

201200013039  
AUG - 3 2012  
FLATHEAD COUNTY  
PLANNING & ZONING OFFICE



Paula Robinson, Flathead County MT by JL

201200013039  
Page: 1 of 6  
Fees: \$0.00  
6/14/2012 11:32 AM

SWAN RVR RD PATH-E OF BIG FORK  
Control No. 7867

**CTEP PROJECT 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 "County". This Agreement is effective on the date of the final signature by the State.

RECEIVED  
JUN 18 2012  
FLATHEAD COUNTY  
PLANNING & ZONING OFFICE

WITNESSETH THAT:

WHEREAS, the County proposes to develop and construct a Community Transportation Enhancement Program (CTEP) project, Control Number 7867, titled SWAN RVR RD PATH-E OF BIG FORK (hereinafter the "project"); and,

WHEREAS, the State and the County 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 County agrees to them, and,

WHEREAS, the estimated cost of the project's development and construction is \$300,000; 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; and,

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

1. The County will develop a landscaping project described as: the design and construction of a 1.5 mile hard-surfaced bicycle and pedestrian path.
2. The project will be located in Flathead County east of Big Fork. More specifically, along the east side of Swan River Road between Lee Road and Williams Lane.
3. The purpose of this project is to provide a safe and convenient bicycle and pedestrian facility.
4. The initial federal-aid program to be requested for the development and construction of this project, by federal-aid account, is as follows:

AUG - 3 2012

FEB 28 2012



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

[9102] Preliminary Engineering (86.58%) (including environmental documentation)	\$ 15,000
[9202] Right-of-Way/Easement Acquisition (86.58%)	\$ -0-
[9302] Incidental Construction (64.93%) (utility relocation involvement)	\$ 10,000
[9402] Construction Engineering (86.58%) (including contract administration and inspections)	\$ 15,000
[9502] Construction (86.58%)	\$ 260,000
<b>Total</b>	<b>\$ 300,000</b>

Flathead County	Project	CTEP Funds	Local Match	Additional Contribution
Direct Costs	\$ 300,000	\$ 259,740	\$ 40,260	\$ -0-
<b>TOTAL</b>	<b>\$ 300,000</b>	<b>\$ 259,740</b>	<b>\$ 40,260</b>	<b>\$ -0-</b>

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.

5. The County will be responsible for the \$40,260 local matching funds. The Federal cost participation (CTEP funds) will be \$259,740 of the estimated total project cost of \$300,000. The County will be responsible for 100% of all costs exceeding the proposed \$300,000 that may be required to complete the project.
6. The parties understand and agree that this agreement is subject to the requirements of Section 17-1-106, MCA. Section 17-1-106, MCA, requires any state agency, including the Montana Department of Transportation (MDT), which receives non-general funds, to identify and recover its indirect costs. These costs are in addition to direct project costs. MDT's indirect cost rate is determined annually as a percentage of the project's direct costs to cover the project's share of MDT's indirect costs as defined by 2 CFR Part 225 (formerly OMB Circular A-87). MDT's current indirect cost rate is 9.64% for state fiscal year 2012 (July 1, 2011 to June 30, 2012). 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.
7. The County will 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 shall be based upon qualifications in accordance with the CTEP Manual's Consultant Services procedures.
8. The County will 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 County 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.
9. The County and any consultant and/or contractor it may employ in pursuit of project completion will comply with applicable Equal Employment Opportunity (EEO) requirements, Disadvantaged Business Enterprise (DBE) goals, Americans with Disabilities Act (ADA) and Federal Labor Requirements.

AUG - 3 2012

JUN 18 2012

FEB 28 2012



10. The County will 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.
11. The County will 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.
12. The County will allow inspection of all work and project-related records by the personnel or agents of the State and FHWA.
13. Counties subject to the authority of the Montana Single Audit Act will secure an independent audit in compliance with OMB Circular A-133 and submit a copy to the Montana Department of Administration, Local Government Services Bureau, PO Box 200547, Helena, MT, 59620-0547.
14. 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 County 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.
15. The County will retain project-related records and documents for a period of three years after the closing of the project.
16. The County may submit a claim once a month 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.
17. This agreement shall become effective upon execution by both parties. It may be modified only by prior written agreement of both parties.
18. The County will service, maintain, and pay the cost of operating the project described in this agreement.
19. The County and State understand and agree that 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 awards shall have a single audit conducted. The County agrees to have a single audit conducted if it meets the above threshold.
20. During the performance of this agreement the County, for itself, its assignees and successors in interest, agrees as follows:

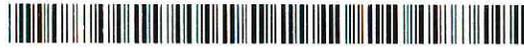
**A) COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 FOR FEDERAL-AID CONTRACTS**

- (1) Compliance with Regulations: The County 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

AUG - 3 2012

JUN 18 2012

FEB 28 2012



reference and made a part of this Agreement, even if only state funding is here involved.

- (2) Nondiscrimination: The County, 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 County 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 County 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 County of the County's obligations under this Agreement and the Regulations relative to nondiscrimination.
- (4) Information and Reports: The County 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 County is in the exclusive possession of another who fails or refuses to furnish this information, the County shall so certify to the Department or the FHWA as requested, setting forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the County'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 County under the Agreement until the County complies, and/or
  - (b) Cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) Incorporation of Provisions: The County 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 County 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 County is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the County may request the State to enter into the litigation to protect the interests of the State, and, in addition, the County 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 County 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.

AUG - 3 2012

JUN 18 2012

FEB 28 2012



**C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)**

- (1) The County will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.
- (2) The County will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: **"The County 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 County. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the County."**
- (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**

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

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



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 [Signature] 6/26, 2012

APPROVED FOR LEGAL CONTENT

[Signature]  
MDT Legal Counsel

COUNTY OF FLATHEAD  
Paula Robinson  
ATTEST-CLERK & RECORDER

CHAIRMAN

By: Diana Kile

By [Signature]



I, Paula Robinson, Flathead County Clerk and Recorder, hereby certify that this agreement was regularly adopted by the Flathead County Board of Commissioners at a meeting held on the 14 day of June, 2012, and that the Board authorized the Chairman to sign this agreement on behalf of the Board.

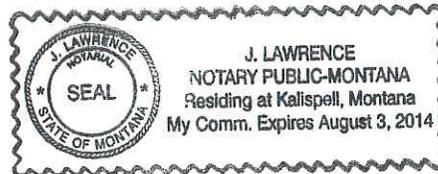
State of MT

County of Flathead

Subscribed and sworn to (or affirmed) before me this 14<sup>th</sup> day

of June, 2012, by Diana Kile & Dale Lauman

J. Lawrence  
Notary Public Signature  
J. Lawrence  
Printed Name  
Kalispell  
Residence  
8-3-2014  
Expiration



JUN - 3 2012

JUN 18 2012

FEB 28 2012