees that it will protect, indemnify, and save harmless the State and Department of Transportation against and from all claims, liabilities, demands, causes of action, judgments (with any costs and fees that might be awarded), and losses to them from any cause whatever from the project, and including any suits, claims, actions, losses, costs or damages of any kind, including the State and Department's legal expenses, made against the State or Department by anyone arising out of, in connection with, or incidental to the project and its construction or use or maintenance.

13. Severability and Integration – If any single part or parts of this Agreement are determined to be void, the remaining parts will remain valid and operative. This Agreement, as written, expresses the total, final and only agreement of the parties relevant to its subject matter. No provision, expressed or implied, arising from any prior oral or written request, bid, inquiry, negotiation, contract, or any other form of communication shall be a provision of this Agreement unless specifically provided within the written terms herein.

14. This agreement shall become effective upon execution by both parties. It may be modified only by prior written agreement of both parties.

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15. Assignment, Transfer and Subcontracting – The Grantee shall not assign, transfer or subcontract any portion of this Agreement without the express written consent of the State.

16. Choice of Law and Venue – In the event of litigation concerning this Agreement, venue will only be in District Court of the First Judicial District of the State of Montana in and for the County of Lewis and Clark. This Agreement will be interpreted according to Montana law.

17. Termination – The parties may mutually terminate this Agreement in writing at any time. MDT, at its sole discretion, may terminate or reduce the scope of this Agreement if available funding is reduced for any reason. MDT may terminate this Agreement in whole or in part at any time Grantee fails to perform the Agreement terms as set forth.

18. Compliance with Laws – The Grantee, in the performance of this Agreement, fully comply with all applicable federal, state or local laws, rules and regulations, including the Montana Human Rights Act, 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. Attachment A, Non-Discrimination Notice, is incorporated into this Agreement and during the performance of this Agreement, The Grantee for itself, its assignees and successors in interest, agrees to adhere to the contents as follows:

A) COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 FOR FEDERAL-AID CONTRACTS

(1) Compliance with Regulations: The Grantee shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations (CFR), Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.

(2) Nondiscrimination: The Grantee, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Grantee shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Sec. 21.5.

(3) Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the Grantee for work to be performed under a subcontract, including procurement of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the Grantee of the Grantee's obligations under this Agreement and the Regulations relative to nondiscrimination.

(4) Information and Reports: The Grantee will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by State or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the Grantee is in the exclusive possession of another who fails or refuses to furnish this information, the Grantee shall so certify to the Department or the FHWA as requested, setting forth what efforts it

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has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the Grantee's noncompliance with the nondiscrimination provisions of this Agreement, the State may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,

(a) Withholding payments to the Grantee under the Agreement until the Grantee complies, and/or
(b) Cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: The Grantee will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Grantee will take such action with respect to any subcontract or procurement as the State or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event the Grantee is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the Grantee may request the State to enter into the litigation to protect the interests of the State, and, in addition, the Grantee or the State may request the United States to enter into such litigation to protect the interests of the United States.

B) COMPLIANCE WITH THE MONTANA GOVERNMENTAL CODE OF FAIR PRACTICES, SEC. 49-3-207, MCA

In accordance with Section 49-3-207, MCA, the Grantee agrees that for this Agreement all hiring will be made on the basis of merit and qualifications and that there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Agreement.

C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

(1) The Grantee will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.

(2) The Grantee will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: **"The Grantee will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the Grantee. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the Grantee."**

(3) All video recordings produced and created under contract and/or agreement will be closed-captioned.

D) COMPLIANCE WITH PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS, 49 CFR PART 26

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Each Agreement the Department signs with a Grantee (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The Grantee, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Grantee shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Grantee 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.

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IN WITNESS WHEREOF, the Department's authorized representative has signed on behalf of the State of Montana, and the Chairman of the Flathead County Board of Commissioners has signed and affixed hereto the seal of the County.

STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION

BY _____ 10/15, 2012

APPROVED FOR LEGAL CONTENT

_____
MDT Legal Counsel

COUNTY OF FLATHEAD

ATTEST-CLERK & RECORDER CHAIRMAN

Diana Kile By _____

SEAL OF FLATHEAD COUNTY CLERK & RECORDER STATE OF MT.

I, Diana Kile, Flathead County Clerk & Recorder, hereby certify that this agreement was regularly adopted by the ~~Gallatin~~ Flathead County Board of Commissioners at a meeting held on the 1st day of Oct, 20 12, and that the Board authorized the Chairman to sign this agreement on behalf of the Board.

[OFFICIAL SEAL]

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