

To be eligible for the reimbursement of Federal Highway Administration (FHWA) funds for payments to a consultant, the procedures in this chapter shall be followed. If a local agency elects to retain the consultant at its' own cost, only state law must be followed.

12.1 General Discussion

This chapter covers those agreements for architects, landscape architects, land surveying, and engineering services. Services such as long range planning and studies, economic analysis, and environmental and biological assessments may also be provided by professionals outside these fields.

Consultant services include the following:

- Professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement.
- Any phase of project development as well as special studies or other assignments within any phase.
- Periodic examination and consultation or full-time technical inspection during the construction phase.
- Consultant design and preparation of plans, specifications, and estimates is common when an agency's staff is small or when an agency needs additional expertise.

Prohibitions include:

- FHWA regulations prohibit consultants serving in a management role for agreements in excess of \$10,000.
- Consultant services do not include purchased services provided by a vendor to accomplish routine, continuing, and necessary services.
- Section 319 of Public Law 101-12 1 prohibits federal funds from being expended by consultants or subconsultants who receive a federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence a federal agency or Congress in connection with awarding any of the above.

12.2 Advertisement/Solicitation

Consultant selection shall provide for maximum open and free competition and should provide opportunities for small and disadvantaged business enterprises to obtain an equitable share of the work, consistent with the project scope and capabilities of available small and disadvantaged owned firms.

Consultants may be solicited for: (1) a specific project (2) a specific stage of a project (i.e., Design Report); (3) general engineering services (i.e., supporting services of an agency's staff in studies, design, etc.); (4) for more than one project (i.e., several small bridge design projects) or multiple phases of a single project (5) for a combination of the above.

Montana law (18-8-201, MCA) requires a competitive solicitation and negotiation process for projects where the estimated consultant services exceed \$10,000 cost. Local governments may use direct negotiations to obtain consultant services when the estimated cost is less than \$10,000 and it is not feasible to follow competitive negotiation procedures.

Publication Requirements

Summary of Notice Requirements for Services				
Statute	Title of Statute	Counties	Cities and Towns	Notes
7-1-4127, MCA	Publication of Notice		X	Requirements related to type of media and newspapers acceptable for publication purposes
7-1-4128, MCA	Notice		X	Notice published twice , at least 6 days apart; first notice no greater than 21 days and last notice no less than 3 days prior to action
7-1-2121, MCA	Publication of Content of Notice	X		Notice published twice , at least 6 days apart; first notice no greater than 21 days and last notice no less than 3 days prior to action.

Along with published notice the local agency may contact firms directly and request that the firms submit qualifications and proposals. The copies of the letter sent by the local agency may be used as documentation of efforts to invite competitive proposal in the event only a limited number of responses are received.

The published notice for request for SOQ/RFP does not mean that the entire text of the SOQ/RFP must be included in the legal advertisement, Appendix 12.82. The advertisement can briefly announce that the local agency is requesting statements of qualifications and proposals and a copy of the SOQ/RFP is available upon request. (Refer to example of Consultant Services SOQ/RFP Advertisement, Appendix 12.81.)

These advertisements may be supplemented by additional advertisements in special interest trade magazines or publications utilized by disadvantaged business enterprises. Local agencies have the option to ask consultants to annually submit a current statement of qualifications and performance data. This information can be used along with that submitted by other firms that respond to the agency's solicitations for small works.

.21 Advertisement Content. The advertisement should contain the following (see Appendix 12.81 for a sample advertisement):

- A project title;
- The general scope and nature of the project or work for which services are required and the address of a representative of the agency who can provide further details and the detailed request for statements of qualifications (SOQ) and Request for Proposals;
- Due date for responses.

Copies of detailed request for statements of qualifications (SOQ) and Request for Proposals (RFP) must include:

- Solicitations of qualification statements must incorporate a clear and accurate description of the technical requirements for the service to be procured, including any special conditions or certifications required;
- Solicitations must clearly set forth sufficient detail on how applicant qualifications will be evaluated. This may include but is not limited to key personnel, firm experience, ability to meet schedule, past performance, in-house expertise, familiarity with MDT/ FHWA standards, and DBE approach and commitment;
- For engineering and design related services, specific project cost estimates shall not be requested until a consultant has been selected;
- Nonengineering service applicants should be asked provide estimates for the man-hours and classifications needed to complete the project.

- In the event that a project covers two or more distinct phases, the agency is not obligated to utilize the original consultant for subsequent phases. If the agency desires this option, the advertisement must state the possibility of a multi-phase agreement at the discretion of the contracting agency;
- All prospective consultants must be advised that Federally funded projects will be held to Federal EEO requirements:
- ADA and Civil Rights language for the employing agency;

12.3 Pre-Award Audits/Reviews

The intent of an audit /reviews to validate financial information supplied by a consultant in a cost proposal. Pre-negotiation audits /reviews provide the necessary data to assure that the consultant has an acceptable accounting system and internal control policies, has sufficient resources to complete the work on time, has adequate and proper justification for the various rates, including Indirect Cost Rate, charged to perform work, and is aware of FHWA's cost eligibility and documentation requirements. In the event that a project must begin before an audit can be completed, provisional wages based on industry standards may be paid through completion of the audit with wage adjustments made in a supplemental agreement.

Federal regulations require the following:

- Audit evaluation prior to negotiation of proposals for which the total costs exceed or are expected to exceed \$250,000.
- Audit evaluation of proposals of less than \$250,000 when there is inadequate knowledge concerning the prospective consultant's accounting policies, cost systems, and/or previous unfavorable experience or as requested by MDT or FHWA.

The MDT Consultant Selection Procedures requires an indirect cost rate be established in accordance with Federal Acquisition Regulations 48 CFR and audited by a cognizant agency or independent CPA firm.

12.4 Written Consultant Selection Process

The local agency shall establish written guidelines for technical evaluation of the qualifications received, determination of finalists for the purpose of written or oral discussions, and selection for agreement award. Consultants will be selected based upon the qualifications they present. For engineering and design-related services, fees for services cannot be considered during the selection process. See Appendix 12.81 for the Consultant Services Procedures

.42 Documentation of Selection

Following consultant selection, the local agency shall retain the following documentation in the project file:

- The names of a minimum of three consultants considered for the work (excluding exceptions detailed above);
- Consultant selected and reasons why this consultant was chosen over the others.
- Notification that a Federal Acquisition Regulation (FAR) audited indirect cost rate was required.

The local agency will notify the consultant of their selection in writing and meet with the consultant to reach a complete and mutual understanding of the scope of services. The local agency should include key people with appropriate technical expertise within the agency to ensure that their concerns are addressed. The following are typically discussed while developing an agreed upon scope of services:

1. A list of meetings the consultant is expected to attend, key personnel and expected location of the meetings;
2. The anticipated design schedule — the local agency shall designate the basic premises and list criteria to be used in design development;
3. Any special services required;
4. Complexity of the design;
5. Safety and operational considerations;
6. Environmental considerations;
7. Survey and geotechnical testing requirements;
8. Inspection services during construction;
9. Quality control during construction;
10. Preparation of forms, letters and documents;
11. Property map preparation.

.43 Actions Following Receipt of Consultant's Proposal.

Agency responsibilities include:

- Compare the consultant's proposal with the agency's own estimate, examining the scope of work, work hours, and estimate of cost
- Ensure the consultant has divided the project into work units and related time units in such a manner that the estimate can be readily reviewed for work hours, rates of pay, overhead, profit, and itemized direct nonsalary costs.
- Request records to confirm the consultant's rates.
- Record and retain an explanation of differences in work hours or costs between the agency's independent estimate and the negotiated consultant fee.
- Negotiate an agreement with the consultant selected and retain a record of these negotiations. Negotiation documentation to be maintained in accordance with 49 CFR 18.42 and MCA 18-8-205.

Negotiations may include the following:

1. The agency negotiator and the consultant meet or by telephone go over any significant areas of discrepancy between the agency estimate and consultant proposal. Either the consultant satisfactorily explains differences or agrees to address concerns in a revised proposal.
2. The agency reviews revised proposals and revises their detailed cost analysis accordingly. Steps 1 and 2 are repeated, if required.
3. The consultant submits a final fee proposal.
4. The final fee proposal shall include a FAR audited rate based on prior completed fiscal year.

- Provide a final offer in writing. The basis for establishing a maximum amount payable is documented.
- If unresolvable differences exist between the consultant and local agency, the agency notifies the consultant in writing and proceeds to select the next highest rated consultant. Negotiation steps and records will be repeated with the alternate consultant selected.

.44 Multi-Phase Projects

In the case of projects covering two or more distinct phases, when the cost for the second phase depends on decisions reached during the first phase, the agreement should cover only the first phase. The agency is not obligated to use the same consultant firm for all phases. Separate consultant agreements may be considered for preliminary engineering and construction engineering. The agreement for preliminary engineering should state that the consultant may be considered for construction provided this option was identified in the advertised solicitation. The consultant's engagement to complete subsequent phases depends upon the consultant's satisfactory performance on prior work and upon negotiation of an agreement for the subsequent phase(s).

.45 Environmental Assessment Environmental Impact Statement I Environmental Classification Summary.

The first agreement would include preliminary engineering through final approval of the environmental documents. Preparation of the PS&E could be under a separate agreement, with continuation of the original consultant at the option of the agency, provided this was stated in the original advertisement.

.46 Payment

Payment will be as follows:

Actual Costs Plus a Fixed Fee. This method of compensation is used when the extent, scope, complexity, character, or duration of the work cannot be reasonably determined in advance. Examples include preparation of environmental documents, project design documents, and PS&E for large or complex projects, including major bridges. The consultant is reimbursed for all eligible direct and indirect costs within defined limits plus a predetermined amount as a fixed fee. The costs are determined by:

- Salaries of employees with time directly chargeable to the project and salaries of principals for the time they are productively engaged in work necessary to fulfill the terms of the agreement. Actual rates of pay for principals actively involved in the project will be included in each agreement.
- Direct nonsalary costs incurred in fulfilling the terms of the agreement. Travel expenses will be limited to the maximum allowed by CFR 48 part 31.205-46
- The consultant's FAR audited overhead or indirect costs properly allocable to the project. A break out of overhead items will be included in each agreement.

The fixed fee is derived by considering the financial and professional investments required of the consultant; the extent, scope, complexity, character, and duration of the services; the degree of responsibility to be assumed by the consultant; and other factors contemplated at the time of the negotiations. These shall be documented for reference in case it becomes necessary to adjust the amount of the fixed fee. Maximum allowable fee rates are reserved for the most difficult, complex and risky projects.

Shown as exhibits to the agreement are the consultant's estimate of work, cost rates, overhead rate, and the fixed fee.

.47 Profit, Overhead, and Subconsultants

Mark-ups will not be allowed on subconsultants or direct costs. The maximum profit allowed is 15% of the combined overhead rate labor and overhead costs. Profit is a negotiated item.

An acceptable profit range varies from 10 percent to 15 percent of bare labor and overhead costs and is determined by the following:

- Degree of Risk.
- Nature of the work to be performed.
- Joint venture responsibility
- Extent of the prime's investment (The prime should receive no less than 50 percent of the total contract cost.) Hours necessary to manage subconsultants should be written into the agreement.
- Travel necessary for the consultant and its' subconsultants.
- Other criteria such as bonuses and B & O taxes eliminated from the overhead.
- Audit findings will need to verify the overhead request.

The consultant will provide a professional audit of the proposed overhead.
An audited FAR indirect cost rate based on most recent completed fiscal year..

The final agreement must specify the maximum amount payable. The basis for establishing the maximum amount should be documented and provisions should be made for adjustment to the maximum amount to accommodate changes in the work distribution or workload.

12.5 Standard Agreement and Exhibits

MDT IS IN THE PROCESS OF REVISING ITS CONTRACT LANGUAGE. The indirect cost rate is fixed for duration of contract. When the cost of consulting services is \$10,000 or more, local agencies must use the Standard Consultant Agreement (see Appendix 12.87.) Standard agreement forms are available from the MDT Consultant Design Engineer. The standard agreement was developed to allow the local agency to select the appropriate exhibits and assemble them into a complete agreement package for all types of consulting work. State law limits agreements to duration of 7 years.

.51 Exhibits

Exhibits for the Standard Agreement are provided. The various payment methods require their own exhibits. Examples of types of work for each agreement payment type have already been discussed under Section 12.46, "Payment". Most exhibits are common to any agreement; others require selection by the person creating the standard agreement.

12.6 Supplements to the Agreement

An agreement shall be supplemented in writing when work which falls outside the scope of the original agreement is requested, when supplemental language to the standard agreement is desired, or when there is a need for time extension or wage adjustment. This may be done by a supplemental agreement (see Appendix 12.88). A new FAR audited rate may be required.

The supplemental agreement should include:

1. A statement that the original agreement will be supplemented to add/change/amend conditions.

2. A scope of work described in sufficient detail to clearly outline what additional work the consultant is to do or what changes are authorized to the existing scope.
3. The method of payment (*Note: Always include a maximum amount payable.*) Section V of the original agreement should be reviewed prior to negotiating any supplements.
4. A specific time for beginning and completing the project in calendar days or day and month of the year.
5. A statement of whether subletting is authorized; if so, to whom, for what, and the amount payable.
6. A summary of the estimated costs of the original agreement plus those of the supplement(s).
7. Provisions that give both parties to the agreement the authority to act.

.61 Patent or Royalty Rights

Agreements that involve research, developmental, experimental, or demonstration work may require patent or royalty rights. In this case, the Standard Agreement should be supplemented by adding the appropriate language to account for this.

.62 Risk Management and Added insurance Requirements

The Consultant agrees to provide proof of errors and omissions insurance coverage not less than \$1,000,000 for the entire period of the project for which consultant services are required.

12.7 Oversight of the Agreement and Project Closure

MDT will review the documentation on selected projects and monitor the consultant selection procedures used by the local agency. The degree of monitoring will be determined by MDT and will depend on the nature and character of each project. The local agency shall assign one of its personnel as project administrator to work with the consultant. The project administrator's responsibilities are to:

1. Prepare supplements to existing agreements for services beyond the scope of the original agreement and include the agency's independent estimate of the costs for the work involved;
2. Ensure that no work is done or costs incurred until the agreements and supplements are approved by the approving authority and executed by the proper parties;
3. Conduct regular meetings with the consultant to track progress and identify potential concerns;
4. Act as a liaison between the agency and the consultant to assure compliance with the terms of the agreement, including Omissions & Errors provisions and the use of mandatory forms;
5. Monitor the consultant's progress reports to ensure that problem areas are reported and corrective action taken;
6. Make sure that all work is within the agreement's scope of work;

7. Establish controls to monitor the time for completion of the agreement to ensure that the specified time limitations are not exceeded;
8. Ensure the accuracy of bills presented by the consultant and their consistency with the work performed;
9. Maintain cumulative cost records to assure that costs are allowable, allocable and reasonable. Track bills to ensure compliance with agreement and fixed fees;
10. Establish controls to prevent overpayment of the Agreement and fixed fees;
11. Ensure that all terms and conditions of the agreement have been met prior to final release of the consultant.

.71 Invoicing

The invoice will include the following:

- By name, all employees that worked on the project during the billing period;
- The classification of each employee, the hours worked, the hourly wage rate, and the total wages paid;
- Direct nonsalary costs (Nonsalary costs should be supported for auditing purposes by copies of the invoice or billing instruments the consultant received for payment. Either the consultant or the agency may retain these copies).
- Profit up to the ceiling of the fixed fee.
- Overhead rate.

The local agency may disallow all or part of a claimed cost which is not adequately supported by documentation.

.72 Documentation

Original documents may include but are not limited to signed time sheets, invoices, payroll records, rental slips, and gasoline tickets that support the costs billed to MDT. The consultant is responsible to account for costs and for maintaining records, including supporting documentation adequate to demonstrate that costs claimed have been incurred, are allocable to the agreement and comply with Part 12 of CFR 48. Time sheets should document hours worked, the billing rate of pay and must be signed by the supervisor or his designee and the employee. Records will be retained for three years from the date of final payment for audit purposes and 6-7 years for record retention in accordance with Federal Regulations Title 23 or 48/49.

.73 Closure

Upon completion of the work under the consultant agreement, the agency will ensure that all terms and conditions of the agreement have been complied with and that all services to be performed under the agreement have been completed prior to final release of the consultant. The local agency should evaluate the consultant's performance and retain this in their records (see Appendix 12.85).

12.8 Appendixes**12.81 Consultant Services Procedures**

12.82 Sample Advertisement

12.83 Consultant Services Request for SOQ/RFP

12.84 Billing Invoice

12.85 MDT Performance Evaluation Consultant Services

12.86 Consultant Service Agreement

12.87 Consultant Service Agreement Appendix

12.88 Supplemental Agreement

APPENDIX 12.81 Consultant Services Procedures**CONSULTANT SERVICES OR CONTRACTED SERVICES PROCEDURES**

AUTHORITY: The MDT CTEP Engineer has prepared this procedure for use under Certification Acceptance.

PURPOSE: To establish the procedure for consultant or contracted service selection; the negotiation, execution and completion of a consultant or contracted service contract; consultant or contracted service monitoring; review and acceptance of final product. To identify the significant steps in the process and the documentation required in each consultant or contracted service contract file to comply with current federal regulations.

PROCEDURE:**CONSULTANT OR CONTRACTED SERVICE SELECTION & NEGOTIATIONS**

Legal Authority: The applicable law for the consultant or contracted service selections contemplated under these procedures is MCA Section 18-4-101, et seq. and 18-8-201, et seq. which require the Local Agency to follow certain minimum thresholds during its selection process.

As this procedure applies to the procurement of services with funds made available under 23 U.S.C., it applies to all Divisions of the Department of Transportation. Therefore, as appropriate, the responsibility column or other appropriate items should be revised to fit the personnel in each local agency that will be performing the action.

In order to qualify for the use of Federal-aid money in the funding of consultant or contracted service services, all governmental agencies working through or within the Department of Transportation (MDT) will follow these procedures.

Responsibility**Action**

LOCAL AGENCY

1. Determines and documents the need for and benefit of consultant services. Section 1 of the Attachment gives a list of the types of consultant services or contracted services often used by the MDT.

LOCAL AGENCY

2. Prepares a scope of work for the project or service, defining what is expected from the selected consultant or contracted service provider and what the local agency will provide to the consultant or contracted service provider. The scope of work will be based on the preliminary field review and/or input from the appropriate area.

An estimate of the cost of performing the work will be prepared. The estimate will consider the estimated hours of consultant or contracted service work, type of labor involved (project manager, designer, technician, etc.), out of pocket expenses, and fixed fees.

The cost estimate will provide enough detail to serve as a valid comparison for use by the local agency to the proposals submitted by the consultants or contracted service providers. This estimate will be completed before any proposals are received from the consultants or contracted service providers. The basis of the estimate will be documented. The date the estimate was prepared and by whom will be documented. The anticipated cost of services (estimate) will not be identified to potential consultants or contracted service providers.

LOCAL AGENCY

3. Establishes Disadvantaged Business Enterprise goals in consultation with the MDT Civil Rights Bureau.

LOCAL AGENCY

4. Notifies all consultants or contracted service providers that have expressed interest in the particular type of work needed, except as noted in Section 4a, of the desire to obtain services and requests a proposal for that accomplishment. In addition, if item 4a does not apply, a notice is placed in the local agency's official newspapers including publications serving minority populations setting forth the local agency's intent to retain a consultant or contracted service provider.

a. Non-competitive negotiations may be used to obtain consultants services or contracted services when the award of a contract is not feasible under small purchase or competitive negotiation procedures. Non-competitive negotiations may be used;

(1) If the work to be performed is such that it is available only from a single source or,

(2) There is an emergency which will not permit the time necessary to conduct competitive negotiations or,

(3) After solicitation of a number of sources, competition is deemed inadequate. Upon receipt of MDT written approval, the Selection Board may solicit a proposal from only one firm (non-competitive negotiation).

If procurement by non-competitive negotiation is chosen, under one of the three circumstances listed in 4a, the justification and rationale for going sole source rather than competitive negotiation is documented in the Selection Board minutes along with the reasons for selecting the one particular firm.

If the non-competitive process is used, the MDT Civil Rights Bureau will be notified to ensure maximum use of potential Disadvantage Business Enterprise.

Under non-competitive negotiation, it will still be necessary to prepare an adequate scope of work, evaluation factors, cost estimate, and conduct any necessary negotiations as is required under competitive negotiations for the procurement of consultant services.

b. In the formal request for Statement of Qualifications (SOQ) and Request for Proposals (RFP), prospective consultants or contracted service providers will be provided with sufficient detailed information to allow the development of a responsive proposal. As a minimum, this will include:

- (1) Description & location of project(s).
- (2) Scope of work and technical requirements as needed by the LOCAL AGENCY.
- (3) Project schedule. Start date; deadlines; and completion date.
- (4) Civil Rights Act of 1963 - Title VI obligations.
- (5) Disadvantaged Business Enterprise obligations.
- (6) Identification of all factors to be used in evaluating the submitted qualifications and/or proposals, and their relative importance in the rating process. As a minimum, these will include:
 - Previous firm experience (Reference: Federal Form 254 for Consultants).
 - Experience, qualifications, and resumes of personnel to be used on project listed by name and position (Reference: Federal Form 255 for Consultants).
 - Experience and qualifications of sub-consultants to be used on the project in specific terms.
 - Capability and capacity of firm to meet technical and schedule requirements for the project.

- Past and current performance on transportation projects.

(7) Method of payment will be administered on a cost plus fixed fee basis unless other payment methods are determined to be in the best interest of the LOCAL AGENCY.

(8) Response time for submittal of qualifications and/or proposal.

(9) Notification that an overhead rate for the current fiscal year audited in accordance with the Federal Acquisition Regulations will be required for the contract.

c. Section 2 of the Attachment gives a sample format which the consultants or contracted services will use for their proposals.

LOCAL AGENCY

5. Receives the submittals from the consultant(s) or contracted service provider(s). Notifies appropriate Rating Panel Personnel. Section 3 of the Attachment lists typical rating panels.

Rating Panel

6. Performs an analysis of the consultant submittals using a consistent method for ranking and documenting each factor analyzed. Factors analyzed for consultant services will be those listed as selection factors in the SOQ/RFP and will normally be the factors listed below:

a. 5% - Location:

This criterion may be assigned 0 to 5 percent weight depending upon necessity of firms' geographical locations and/or job expertise requirements. LOCAL AGENCY will determine proper weight to this category for each project.

b. 30% - Quality of Firm and Personnel:

(1) Related experience on similar projects.

(2) Qualifications, experience and training of staff to be assigned to project.

c. 35% - Capability and Capacity of Firm:

(1) Ability to meet all technical requirements.

(2) Capability of firm to meet project time requirements.

- (3) Capability to respond to project and LOCAL AGENCY and MDT requirements.
- (4) Compatibility of systems, equipment (i.e., CADD and public visualization capabilities).

d. 30% - Record of Past Performance of Firm in Previous Projects.
Rating on the past performance will be done by the LOCAL AGENCY.

(1) Measure of previous record with the LOCAL AGENCY will be based on the in-house documentation of quality of work, on-schedule performance, cost performance, and cooperation with the LOCAL AGENCY Engineer and staff.

(2) A limited or no previous record with the LOCAL AGENCY will require reference checks. LOCAL AGENCY will devise an equitable measure for this rating criterion.

LOCAL AGENCY

7. Evaluation factors and ratings for all consultant or contracted service firms will be summarized on a form for use by the Selection Board. Results and conclusions from the analysis for each factor will be clearly documented on the form.

LOCAL AGENCY

8. Calls a meeting of the Selection Board made up of the appropriate personnel. Section 4 of the Attachment lists typical selection boards.

Selection Board

9. Reviews proposals and summary report and selects a short list. The Board will ensure that only highly qualified consulting firms are short-listed.-

LOCAL AGENCY

10. Records the reasons and rationale behind the selection of the short list of consulting firms in the Selection Board meeting minutes. The facts and circumstances clearly justifying the selections made will be set out in these minutes.

LOCAL AGENCY

11. Notifies consulting firms that are on the short list and requests final proposals. Identifies all factors that will be used in making the final selection and the relative importance and ranking weight of each. As a minimum, the following information will be requested in all final proposals:

- a. Firm's complete audit report for the current fiscal year audited in accordance with the Federal Acquisition Regulations (FAR) including overhead rate.

- b. Consultant's or contracted service provider's understanding of the project.
- c. Consultant's or contracted service provider's approach to the specific project.
- d. Consultant's or contracted service provider's organization/work plan for the project.
- e. Consultant's or contracted service provider's estimate of the hours to complete the project based on the information contained in the RFP.
- f. Other items pertinent to a particular project.
- g. Listing of all subconsultants to be utilized and the tasks each subconsultant will be responsible for.
- h. Copies of Montana Disadvantaged Business Enterprise certification for each Disadvantaged Business Enterprise being utilized on the project.

LOCAL AGENCY

12. Receives final proposals with supporting data from the short-listed consultants or contracted service providers. Notifies appropriate Rating Panel personnel.

Rating Panel

13. Performs analysis of the proposals using a consistent method for ranking and documenting each factor analyzed.

Factors analyzed will be those listed as selection factors in the request for final proposals. The factors listed below represent items normally requested in the final proposal.

Understanding and quality of response to Request for Proposal for consultant (architectural, or engineering, or surveying) contracts: 100%.

- a. Ability of consultant to identify project-specific issues. (25%)
- b. Ability of consultant to communicate firm's proposed approach to specific project issues. (25%)
- c. Clarity of consultant's response and understanding of LOCAL AGENCY and MDT's project requirements. (25%)
- d. Organization of consultant's work plan. (25%)

- e. If necessary, other pertinent factors may be considered and weights adjusted accordingly.

Understanding and quality of response to Request for Proposal for contracted service (non-architectural, or non-engineering, or non-surveying) contracts: 100%.

- a. Cost (30%)
- b. Availability and Organization of contracted service provider's work plan. (25%)
- c. Clarity of contracted service provider's response, understanding of the specific issues and understanding of LOCAL Agency's and MDT's requirements. (25%)
- d. Approach to the project specific issues. (20%)

LOCAL AGENCY

14. Evaluation factors and ratings for all consultant and contracted service firms will be summarized on a form for use by Selection Board. Results and conclusions from the analysis for each factor will be clearly documented on the form. The LOCAL Agency's estimate will also be documented on the form.

LOCAL AGENCY

15. Calls a meeting of the Selection Board made up of the appropriate members.

Selection
Board

16. Reviews proposals and the engineering or technical analysis summary report. Reviews and discusses the ranking of the firms. Rank the firms for negotiation purposes. Selects one firm with which to enter into negotiations.

LOCAL AGENCY

17. Records the reasons and rationale behind the ranking of the firms, as related to the specific factors analyzed for each consultant or contracted service proposal in Selection Board minutes.

LOCAL AGENCY

18. Contact the selected Consultant or Contracted Service firm and LOCAL AGENCY set up a scoping meeting with the Consultant or Contracted Service Provider, LOCAL AGENCY, and others with input to the scoping process to discuss the scope of work to begin negotiations.

Establish a time frame for the Consultant or Contracted Service Provider to submit a refined cost proposal for the specific project. Cost proposal including supporting data shall be broken down into the following separate cost elements for each separate task to be performed: (Tasks

in cost breakdown will relate to various tasks outlined in the scoping meeting held with the LOCAL AGENCY and the narrative portion of the proposal).

Direct Salary Costs

To be itemized by classification, estimated hours, hourly rate, total direct labor costs (direct salary not to include payroll additive or overhead costs). Support or justification is required to determine how labor hours were estimated and what the bases of rates are. The basis for proposed salary increases must be submitted.

Payroll Salary Additives (Fringe Benefits)

To identify the percentage to be applied to direct labor costs. Support data will include identification of items that are considered payroll additive costs as currently documented in consultant's or contracted service provider's records. Computation (basis) of the rate and period of time represented by costs used to develop rate will also be explained as part of submittal.

Indirect Costs (General and Administrative Overhead)

To identify the percentage to be applied to direct salary costs plus fringe benefits.

The consultant or contracted service provider shall state how the indirect costs are computed and applied and show trend and budgetary data to support the proposed rate.

Support will be represented in the current audit report submitted by the consultant or contracted service provider. The accounting period supporting the itemized costs will be identified for both the indirect cost pools and cost allocation basis. The date the rate was developed is also to be shown. The method and basis of computing the rate will be shown.

Direct Non-Labor Costs

Such costs must be broken down into individual cost classifications, estimated costs and basis of estimating such costs. Support data will clearly evidence the basis for arriving at the individual estimated quantities and costs including judgmental factors and methods used to project from known data, and any contingencies used. This will include, where necessary, written quotations or other documentation as support for such costs including costs proposed for subconsultants.

Profit

Profit will be expressed in dollars and data submitted by consultant or contracted service provider will support the basis for the profit estimate. Profit will not be determined or expressed as a percentage of any item.

LOCAL AGENCY

19. Prior to receipt of the Consultant's or Contracted service Provider's cost proposal, revise the LOCAL Agency's cost estimate to reflect the work as discussed with the Consultant or Contracted Service Provider at the scoping meeting.

LOCAL AGENCY

20. Seek approval from the MDT CTEP Engineer of the audited FAR rates based on the audit report provided by the consultant or contracted service provider. This will be done once per consultant or contracted service provider per year as determined by each firm's fiscal year. Once the audited FAR rates are approved, they can be accepted during the one 1) year of validity corresponding to the fiscal year of the firm.

Transmits a copy of the proposal and technical or engineering analysis to the MDT CTEP Engineer requesting an audit evaluation.

Pre-negotiation audits will be required for all contracts over \$250,000 and for all contracts where there is insufficient knowledge of the consultant's or contracted service provider's accounting system, there is previous unfavorable experience regarding the reliability of the Consultant's or Contracted Service Provider's accounting system, or the contract involves procurement of new equipment or supplies for which cost experience is inadequate.

The transmittal will identify the due date for receipt of the audit report allowing as much time as possible for the audit work. If the time available is not adequate to permit satisfactory coverage of the proposal, the MDT CTEP Engineer shall so advise the LOCAL AGENCY and indicate the additional time needed.

The audit review will be based on the audit report as submitted by the consultant or contracted service provider. However, periodic field reviews may be necessary to verify outstanding issues. A field review may be necessary to verify the results of the audit report.

The auditor is responsible for the scope and depth of the audit. As a minimum, the audit report shall include comments on the following:

- a. Consultant's Accounting System: Comments on the type of Accounting system the consultant has, whether the system is

adequate for cost-type contracts, the accounting period applicable to the costs examined, a statement as to whether the system is adequate for accurate determination of costs and whether it properly excludes unallowable costs or costs not allocable to the contract.

b. Consultant's Estimating System: Comments on the consultant's estimating system, which shall include:

- (1) The source of data for estimates and the procedure for ensuring that the data is complete, accurate and current;
- (2) The assignment of responsibilities for originating, reviewing, and approving estimates; and
- (3) The procedures followed in developing estimates for each of the direct and indirect elements of cost.

c. Proposed Cost Elements and Quantities:

Comments on the consultant's basis for and method used to determine the quantitative and cost aspects of each cost element in the proposal and whether all cost data submitted by the consultant is current, complete, and accurate per the firm's records.

d. Indirect Costs: Comments on whether the consultant's proposed indirect rates for fringe benefits and general and administrative overhead rates are supported by the firm's records, the same as the consultant is using in other contracts, and in line with the firm's currently experienced rates. Also, comments will be furnished on how old the rates are, what time frame they represent, how they compare to prior rates, are they necessary and reasonable when compared to the past rates, and are they expected to change during the contract period. The accounts, their respective exceptions (unallowable costs) and the base as proposed and as audited for each indirect rate is to be included in the audit report along with any appropriate recommendations concerning the overhead rate.

e. Profit: Comments on the current profit experience, rates used on other contracts, and the basis of the firm's proposed profit is to be included.

LOCAL AGENCY

21. Further reviews consultant proposal in regard to scope of work, man-hours, total cost, etc., and conducts negotiations as required (1) to reach a fair and amicable agreement, or (2) to conclude negotiations

where a fair and amicable agreement cannot be reached. Negotiation documentation is to be maintained in accordance with 49 CFR 18.42.

- a. If agreement is not reached, advises the Selection Board that negotiations were terminated and requests approval of the next consultant or contracted service provider on the ranked list of those firms that had submitted proposals for the work. Returns to step 18 of the procedures to continue with process.
- b. When agreement is reached, obtains a written certification from the consultant as follows:

"I certify that the cost or pricing data submitted and identified to the LOCAL AGENCY during the selection and negotiation process is current, complete and accurate as of the date of the agreement on the price."

Then develops a suitable preliminary agreement which will include, as a minimum, the following provisions:

- (1) Date of agreement
- (2) Scope of work to be done
- (3) Time of beginning and completion
- (4) Contract price and payments including limiting amounts for all contracts. This provision will contain a reference to the applicable cost principle as specified by current federal regulations. The provision will state that, "Payments to the consultant will be limited to those costs determined by the LOCAL AGENCY to be allocable, reasonable, and allowable in accordance with the provisions of Federal cost principles contained in 48 CFR Part 31.
- (5) Changes in work (5a) Additional work due to errors and/or omissions by the consultant or contracted service provider to be performed at no additional cost to the LOCAL AGENCY. Require that the consultant service provider carry errors and omissions insurance in the amount no less than \$1,000,000.
- (6) Disputes
- (7) Obligations of contracting agency

- (8) Ownership of documents
- (9) Patent rights and copyrights, if applicable
- (10) Inspection of work and monitoring
- (11) Access to records and record retention
- (12) Provisions for administrative, contractual or legal remedies
- (13) Civil Rights - All agreements will contain provisions requiring the consultant to comply with Title VI of the Civil Rights Act of 1964, as amended, Americans with Disabilities Act, and Montana Governmental Code of Fair Practices. These provisions will be included in all contracts in the form of an Exhibit.
- (14) Subcontracts/Agreements - All agreements will include a requirement that "subcontracts exceeding \$10,000 in cost will contain all required provisions of the prime agreement."

- | | |
|-------------------|--|
| LOCAL AGENCY | 22. Furnishes a copy of the proposed agreement to MDT CTEP Engineer for comment and approval for legal content. |
| LOCAL AGENCY | 23. Reviews comments from MDT CTEP Engineer and revises agreement as warranted. Documents disposition of all comments received. |
| LOCAL AGENCY | 24. Submits two (2) original agreements to the Consultant or Contracted Service firm for signature. Receives signed agreements from consultant or contracted service provider. |
| LOCAL AGENCY | 25. Transmits the agreements signed by the Consultant or Contracted Service Provider to the Executive Office, for final execution by the Executive Officer. |
| Executive Officer | 26. Reviews and signs the agreements, if satisfactory. Signature is attested to and signed-agreements are returned to the LOCAL AGENCY. |
| LOCAL AGENCY | 27. Distributes originals and copies of executed agreement (including the Consultant or Contracted Service providers proposal) to the following: <ul style="list-style-type: none"> a. MDT CTEP Engineer (2 copies) |

- b. Consulting firm
- c. Other areas within the LOCAL AGENCY structure as appropriate

Supplemental agreements will be distributed as noted above.

- LOCAL AGENCY 28. Notifies the consulting or contracted service firm to proceed with the work in accordance with the agreement.

CONTRACT ADMINISTRATION AND MONITORING

- LOCAL AGENCY 29. Administers the work performed by the consultant or contracted service provider during the period of the agreement. In addition to the LOCAL Agency's established project development coordination efforts and meetings, administration responsibilities will include:
- a. Assuring a qualified publicly employed individual is assigned to be in responsible charge of the project at all times, and the individual will:
 - (1) Be aware of, and involved in, decisions relative to changed conditions, which require supplements or agreement modifications.
 - (2) At all stages of the project, be aware of the qualifications, assignments, on-the-job performance, etc. of the consultants or contracted service providers project staff.
 - (3) Visit Consultants' or Contracted Service provider's offices on a frequency that is commensurate with the magnitude and complexity of the project.
 - b. Assure that steps 31 through 40 are completed.
 - c. Assure that project phase reviews are coordinated with consultant or contracted service provider and all deadlines and LOCAL AGENCY'S activity schedules are met.
 - d. As appropriate, periodically evaluate consultants' or contracted service provider's performances during the terms of the contracts.
- LOCAL AGENCY 30. If events occur which have a significant impact on the project, a meeting may be scheduled with the consultant or contracted service provider. Reasons for these meetings could be:

- a. Problems, delays or adverse conditions which will significantly affect the ability to attain project objectives, prevent meeting time schedules or goals, or preclude the attainment of project work units by established time periods.

The action taken or contemplated to resolve the situation shall be determined.

- b. Changes in the program.
- c. Disadvantaged Business Enterprise or Title VI problems.

- LOCAL AGENCY 31. Prepare reports on all meetings and document pertinent communications with consultants or contracted service providers.
- LOCAL AGENCY 32. Reviews consultant or contracted services progress reports for compliance with the contract and project accomplishments, including Title VI and Disadvantaged Business Enterprise. Takes appropriate actions.
- LOCAL AGENCY 33. Receives invoices from consultants or contracted services which will be submitted in standard format showing breakdown of costs claimed and % of work complete. Invoices are verified for accuracy in accordance with the contract. Consultant or contracted service provider certifies invoice contains no unallowable costs per the contract and the specific federal cost principles referenced therein.
- LOCAL AGENCY 34. Recommends the rejection, revision or approval of invoices submitted by the consultant or contracted service firm for work accomplished in compliance with the agreement.
- LOCAL AGENCY 35. Receives notice of work claimed by the consultant or contracted service provider to be outside the scope of the original contract, prior to start of any such work. Reviews the proposed work and compares to scope of work in the contract and original proposal. Documents the basis for determining the work is either within or outside the current scope. Prepares an estimate of the additional work.

After completion of the estimate, requests consultant or contracted service provider to submit a cost estimate for the additional work. Reviews and evaluates the proposal. Also includes analysis of:

- a. Reason for addition, extension or supplement to the agreement as related to original scope and proposed scope of work.

b. Estimate of costs.

LOCAL AGENCY 36. Provides for negotiation, execution and finalization of supplemental agreements prior to start of any work covered by such agreements. If it is determined to be in the public interest to approve proceeding with the work prior to execution of the supplemental agreement, the reasons why this is considered necessary will be documented and the consultant or contracted service provider can then be given a written approval to proceed.

Supplemental agreements involving major changes in the scope of work and significant increases in the original contract amount will be submitted to the MDT CTEP Engineer for review and comment.

LOCAL AGENCY 37. Determine that the terms and conditions of the contract have been fulfilled and that all services have been performed. This is done by having all plans, reports, documents, and claims checked and approved prior to processing of the final voucher for payment and final release.

LOCAL AGENCY 38. Advises consultant or contracted service provider that the final review has been made and that the work is acceptable and the project is complete or advise of changes to be made before work can be accepted. Determines if final audit is necessary.

LOCAL AGENCY 39. Completes and distributes the performance evaluation report on the projects. Copies sent to MDT CTEP Engineer. Maintains copy of performance evaluation reports in consultant's file for use by rating panels on subsequent contract proposals. Maintains performance evaluation in project files.

LOCAL AGENCY 40. Monitors project to identify any construction problems or conflicts resulting from design or plan errors and omissions, notifies the consultant or contracted service provider of all such errors and omissions, and determines the liability of the Consultant or Contracted Service Provider for the cost of the corrective action following discussions between the LOCAL AGENCY and the Consultant.

SMALL CONTRACT PROCEDURES

(Contracts less than \$10,000)

For the selection of consultant (architectural, engineering, or land surveying) firms, the LOCAL AGENCY will follow state law as contained in Title 18, Chapter 8, Section 212, MCA, for the selection of consultants for small contracts.

The procedure for this type of contract will be as follows:

For projects for which the consultant or contracted service fees are estimated not to exceed \$10,000, the LOCAL AGENCY or it's designated representative may conduct direct negotiations with the consultant.

Consultant or contracted service firms that have the necessary qualifications and experience and have the time and staff to do the necessary work when needed will be utilized for this type of contract. DBE directory will be consulted.

Upon finalization of the negotiations, the LOCAL AGENCY will develop a suitable agreement containing the provisions noted under Item 22 and 23, of the Consultant or Contracted Services Procedures. The agreement will be reviewed and approved by LOCAL AGENCY Legal Services, signed by the Consultant or Contracted Service Provider and sent to the LOCAL AGENCY Chief Executive Officer for final execution.

ATTACHMENT TO CONSULTANT SELECTION PROCEDURES

SECTION 1. TYPES OF CONSULTANT SERVICES

MDT typically contracts with consultants or contracted service providers for the following types of services:

<u>Type of Service</u>	<u>Type of Consulting Firm</u>
a. Consultants: (Covered under Mini Brooks Provisions)	
Road Design	Civil Engineer
Bridge Design	Civil Engineer
Airport Design	Civil Engineer
Surveying	Registered Surveyor
Building Design	Architect
Forensic Engineering	Engineer/Scientist
Geotechnical, Soils Surveys	Engineer(Geologist)
Fabrication Inspection	Engineer(Materials)
ROW Plans, Design, Acquis.	Engineer, ROW Agents
Energy Studies	Engineer
b. Contracted Services:	
Hazardous Waste	Engineer(Scientist)
Environmental Impact Studies	Engineer + Others
Wetland Studies	Environmentalist (Biologist)
Cultural Resources Plan	Environmentalist (Anthropologist)
Management Consultation	
Planning Service	

Accounting Services
Air Studies
Airport Studies
Audit Services
Geological Studies
Mapping Service
Photography & Mapping Service
Subsurface Utility Engineering (SUE)
Transportation Studies
Water Pollution Testing

SECTION 2. SAMPLE FORMAT FOR RFP/SOQ

In response to the initial Request for Proposal and Statement of Qualifications, the consultant's or contracted service provider's proposal will follow the outline below and provide the following information:

- I. Describe the specific service the firm would provide. (Maximum of two pages)
- II. Provide qualifications of the project team and technical personnel assigned to work on project.
 - A. Provide an organization chart depicting the personnel to be used on this project, their area of expertise, registration, special training, chain of command, and office location(s). Identify how much of each person's time will be spent on the project. (If personnel from more than one office are to be utilized indicate which office.) (Maximum of two pages)
 - B. Provide resumes of above personnel, including specific related project experience; identify when applicable experience for each person was obtained. (Put in Appendix A).
 - C. Provide a specific outline and description of the support services proposed to complete the entire project from start to finish, including subcontractors, drilling, aerial photography, labs, etc. (Maximum two pages)
 - D. Discuss physical plant and in-house facilities (i.e. computers, lab, etc.). (One page)
- III. Provide a brief (but specific) outline of firm's previous (highway, bridge, EIS, interchange, enhancement, etc.) projects and other projects relating to the specific project RFP, and any special abilities or experience suiting the firm for work on the particular project. Identify the time frame (beginning and completion dates) in which projects were completed and experience gained. (Maximum of four pages)
- IV. Describe how the firm proposes to perform the project as defined in the scope of work. Demonstrate the firm's competence to do the work with available manpower and

resources taking into account present and projected workload. (Maximum of two pages)

- V. List as references all of the firm's clients from the past three years for projects that deal with similar work as proposed. (Put in Appendix B)
 - A. Include client name, contact person, phone number.
 - B. Give range of contract value.

SECTION 3. RATING PANEL

When a project is to be given to consultants, a Rating Panel will be established to evaluate and rate the consultant's initial and final proposals. The Rating Panel will normally be composed of (3 to 4) members with experience in the type of project that is being proposed.

SECTION 4. CONSULTANT SELECTION BOARD

After all consultants' proposals have been rated by the Rating Panel, the appropriate Consultant Selection Board will be convened to make the selections. The board will normally include three to five members as identified below:

- I. County commissioners, mayor, city council members, and appropriate LOCAL AGENCY staff supervising project or area (parks department director, building maintenance supervisor, etc.)

APPENDIX 12.82

Sample Advertisement

CONSULTANT SERVICES SOQ/RFP ADVERTISEMENT

NOTE: In order to reduce the cost of publicizing a request for SOQ/RFPs, Local or Tribal Government (LOCAL AGENCY) officials may use a format such as the following to advertise the availability of a request for statements of qualifications and final proposals in lieu of publishing the entire text of the SOQ/RFP. If this approach is used, local officials should be sure to allow sufficient time for prospective proposers to request and receive a copy of the SOQ/RFP and to prepare a response.

The (Name of City, County, or Tribe(s)) has received approval from the Montana Department of Transportation (MDT) to develop a federal-aid project titled (MDT Project Name).

The (LOCAL AGENCY Council/Commissioners) is requesting proposals and statements of qualifications for architectural/engineering (AE) services to assist the (Name of the Lead Local Office) in the design and oversight of construction of this (brief description of project) in compliance with all applicable requirements under the *MDT LAG Manual*.

Copies of the detailed request for statements of qualifications (SOQ) and Request for Proposals (RFP), including a description of the services to be provided by respondents, the minimum content of responses, and the factors to be used to evaluate the responses, can be obtained by contacting (Name of LOCAL AGENCY official, address, and telephone number). All responses to the detailed request for SOQs and RFPs must be submitted by (date and time).

Appendix 12.83

Consultant Services Request For SOQ/RFP

CONSULTANT SERVICES REQUEST FOR SOQ/RFP

NOTE: The following is intended only as an example of a format that may be used to issue SOQ/RFPs for consultant services. LOCAL Agencies should consider the content of their SOQ/RFPs very carefully before they are issued. In particular, local officials should exercise care in drafting the factors to be used in evaluating qualifications to assure that they are both complete and appropriate for your project. See also Exhibit 4-5, which is an example format used to advertise the availability of a Consultant Services request for SOQ/RFP.

The (name of LOCAL AGENCY) has received notice from the Montana Department of Transportation (MDT) to develop a federal-aid project titled (MDT Project Name).

The (name of LOCAL AGENCY) is Requesting Statement of Qualifications and Proposals from firms interested in performing a (explanation of scope of work to be preformed). The work performed on a project must comply with all applicable requirements under the MDT's *LAG Manual*. The project is generally described as (description of project including purpose, location, schedule, and present status).

The Scope of Work and Technical Requirements of services to be provided include:

(Insert the Scope of work and/or Technical Services the LOCAL AGENCY expects to be preformed by the Consultant. An example is listed below)

- Design of a Bicycle and Pedestrian Path along US 2 from mile marker 45 to 50.
- The Consultant selected will design, conduct a preliminary environmental analysis, assist with contract letting, and perform all construction oversight activities.

Legal Compliance:

Consultant performing work under the proposed contract will be subject to the Governmental Code of Fair Practices, Title 49, Chapter 3, MCA [Non-Discrimination in Hiring]; and Title 49, Parts 21 [Non-Discrimination in Federal Programs] & 23 [Participation Assurances for Disadvantaged Businesses] CFR Assurances (Titles VI).

The Consultant will comply with the regulations of the U.S. Department of Transportation relative to non-discrimination in Federal-aid programs of the U.S. Department of Transportation (Title 49, Code of Federal Regulations, Part 21).

In accordance with Section 207 of the Governmental Code of Fair Practices, Title 49, Chapter 3, MCA, the Consultant will assure that hiring of persons who will perform work on the Contract after award and prior to completion 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 handicap, or national origin by the persons performing the Contract.

With regard to the work performed after award and prior to completion of the contract work, the Consultant will not discriminate on the grounds or race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Title 49

Code of Federal Regulation, Part 21, including employment practices, when the agreement covers a program set forth in Appendix A of the regulations.

Disadvantaged Business Enterprise (DBE) Goals:

Consultant DBE goals have been established for this project. A current list of MDT certified consultants is available for your use. Each firm that is invited to submit a proposal will be required to address this issue.

In accordance with our DBE goal setting procedures for the (project name), the following DBE goals have been set for this request:

GOAL: ____._ %

The percentage listed relates to a percentage of the overall contract amount. Your proposal must clearly identify:

- a) The DBE firm who will perform the work.
- b) The specific work to be performed by the DBE.

Completing the attached forms may do this.

Method of Payment:

The method of payment that will be considered for these contracted services are (1) cost plus a fixed fee for profit or 2) fixed price. The fee for these contracted services will be paid, in part, with STPU funds.

Federal Acquisition Regulations:

Be advised that an overhead rate for the current fiscal year audited in accordance with the Federal Acquisition Regulations may be required for the contract.

SOQ/Proposal Submittal and Content:

Five copies of your qualifications must be submitted to (name of LOCAL AGENCY official and title), (Address), (Town), Montana, (zip) by (time, date, year), and your submittal must include:

SAMPLE FORMAT FOR RFP/SOQ

In response to the initial Request for Proposal and Statement of Qualifications, the consultant's proposal will follow the outline below and provide the following information:

- I. Describe the specific service the firm would provide. (Maximum of two pages)
- II. Provide qualifications of the project team and technical personnel assigned to work on project.
 - A. Provide an organization chart depicting the personnel to be used on this project, their area of expertise, registration, special training, chain of command, office location(s). Identify how much of each person's time will be spent on the

- project. (If personnel from more than one office are to be utilized indicate which office.) (Maximum of two pages)
- B. Provide résumés of above personnel, including specific related project experience; identify when applicable experience for each person was obtained. (Put in Appendix A).
 - C. Provide a specific outline and description of the support services proposed to complete the entire project from start to finish, including subcontractors, drilling, aerial photography, labs, etc. (Maximum two pages)
 - D. Discuss physical plant and in-house facilities (i.e. computers, lab, etc.). (One page)
- III. Provide a brief (but specific) outline of firm's previous (highway, bridge, EIS, interchange, enhancement, etc.) projects and other projects relating to the specific project RFP, and any special abilities or experience suiting the firm for work on the particular project. Identify the time frame (beginning and completion dates) in which projects were completed and experience gained. (Maximum of four pages)
- IV. Describe how the firm proposes to perform the project as defined in the scope of work. Demonstrate the firm's competence to do the work with available manpower and resources taking into account present and projected workload. (Maximum of two pages)
- V. List as references all of the firm's clients from the past three years for projects that deal with similar work as proposed. (Put in Appendix B)
- A. Include client name, contact person, phone number.
 - B. Give range of contract value.

Evaluation of SOQ Submittals:

All submittals will be evaluated in accordance with the following factors:

NOTE: The evaluation factors listed below are only examples. Local officials should include those factors that they believe are appropriate to the work tasks to be involved, with relative weights for each according to their priority.

- a. 5% - Location:

This criterion may be assigned 0 to 5 percent weight depending upon necessity of firms' geographical locations and/or job expertise requirements. LOCAL AGENCY will determine proper weight to this category for each project.

- b. 30% - Quality of Firm and Personnel:
 - (1) Related experience on similar projects.

- (2) Qualifications, experience and training of staff to be assigned to project.
- c. 35% - Capability and Capacity of Firm:
 - (1) Ability to meet all technical requirements.
 - (2) Capability of firm to meet project time requirements.
 - (3) Capability to respond to project and LOCAL AGENCY and MDT requirements.
 - (4) Compatibility of systems, equipment (i.e., CADD and public visualization capabilities).
- d. 30% - Record of Past Performance of Firm in Previous Projects. Rating on the past performance will be done by the LOCAL AGENCY.
 - (1) Measure of previous record with the LOCAL AGENCY will be based on the in-house documentation of quality of work, on-schedule performance, cost performance, and cooperation with the LOCAL AGENCY Engineer and staff.
 - (2) A limited or no previous record with the LOCAL AGENCY will require reference checks. LOCAL AGENCY will devise an equitable measure for this rating criterion.

Evaluation of Proposal Submittals:

All submittals will be evaluated in accordance with the following factors:

NOTE: The evaluation factors listed below are only examples. Local officials should include those factors that they believe are appropriate to the work tasks to be involved, with relative weights for each according to their priority.

Understanding and quality of response to Request for Proposal for consultant (architectural, or engineering, or surveying) contracts: 100%.

- a. Ability of consultant to identify project-specific issues. (25%)
- b. Ability of consultant to communicate firm's proposed approach to specific project issues. (25%)
- c. Clarity of consultant's response and understanding of LOCAL AGENCY and MDT's project requirements. (25%)
- d. Organization of consultant's work plan. (25%)
- e. If necessary, other pertinent factors may be considered and weights adjusted accordingly.

General:

Please state "(MDT Project Name and STPE Number)" on the outside of the response package.

Following the review and evaluation of all SOQ submittals, the list of interested firms will be narrowed to an appropriate short list. Those selected will then be reviewed for their submitted proposals (RFP). An interview may also be requested to aid us in our selection of a consultant.

The award will be made to the qualified proposer whose proposal is deemed most advantageous to the (Name of LOCAL AGENCY), all factors considered. Unsuccessful proposers will be notified in writing as soon as possible.

Respondents may review the application which includes a description of the proposed project including scope of work, location, schedule, and other pertinent information by visiting the (Name of LOCAL AGENCY), offices during regular office hours.

This solicitation is being offered in accordance with federal and state requirements governing procurement of consultant services. Accordingly, the (Name of LOCAL AGENCY Governing Body) reserves the right to negotiate an agreement based on fair and reasonable compensation for the scope of work and services proposed, as well as the right to reject any and all responses deemed unqualified, unsatisfactory or inappropriate.

If you have any questions please contact (Name and Title of Contact Person) at (phone number), (Monday through Friday between the hours of 9:00 a.m. and 3:00 p.m.).

COMPANY LETTERHEAD
BIG SKY CONSULTING

Chapter 12 July 27, 1999

Mr. Thomas E. Martin P.E.
Engineer
Montana Department of Transportation
2701 Prospect Ave.
P.O. Box 201001
Helena, MT 59620-1001

Professional Services
STPE 1234(56)789
Big Sky Country – North
C. N. 2001

INVOICE #: 005
TAX ID #: 00-1234567
PROJECT NO: 2000

In accordance with the agreement dated July 5, 1998, between the State of Montana and Big Sky Consulting.

Services through June 30, 2000

Total Amount of contract \$131,944.00
Project Completion 98%

Total Amount Earned to Date \$130,174.54
Total Amount Billed Previously (\$129,737.85)

TOTAL AMOUNT DUE THIS BILLING \$436.69

Certification:

I hereby certify this claim is correct and just in all respects and that payment or credit has not been received:

Mary Jones, Accounting
Big Sky Consulting

This claim contains no
unallowable costs under
48 CFR 31.2

For any questions regarding this invoice contact _____ at Tel # _____

COMPANY LETTERHEAD

BIG SKY CONSULTING

Page: 1 of 3

Invoice No: 005

Project No: 2000

Date: July 27, 1999

STPE 1234(56)789
 Big Sky Country – North
 C. N. 2001

	This Invoice	Cumulative
DIRECT LABOR	\$35.50	\$31,510.65
OVERHEAD 145%	51.48	45,690.44
	-----	-----
SUBTOTAL DIRECT LABOR EXPENSE	\$86.98	\$77,201.09
	-----	-----
SUBCONSULTANTS (Invoices Attached)	\$464.40	\$40,446.59
	-----	-----
OUT-OF-POCKET	\$0.00	\$3,387.86
	-----	-----
TOTAL COSTS	\$551.38	\$121,035.54
	-----	-----
FIXED FEE 12% OF DIRECT LABOR	\$10.44	\$9,139.00
	-----	-----
TOTAL DUE THIS INVOICE	\$561.82	\$130,174.54

PROJECT DBE GOAL ATTAINMENT

<u>Certified DBE Contractors</u>	This Invoice	Percent of Project Cumulative	<u>DBE Goal (4%)</u>
B&L Co. (Landscape Arch.)	\$0.00	\$5,369.33	4.07%
Beverly Cox (Drafting)	0.00	1,014.00	0.77%
	-----	-----	-----
	\$0.00	\$6,383.33	4.84%

\$131,944 X 0.04 = \$5,277.76 (Project DBE Goal)

COMPANY LETTERHEAD**BIG SKY CONSULTING**

Page: 2 of 3

Invoice No: 005

Project No: 2000

Date: July 27, 1999

STPE 1234(56)789
 Big Sky Country – North
 C. N. 2001

ENGINEERING SERVICES	EMPLOYEE	HOURS	RATE	AMOUNT
PROJECT MANAGER	Bill Jones	1.00	\$24.00	\$24.00
CIVIL ENGINEER II	Ed Blake	0.00	22.00	0.00
CIVIL ENGINEER II	Flo Smith	0.00	22.00	0.00
DESIGNER/DRAFTSMAN	Rick Deeds	0.00	14.00	0.00
SECRETARY/CLERICAL	Bob Able	1.00	11.50	11.50
				----- \$35.50

OUT-OF-POCKET

	This Invoice	Cumulative
--	-----------------	------------

Federal Express & Postage	\$0.00	\$216.02
Lodging	0.00	1,160.91
Photo Processing and Reproduction	0.00	975.32
Supplies for Sampling	0.00	39.07
Meals	0.00	246.80
Phone	0.00	199.74
Plan Review Fee	0.00	550.00
	-----	-----
TOTAL OUT-OF-POCKET	\$0.00	\$3,387.86

COMPANY LETTERHEAD

BIG SKY CONSULTING

Page: 3 of 3
 Invoice No: 005
 Project No: 2000
 Date: July 27, 1999

STPE 1234(56)789
Big Sky Country – North
 C. N. 2001

	This Invoice	Cumulative
SUBCONSULTANT SERVICES		
DHC Engineering (Geotechnical)	\$0.00	\$7,533.61
Acme Surveying (Land Surveys)	464.40	10,593.89
B&L Company (Landscape Architect)	0.00	5,369.33
Bert Bowman (Hydrogeologist)	0.00	2,342.10
Gus Gordon (Backhoe Operator for Geotechnical)	0.00	1,080.00
Del Bowman & Co. (Mechanical & Electrical)	0.00	12,513.66
Beverly Cox (Drafting)	0.00	1,014.00
	-----	-----
TOTAL SUBCONSULTANT SERVICES	\$464.40	\$40,446.59

Appendix 12.85

MDT Performance Evaluation Consultant Services

CONSULTANT PERFORMANCE EVALUATION
(NOTE: This information is not for general distribution)

Project No.: STPE _____ Date of Evaluation _____
Project Name: _____ Name: _____
Control No.: _____ Interim ____ or Final ____

Consultant: _____
Address: _____

Table with 5 columns: RATING CODE, OUTSTANDING (10, 9), GOOD (8, 7), SATISFACTORY (6, 5), MIN. ACCEPTABLE (4, 3), UNACCEPTABLE (2, 1, 0)

1. Names of Firm's Project Manager and Key Personnel: _____

2. Overall Performance (Describe Strengths and Weaknesses):
Rating: _____ Comments: _____

3. Timely Performance of Work:
Rating: _____ Comments: _____

4. Project Cost Management:
Rating: _____ Comments: _____

5. Quality and Cost Effectiveness of Design:
Rating: _____ Comments: _____

6. Adherence to LOCAL AGENCY and MDT Procedures Standards and Specifications:
Rating: _____ Comments: _____

7. Plan Errors/Omissions Change Orders:

Rating: _____ Comments: _____

8. Accuracy/Clarity of Plans, Specifications, and Estimates:

Rating: _____ Comments: _____

9. Adequacy of Training and Supervision of Staff:

Rating: _____ Comments: _____

10. Communications and Dealings with LOCAL AGENCY, MDT, Contractor, and General Public:

Rating: _____ Comments: _____

11. Recommendations (Particularly if Commenting on Ratings 0, 1, and 2)

CONSULTANT PERFORMANCE EVALUATION

Instructions

Guidelines for Consultant Managers Completing Consultant Performance Evaluation Form:

The Consultant Performance Evaluation Form, consists of two sheets with ratings and comments.

The rating is designed to be as confidential as reasonable and possible. A consultant performance evaluation is, however, sent to the firm for its information and comment. The firm is allowed one page of comments.

I. Purpose and Frequency of Filing:

The purpose of this completed evaluation is to document the performance of a firm for a given contract and to assist the LOCAL AGENCY and MDT personnel in the selection of consultants for future assignments. It is not intended to be used as a device to alter and control consultant performance over the life of the agreement. An evaluation should be completed annually and must

be completed at project completion for each consultant for all types of work, including both engineering and non-engineering work. In addition, an evaluation should be completed whenever the quality of the consultant's work undergoes a marked change so that the LOCAL AGENCY and MDT is award of a firm's current performance. A Final Rating remains on file for a period consistent with LOCAL Agency's and MDT's information retention policy.

II. Preparation:

Guidelines for Preparation of Performance Evaluation:

The LOCAL Agency's Primary Consultant Project Manager (the person with continuous supervision of the firm, who normally signs or recommends that payments be made) will complete the evaluation with aid and review by his/her supervisor. The completed original signed version should be kept by the LOCAL AGENCY a copy must be transmitted to the MDT CTEP Engineer and to the Consultant.

Rating values – General:

Only ONE consultant performance evaluation is allowed per consultant for each contract phase for a given time period. If other consultant managers are responsible for different areas of the consultant work, each should complete the appropriate areas of the evaluation form. Indicate all names of consultant managers on the form.

Interim evaluations for each contract/agreement should be prepared annually. This should be completed near the anniversary date of the contract signature date and should be done annually until the contract/agreement is complete. Additional evaluations should be prepared if the consultant's performance is contrary to existing evaluations, particularly if it concerns outstanding or poor performance. At the time the LOCAL Agency's Project Manager/Supervisor recommends that the MDT accept the work of the consultant, a Final evaluation must be completed.

Whole numbers must be used for rating, from 0 to 10. The rater may not use decimals or two whole numbers with a dash (e.g. 6.5 or 5-6) for a rating.

It is also important that the comments reflect and agree with the ratings given to the consultant. This is especially critical where two or more consultant managers are completing the evaluation. Please verify that the comments and the ratings are consistent with each other prior to submission to MDT.

Numerical Values:

The following rating scale should be used to differentiate the official rating classifications. The bracketed terms represent an attempt to interpolate between official rating classifications.

10	Outstanding	4	Minimally Acceptable
9	{Superior}	3	{Substandard}
8	Very Good	2	Unacceptable
7	{Proficient}	1	Unacceptable
6	Satisfactory	0	Unacceptable
5	{Need Improvement}		

Ratings of 0, 1, and 2 indicate unacceptable to minimally acceptable performance and those of 9 and 10 indicate extremely good to outstanding performance. These extremes should be used only when appropriate. Also remember that a “5” is considered “average” or between “good” and “satisfactory,” and routine quality work that complies with the requirements of the contract would be expected to fall in the 4-6 range. All extremes and any anomalies in ratings must be explained in the comments. Managers are encourage to make clear distinctions between consultants for selection consideration by using the entire range as appropriate.

Data Required in Each Consultant Performance Evaluation:

Complete the Project Number, the Project Name and the Control Number as listed on the MDT programming documents. Complete the date the evaluation was completed and who completed the evaluation. Enter the Consultant’s full name or the full name of the company. Include the address. If the firm has multiple offices include the office that is completing the contract.

Overall Performance

ALL CONSULTANT RATINGS MUST HAVE AN OVERALL PERFORMANCE RATING FOR AT LEAST ONE MAJOR WORK AREA. IT SHOULD BE A COMPOSITE OF ALL THE INDIVIDUAL RATINGS. This rating should be for the MAJOR WORK AREA ONLY, but the manager may rate more than one area if the project legitimately has more than one major work area, i.e., a design project with both restoration of a historic building and a sidewalk/landscape design involved. These two work areas each could require a rating. If the consultant is providing Construction Support services, rate them ONLY for construction support and not for design.

Timely Performance of Work:

Indicate the firm’s timeliness in the performance of work within the agreement. Make sure that the comments agree with the rating given.

Recommendations (Particularly if Commenting on Ratings 0, 1, and 2)

These recommendations should address the hiring/nor hiring of the firm in the future. Recommendations must be based on the comments indicated above and should pertain only to the work performance of the firm.

Appendix 12.86

Consultant Service Agreement (CTEP 4-7)

CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this **date** day of **month, year**, by and between **city or county of ?**, from now on referred to as the LOCAL AGENCY, and **consultant's firm name**, from now on referred to as the Consultant, whose principal office is located at **consultant's address including street and mailing address**.

The Montana Department of Transportation, herein referred to as the "MDT", has approved the proposed LOCAL Agency's project funded under Montana's federal-aid Surface Transportation Program – Urban (STPU) and the LOCAL AGENCY desires to employ the Consultant to furnish certain specific services of an **engineering or architectural** nature as described below: and

The Consultant agrees to provide such services in accordance with the conditions provided and to carry out all the duties and obligations imposed by the Agreement;

The parties agree as follows, subject to the terms, conditions, and provisions and in consideration of the mutual covenants contained herein, the Consultant agrees to perform for the LOCAL AGENCY, and the LOCAL AGENCY agrees to accept from the Consultant, the following services:

The project development (evaluations, surveys, environmental research and documentation, and design for a construction contract and any other specified items pertaining to, except as explicitly stated otherwise) for federal-aid project **STPE ##(##)**, **Project name as shown on Project Specific Agreement**, Control Number **####**, located **describe location with project limits**.

This project will involve **insert description from the Project Specific Agreement (PSA) enter in the description of project. Modify as necessary to explain briefly what is anticipated**.

All referenced documents are current and updated as of the date of this Agreement. In addition, copies of all manuals, guidelines, and other MDT documents may be obtained by the Consultant from MDT's Consultant Design Section. Consultant may be charged for copies of documents.

ARTICLE I SCOPE OF WORK

SECTION 1 - STANDARD OF CARE

The Consultant's performance all services, obligations, and responsibilities under this Agreement will be in a manner that is consistent with that degree of care and skill ordinarily exercised by members of the **engineering** profession currently practicing under similar circumstances.

SECTION 2 - GENERAL

The Consultant, in performance of all work called for under this Agreement, will furnish all services for **preliminary engineering and construction engineering**. The Consultant must become familiar with the written standard practices before beginning any of the work on this Project. All work required under this Consultant Services Agreement must be performed by the Consultant in accordance with these standard practices and any special requirements contained in this document. Specific project scope is outlined in Section 4 of this Article.

The Consultant **will or will not** assist the LOCAL AGENCY in the advertisement and award of the construction contract.

SECTION 3 - PROJECT DEVELOPMENT AND DESIGN

The Consultant will develop the project, conduct all necessary surveys, evaluations, and analyses, perform designs, and prepare project manuals for a transportation enhancement project.

Development of the Project will be in accordance with MDT's Local Agency Guidelines. The Consultant's work will be performed in accordance with the most current version of the following books or manuals for guidance, as applicable. MDT specific CADD (microstation) and other software requirements do not apply to work performed under this agreement.

MDT Local Agency Guidelines
Montana Road Design Manual
Montana Bridge Design Manual
Hydraulics Manual
Survey Manual
Right-of-Way Manual
Traffic Manual
Construction Manual
AASHTO Standard Specifications for Highway Bridges
Montana Detailed Drawings
Project Development Procedures (Guideline only)
Montana Standard Specifications for Road and Bridge Construction
Consultant Users Manual & Activity Descriptions (Guideline only)
Manual on Uniform Traffic Control Devices (MUTCD)
American Society for Testing and Materials (ASTM)
Montana Materials Manual of Test Procedures
MDT CADD Standards Manual
Approach Standards for Montana Highways
Public Involvement Handbook
AASHTO Guide for the Development of Bicycle Facilities
AASHTO Guide Specification for Design of Pedestrian Bridges
Montana Public Works Standard Specifications

SECTION 4 – SPECIFIC PROJECT SCOPE

Enter the detailed scope of work for this Agreement include specific tasks. This section may refer back to exhibit E where a detailed scope of work with a project schedule may be listed.

SECTION 5 - REPORTS

- A. The Consultant will prepare the minutes for all meetings involved with the Project and will provide a copy of each to the LOCAL AGENCY. The following formal reports will also be required:
1. ***Include a list of all reports that will be required from the consultant***
- B. The Consultant will identify and justify all exceptions to design standards (see Art. I, Sec. 3) that are found to be necessary during the design of the Project. The justification must include economic analysis. The Consultant will submit a Design Exception Request to the LOCAL AGENCY for approval by the MDT.

SECTION 6 - OBLIGATIONS OF THE LOCAL AGENCY TO THE CONSULTANT

In addition to the obligations of the LOCAL AGENCY to the Consultant listed elsewhere in this agreement, the LOCAL AGENCY will:

- A. As far as possible cooperate with the Consultant in making necessary arrangements with public officials and with such individuals as the Consultant may need to contact for advice, counsel, and information.
- B. Provide timely approvals of the Consultant's formal submittals in writing in all instances. If verbal approvals are first given in the interest of progressing the work, such verbal approvals shall be confirmed in writing by the LOCAL AGENCY at the earliest possible time.
- C. The Consultant must provide to the LOCAL AGENCY a list of the information needed by the Consultant for rendering the services required under this Agreement. The LOCAL AGENCY will provide the Consultant such information as is available to the LOCAL AGENCY and the LOCAL Agency's consultants and contractors. If materials prepared by the LOCAL AGENCY or its consultants or contractors are incomplete or erroneous, the LOCAL AGENCY will compensate the Consultant for any work required to correct them. Information generated by sources other than the LOCAL AGENCY, MDT or their consultants or contractors may be utilized by the Consultant, but the LOCAL AGENCY and MDT assumes no liability for its accuracy or completeness.
- D. Furnish copies of the LOCAL Agency's existing as-built construction and right-and-way plans (as available).
- E. The LOCAL AGENCY will not reuse or make or permit to be made any modifications to the Consultant's final design and drawings without the prior written authorization of the Consultant. The LOCAL AGENCY

shall make no claim against the Consultant arising from any unauthorized reuse or modification of the design and drawings.

- F. Give prompt written notice to the Consultant of any development that affects the scope or time of performance of the Consultant's services, or any defect or nonconformance in the Consultant's services or in the work of any subconsultant.

SECTION 7 - CONFERENCES, PROGRESS REPORTS, AND LIAISON

- A. Conferences will be held as necessary between representatives of the LOCAL AGENCY and the Consultant to review and discuss progress and any matters pertinent to any phase of work. Additional compensation will not be made for those conferences.
- B. The Consultant will be responsible to and will report to **name of LOCAL AGENCY project manager**, for payment, submission of information, etc. All submittals will be made through **name of Consultant Liaison**, who will be the Consultant's liaison.
- C. Requests for visits to the site or at the office of the Consultant may be made by the LOCAL AGENCY, representatives of the MDT, Federal Highway Administration, or the Consultant in conjunction with any other party or parties for the purpose of review or inspection of the work.
- D. The Consultant will furnish to the LOCAL AGENCY a brief narrative progress report on the first day of each month showing the status of the work on the Project. The report will cover all phases of work accomplished during the period of the report and show the percentage of work completed for each phase of the Project. Mention should be made of any matters that may have adversely affected the progress of the work.
- E. The Consultant, upon LOCAL Agency's direction, will confer with public agencies, including planning authorities, giving consideration to suggestions and plans of such agencies.
- F. The Consultant will submit to the LOCAL AGENCY the professional history, classification, and salary of each person to be assigned to the Project. The LOCAL AGENCY will reserve the right to approve all such personnel and will so inform the Consultant of such approval in writing.

SECTION 8 - PERSONNEL

The Consultant must have in their employ a registered Professional **Engineer** in the State of Montana.

SECTION 9 - ENDORSEMENTS

The Consultant will furnish professional stamps, statements, or other suitable means to signify responsible endorsement of work.

ARTICLE II TIME OF BEGINNING AND COMPLETION

SECTION 1 - PROJECT COMPLETION TIME

- A. The Consultant agrees to start work on the professional services outlined in Article I of this Consultant Services Agreement within **ten (10)** days after receipt of written notice to proceed from the LOCAL AGENCY.
- B. The mutually agreed to Project Schedule, Exhibit E, is made a part of this Agreement. Except as provided below, the Consultant must meet all deadlines and scheduled submittal dates. The Consultant will make reasonable efforts to improve on the schedule.
- C. **Except as provided below, all work as specified in Article I of this Agreement must be completed by (end date of Agreement month day, year).**
- D. If during the Project development, the Consultant becomes aware of circumstances that have or may have an adverse affect on the scheduled completion of any or all phases of the Project, or that the Consultant will be unable to meet any schedule deadlines or submittal dates, the consultant will immediately notify the LOCAL AGENCY in writing. The LOCAL AGENCY and the Consultant will together take the steps necessary to maintain the Project on schedule. The Project completion schedule will be adjusted only if necessary.
- E. The Consultant is not responsible for delays caused by factors beyond the Consultant's control, including delays because of strikes, lockouts, work slowdowns, or stoppages, accidents, acts of God, failure of any

governmental or other regulatory authority to act in a timely manner, failure of the LOCAL AGENCY to furnish timely information or approve or disapprove of the Consultant's services or work product promptly, or delays caused by faulty performance by the LOCAL AGENCY.

- F. The Consultant submits the final contract plans package to the LOCAL AGENCY and MDT for review. The Consultant will make any revisions to the plans that are required as a result of this review.
- G. Any alteration in the time schedule under Article II, Section 1C, shall be subject to the provisions of Article II, Section 2B.

SECTION 2 - CHANGES

- A. If the LOCAL AGENCY determines it to be necessary in the execution of the work to make any alteration that will increase the scope of work outlined in this Agreement, the time limits specified herein will be adjusted as provided in Article II, Section 2B.
- B. If additional work is requested by the LOCAL AGENCY or delays beyond the control of the Consultant prevent completion of the services to be performed under this Agreement in the time specified, the LOCAL AGENCY will grant an equitable adjustment of the Agreement amount and/or time for performance for all affected phases of the work. The Consultant shall provide a written request for an adjustment within **ten (10)** days from the date the Consultant receives notice of the reasons for the requested adjustment.

ARTICLE III PAYMENT

SECTION 1 - PAYMENT FOR SERVICES

This Agreement will be administered on a cost plus fixed fee basis. The salaries, overhead rate, salary additive rate, and other compensatory rates, as included in the Consultant's cost proposal (Exhibit "D"), will remain fixed for the duration of this Agreement. However, the Consultant may make written request to the LOCAL AGENCY to make revisions to the above rates. The LOCAL AGENCY may approve revisions if they are reasonable and justified.

SECTION 2 - DEFINITIONS

A. Payroll Costs

1. Payroll costs shall be defined as the actual salaries and payroll items of all personnel working on the Project. The LOCAL AGENCY agrees to pay such actual payroll items as Social Security, Unemployment Compensation, excise and payroll taxes, employees' compensation insurance, sick leave, vacation, holiday pay and employees' retirement, employee medical and disability insurance, in addition to actual salaries. The LOCAL AGENCY agrees to reimburse the Consultant for overtime at the rate of one and one-half (1½) times the hourly rate paid each employee. Requests for authorization of overtime will require prior written approval of the LOCAL AGENCY.
2. Overtime is all hours worked in excess of forty (40) hours per week.
3. The hourly rate for salaried employees shall be determined from their annual salary divided by two thousand eighty (2080) hours.

B. General Administrative Overhead

General administrative overhead of the Consultant is applicable to the payroll costs described in Paragraph A. Payroll Costs. Such overhead may include, but not be limited to, the following: administrative, clerical, and unallocated labor; employee bonuses and incentive awards; general travel expenses; depreciation; dues and subscriptions; computer and equipment expense; equipment rental; freight; general business insurance; employee travel accident and life insurance; legal and accounting; office, drafting room, and laboratory supplies; professional society fees; recruiting; rent; building and equipment repairs and maintenance; taxes and licenses; telephone and telegraph (except toll charges specifically related to each individual project); general travel and employee relocation; utilities and janitorial services; and office miscellaneous expense. Specifically excluded are bad debts and interest on borrowed capital.

Out-of-Pocket and Subcontract Costs

1. Out-of-Pocket expenses directly related to the Project shall be reimbursed at cost. They will include all travel and subsistence. All out-of-pocket costs shall require approval of the LOCAL AGENCY. It must not include regular office expenses such as rent, light, normal equipment, and similar expenses. It will include the cost of printing.
2. Subcontractor charges directly related to the Project shall be reimbursed at cost. All subcontract costs shall require approval of the LOCAL AGENCY.

D. Payment of Services

Payment will be made on the basis of and in accordance with the following schedules:

1. The Consultant will be reimbursed for the actual payroll costs as set forth in Article III, Section 2, Paragraph A, for the time such employees are directly utilized on work necessary to fulfill the terms of this Agreement. To this amount will be added the general administrative overhead costs as set forth in Article III, Section 2, Paragraph B.
2. The Consultant shall be reimbursed for actual out-of-pocket expenses and subcontract costs as specified in Article III, Section 2, Paragraph C.
3. The Consultant will be paid a fixed fee (profit) not to exceed **\$##,###.##, (amount written out) Dollars .**
4. The total payment to the Consultant (including payroll costs, out-of-pocket expenses, subcontract costs and fixed fee) for the work covered under this Agreement will not exceed **\$ ##,###.##, (amount written out) Dollars.**
5. All costs related to this project are to be in conformance with 48 CFR 31.2 of the Code of Federal Regulations.

E. Partial and Final Payments

Partial payments of the foregoing will be made at monthly intervals as the work progresses, based upon certified invoices received, compatible with current practices and acceptable to the LOCAL AGENCY. Payments on the fixed fee will be based upon the estimated percentage of completion of work. **Every request for payment must include one original and (number of required copies) copies of the certified invoice, along with (number of required copies at least one) copies of the progress report.**

Whenever the Consultant completes the work in accordance with the terms of the Agreement, the LOCAL Agency's Liaison will certify to the completion and recommend to the LOCAL AGENCY that final acceptance be made. The LOCAL AGENCY will notify the Consultant that acceptance has been made.

The LOCAL AGENCY reserves the right to withhold payment of the Consultant's final payment until any and all just claims filed with the LOCAL AGENCY against the Agreement have been settled. Accomplishment of an affidavit on the final claim by the Consultant shall constitute full Acceptance by the Consultant of the total amount shown as the entire amount due the Consultant under the agreement.

F. Consultant's Proposal & Cost Estimate

The attached Consultant's Proposal and Cost Estimate, Exhibit "D", by this reference is made a part of this Agreement. If this document conflicts with the Agreement, the Agreement will govern.

SECTION 3 - INSPECTION AND AUDIT

All books, papers, records, payrolls, vouchers, and invoices relating to costs and expenditures incurred as to the performance of the services specified in Article I by the Consultant or any of its subcontractors shall be made available to the LOCAL AGENCY, MDT, the Legislative Auditor and Legislative Fiscal Analyst, the Federal Highway Administration or their authorized representatives, for audit and review, at the Consultant's respective offices, at all reasonable times during the Agreement period and for three years from the date of final MDT payment.

SECTION 4 - TYPE OF CONTRACT

The Consultant agrees that this is a Consultant Services Agreement and that the Consultant is an independent contractor and not an employee of the LOCAL AGENCY or MDT. It is further understood by the Consultant that no deductions from the payments under this Agreement for federal or state income tax, FICA (social security), retirement, or other reasons will be withheld by the LOCAL AGENCY or MDT.

**ARTICLE IV
MISCELLANEOUS PROVISIONS**

SECTION 1 - TERMINATION OR ABANDONMENT

The LOCAL AGENCY may terminate this Agreement at any time upon **fifteen (15)** days written notice to the Consultant, for any of the following:

- A. Due to unforeseen circumstances it is possible that it could be in the best public interest to abandon, reduce, or change the Project covered by this Agreement. If the LOCAL AGENCY believes that is appropriate, this Consultant Agreement will be terminated.
- B. Due to adverse weather, flood, earthquake, etc., or any other condition or conditions beyond the control of the LOCAL AGENCY and/or Consultant, which may adversely affect the work to be performed, this Agreement may be terminated by the LOCAL AGENCY.
- C. Due to a change in the scope, character, or complexity of all or any part of the work under this Agreement, the LOCAL AGENCY may decide that it is in the best public interest to terminate this Agreement.
- D. Should the services of the Consultant prove unsatisfactory or because of the failure of the Consultant to perform its work with due diligence or to complete the required services or any part of it within the time limits specified, this Agreement may be terminated.

In any such case, however, the Consultant shall be paid the reasonable value of such services rendered up to the time of termination. The reasonable value of such services shall be based on the method of payment as defined in the Agreement. The approved percentage of completion will be determined by mutual agreement between the LOCAL AGENCY and the Consultant.

SECTION 2 - GENERAL COMPLIANCE WITH LAWS

- A. The Consultant will observe and comply with existing laws, ordinances, and regulations.
- B. The consultant agrees to indemnify and hold harmless the LOCAL AGENCY, state and MDT, their officials, agents, and employees, while acting within the scope of their duties as such, from and against all claims, demands, and causes of action of any kind or character (including reasonable attorneys fees and costs of defense), to the extent caused by the Consultant's negligent acts, errors, or omissions arising out of services performed, or in any way resulting from a negligent act, error, or omission of the Consultant and/or its agents, employees, subcontractors, or its representatives under this Agreement.
- C. The Consultant agrees to indemnify and hold harmless the LOCAL AGENCY, state and MDT, their officials, agents, and employees, while acting within the scope of their duties as such, from and against all claims, demands, and causes of action of any kind or character (including reasonable attorneys fees and costs of defense), to the extent caused by the Consultant's non-negligent but wrongful acts, errors, or omissions arising out of services performed, or in any way resulting from a non-negligent but wrongful act, error, or omission of the Consultant and/or its agents, employees, subcontractors, or its representatives under this Agreement.
- D. The LOCAL AGENCY agrees to indemnify and hold harmless the Consultant from and against all claims, demands, and causes of action of any kind or character (including reasonable attorneys fees and costs of defense), to the extent caused by the LOCAL Agency's negligent acts, errors, or omissions arising out of services performed, or in any way resulting from a negligent act, error, or omission of the LOCAL AGENCY and/or its agents or employees under this Agreement.
- E. The LOCAL AGENCY agrees to indemnify and hold harmless the Consultant from and against all claims, demands, and causes of action of any kind or character (including reasonable attorneys fees and costs of defense), to the extent caused by the LOCAL Agency's non-negligent but wrongful acts, errors, or omissions arising out of services performed, or in any way resulting from a non-negligent but wrongful act, error, or omission of the LOCAL AGENCY and/or its agents or employees under this agreement.

SECTION 3 - OWNERSHIP OF DOCUMENTS

Upon completion of services or termination of this Agreement, all drawings, map originals, survey notes, field books, calculations, reports, and all data used will become the property of the LOCAL AGENCY.

Following the LOCAL Agency's acceptance of such documents, the Consultant will be indemnified, defended, and held harmless only for any changes or revisions to the plans and related documents that the Consultant prepares under this Agreement that are made without Consultant's knowledge and written consent.

SECTION 4 - SUBCONTRACTING, ASSIGNMENT OR TRANSFER

The subcontracting, assignment, or transfer of any part of this Agreement, except as shown in the Consultant's proposal, is prohibited unless prior written approval is obtained from the LOCAL AGENCY. Subcontracts that exceed \$10,000 in cost will contain all required provisions of the prime agreement.

SECTION 5 - CHANGES OF WORK

If, during the term of the Agreement, additional services are required, other than those services specified above, or major changes in the work become necessary or desirable, the LOCAL AGENCY may make written request to the Consultant to perform such services or make such changes. If the Consultant is of the opinion that any work he has been requested to perform is beyond the scope of this Agreement and constitutes extra work, the Consultant will promptly notify the LOCAL AGENCY in writing prior to performing such work. If the LOCAL AGENCY agrees that such work does constitute extra work, the Consultant shall be reimbursed on a mutually agreed basis, and additional time for completion of the Agreement shall be given. Before such work is undertaken, the Consultant and the LOCAL AGENCY will, by mutual written agreement, determine the scope of the work and the cost thereof.

Compensation will be determined before the operations begin and as soon as circumstances permit. If a mutual agreement is not reached in negotiations for an increase in such work, the LOCAL AGENCY will use other methods to accomplish the work.

SECTION 6 - MEETINGS AND PRESENTATIONS

The Consultant and its subcontractors, when directed by the LOCAL AGENCY, will attend and make appropriate presentations at meetings conducted for the purpose of discussing with the public or local, state, and federal officials the effect and objectives of the proposed project or other matters pertaining to the Project.

The Consultant will prepare exhibits and visual aids necessary to clarify the proposed project to the participants of the meetings.

SECTION 7 - ACCURACY OF WORK

The Consultant will make necessary revisions or corrections resulting from errors and omissions on the part of the Consultant without additional compensation (see Art.I, Sec.1).

If any errors are made by the Consultant in any phase of its work under this Agreement that may require additional field or office work, the Consultant will be promptly notified in writing and will be required to perform such additional work as may be necessary to correct these errors without undue delay and without additional cost to the LOCAL AGENCY. Acceptance of its work will not relieve the Consultant of the responsibility for subsequent correction of any such errors and the clarification of any known ambiguities.

Construction problems or conflicts arising as a result of design or plan errors or omissions will be considered the Consultant's responsibility. The LOCAL AGENCY will be responsible for any unreasonable interpretation it makes of the Consultant's design, drawings, and plans. The Consultant will be notified of all such errors and omissions and will meet with LOCAL AGENCY representatives to assist in determining corrective action at no cost to the LOCAL AGENCY. If design errors are found to be a cause of the construction problem or conflict, the Consultant will have the opportunity to be involved in discussions to determine the desired corrective action. Following discussions between the LOCAL AGENCY and the Consultant, the LOCAL AGENCY will provide the Consultant with its written demand letter for the total costs of the corrective action.

The Consultant agrees to provide proof of errors and omissions insurance coverage not less than \$1,000,000 (One-Million Dollars) for the entire period of the Project for which consultant services are required under this Agreement.

SECTION 8 - VENUE

In the event of litigation, venue shall be the **(number of the Judicial District)** Judicial District in and for the County of **(name of county)**, State of Montana, and the Agreement shall be interpreted according to the laws of Montana.

SECTION 9 - NONDISCRIMINATION

Reference is made to Exhibit "C," which by this reference is hereby made a part of this Agreement.

SECTION 10 - CERTIFICATION

The parties to this Agreement have each executed a certification. The certification of the Consultant, labeled Exhibit "A," is attached and by this reference made a part of this Agreement. The certification of the LOCAL AGENCY, labeled Exhibit "B," is attached and by this reference made a part of this Agreement.

SECTION 11 - DBE GOAL

The Consultant will make all reasonable efforts to utilize the MDT's currently certified DBE firms for applicable subcontracting services that are necessary. The Appendix Guidelines of CSA contains instructions for accessing the current Internet listing of MDT's certified DBE firms. Darren Kaihlanen, Compliance Specialist will be contacted at (406) 444-9229, should subcontracting opportunities arise.

Each invoice submitted in accordance with Article III, Section 2E, must state the established DBE goal for the project and the current and cumulative amounts expended to date towards that goal.

SECTION 12 - WORKER'S COMPENSATION COVERAGE

The Consultant agrees to provide proof that he has a policy for Worker's Compensation Insurance or proof that he has elected to be exempt from such coverage and his election has been approved by the Department of Labor and Industry. The Consultant agrees to maintain Worker's Compensation Coverage for the entire period of this Agreement.

SECTION 13 - CONSULTANT'S PLANS RESPONSIBILITY

The Consultant will be responsible for the quality of the final plans package (see Art. I, Sec. 1), as the LOCAL AGENCY will not make a detailed check of the plans. The Consultant will stamp and sign the title sheet of the final contract plans package. The Consultant's name will be shown on all plan sheets of the Project. If Specialty Plans are involved (for example, Bridge Plans, Sewer/Water Plans prepared for a city and included into the LOCAL Agency's plan package, or similar plans), the Consultant will stamp and sign each page of the plans.

The final plans package will be assembled and shall take on the form of a Project Manual and drawings as defined in the _____ Guidelines.

SECTION 14 - ENTIRE AGREEMENT & MODIFICATIONS

This Agreement, including the documents referenced or attached here, is the entire agreement of the parties. Any modification requires a written amendment signed by authorized representatives of both parties.

SECTION 15 – THIRD PARTY BENEFICIARIES

This Agreement is not intended to create anyone as a third party beneficiary or to authorize anyone not a party to the Agreement to maintain an action for damages pursuant to the terms or provisions of this Agreement.

SECTION 16 - CONFIDENTIALITY OF INFORMATION

The Consultant understands that the information contained in and created by this Agreement will be part of the public bidding process, and that it must remain confidential between the Consultant and the LOCAL AGENCY until the Project has been awarded. Failure by the Consultant or its employees to keep that information confidential will be considered a breach of this Agreement, and may require the LOCAL AGENCY to have another consultant rework the work product of this Agreement, potentially delaying the Project and costing the LOCAL AGENCY additional funds. Such an act by the Consultant will be a violation of Art. IV, Sec. 2, and subject all persons or parties involved to possible debarment under ARM Sec. 18.d.101 *et seq.*

IN WITNESS, the parties involved have sealed this Agreement by their signatures.

APPROVED FOR
THE CONSULTANT

APPROVED FOR
THE _____

By: _____

By: _____

Date: _____

Date: _____

By: _____

ATTEST:

Date: _____

By:

FEDERAL EMPLOYER'S I.D. NO.

Date:

ATTEST:

APPROVED FOR LEGAL CONTENT

By: _____

By: _____

LOCAL AGENCY Legal Services

Date: _____

Date: _____

EXHIBIT "A"
CERTIFICATE OF CONSULTANT

I am a duly authorized representative of the firm of **Name of Consultant Firm**, whose address is **Address of Consultant Firm** and I hereby certify as follows:

1. That neither the firm nor any person associated therewith in a management capacity:
 - (a) has employed or retained for commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this Agreement;
 - (b) has agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement, or
 - (c) has paid or agreed to pay to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant), any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement; with no exceptions.
2. That neither the firm, nor any person who has critical influence on or substantial control in the firm, nor any person associated therewith in a management or supervisory capacity:
 - (a) is currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency or any agency of any state government;

- (b) has, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud; a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under a public transaction; violation of antitrust statutes; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- (c) is currently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses listed in paragraph 2(b) of this certification.
- (d) has had one or more public transactions terminated for cause or default within a three-year period preceding this Agreement.

3. That to the best of my knowledge and belief:

- (a) 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 any Federal 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.
- (b) 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 Federal 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.

I acknowledge that this certificate is to be furnished to the **City or County of ?**, State of Montana, Department of Transportation, and the Federal Highway Administration, in connection with this Agreement involving participation of Federal-Aid highway funds, and is subject to applicable state and federal laws, both criminal and civil.

Date _____ Signature _____

EXHIBIT "B"
CERTIFICATE OF THE **City or County of ?**

I hereby certify that I am the **Title of official** of the **City or County of ?** of the State of Montana, and that the above consulting firm, or his representatives, has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this Agreement, to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay, or agree to pay to any firm, person or organization, any fee, contribution, donation or consideration of any kind; with no exceptions.

I acknowledge that this certificate is to be furnished the Montana Department of Transportation and Federal Highway Administration in connection with this Agreement involving participation of Federal-Aid highway funds, and is subject to applicable state and federal laws, both criminal and civil.

Date

Chief Executive's Signature

EXHIBIT "C"
NON-DISCRIMINATION NOTICE

During the performance of this Agreement, the Consultant (hereafter in this Section “the Party”), 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 Party shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations, 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 Party, 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 Party shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5.
- (3) Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the Party 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 Party of the Party's obligations under this Agreement and the Regulations relative to nondiscrimination.
- (4) Information and Reports: The Party 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 Party is in the exclusive possession of another who fails or refuses to furnish this information, the Party 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 Party's noncompliance with the nondiscrimination provisions of this Agreement, State may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,
 - (a) Withholding payments to the Party under the Agreement until the Party complies, and/or
 - (b) Cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) Incorporation of Provisions: The Party 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 Party 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 Party is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the Party may request the State to enter into the litigation to protect the

interests of the State, and, in addition, the Party 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, §49-3-207, MCA

In accordance with Section 49-3-207, MCA, the Party 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 Party will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.
- (2) The Party will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs:
"The Party 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 Party. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the Party."

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 §26

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

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

EXHIBIT "D"
CONSULTANT COST ESTIMATE

	Labor Categories					
Work Elements - Tasks						
Total Hours						

Labor Categories	Total Hours	Base Wage Rate	Labor Cost
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
Total Labor Cost		\$	\$

Total Labor Cost \$ _____
 Fringe Benefit Cost _____ % x Total Labor Cost \$ _____
 G&A Overhead Cost _____ % x Total Labor Cost \$ _____

Total Payroll Cost \$ _____

Direct Expenses
 Per Diem \$ _____
 Mileage \$ _____
 Copies/Prints \$ _____
 Computer \$ _____
 Subcontractor Expenses \$ _____

Profit/Fixed Fee \$ _____

Total Project Costs \$ _____

I certify that the cost or pricing data submitted and identified to the LOCAL AGENCY during the selection and negotiation process is current, complete and accurate as of the date of the agreement on the price.

Signature

Date

Exhibit "E"
Scope of Work and Schedule

Project Description

Enter project description or can refer to appropriate sections of the contract.

Task 1: Heading and approximate number of days to complete

- A. Description of work
- B. Description of work
- C. Description of work

Task 2: Heading and approximate number of days to complete

- A. Description of work
- B. Description of work
- C. Description of work
- D. Subcontract for ? with name of subcontractor
- E. Description of work

Task 3: Heading and approximate number of days to complete

- A. Description of work
- B. Description of work
- C. Description of work
- D. Description of work

Appendix 12.87

Consultant Service Agreement Appendix

NOTE: This is a modified version of the Montana Department of Transportation's (MDT's) standard contract appendix. The MDT approved appendix has been modified for use by Local or Tribal Governments (LOCAL AGENCY) participating in the federally funded project by the MDT CTEP Engineer. LOCAL AGENCY officials and their consultants are encouraged to contact the MDT CTEP Office at (406) 444-9209 with any questions they may have regarding the requirements of this program.

The MDT CTEP Engineer may determine that certain consultations, evaluations, reviews, authorizations and approvals of the consultant's or contracted service work may be performed by the LOCAL AGENCY. Especially for projects located on or along roadways classified as "local roads" or "rural collectors". The LOCAL AGENCY is responsible for assuring that all consultant or contracted service work is in conformance with FHWA/MDT requirements. All consultations with, and submittals to, the MDT will be coordinated by the LOCAL AGENCY through the MDT CTEP Office.

MDT's CADD (MicroStation) requirements do not apply to this program, however general requirements for plan set development, drafting and content found in the *Road Design Manual* do apply. Local governments may have their own requirements and may supplement this appendix to clarify expectations for any given project.

SURVEY

GENERAL

A. The Consultant will be responsible for completing all engineering and cadastral survey work necessary for the Project. All survey work will be accomplished under the direct supervision of a professional land surveyor licensed in the state of Montana and in conformance with the MDT's Survey Manual and the procedures for a Control Traverse System, Control Traverse Diagram and Plotting, and Property Corner Ties.

Before any survey work is started, the Consultant will meet with the appropriate LOCAL AGENCY personnel to review and discuss the work.

B. All surveys will utilize the Montana state plane coordinate system. Global Positioning System (GPS) surveying methods, if used, will meet the requirements of GPS Survey Requirements.

C. Either conventional surveys or photogrammetric mapping methods may be used. All electronic files should be developed in Microstation or in a format acceptable to the LOCAL AGENCY administering the contract.

D. The Consultant will survey and monument the Control Traverse for the Project. The Consultant will tie photogrammetric ground control to the control traverse, both horizontally and vertically.

E. Field pickup surveys will be provided as necessary to locate and identify topography and utility verifications. Pickup surveys will be tied to the established control traverse.

F. The Consultant will provide all hydraulic surveys.

G. The Consultant will provide all surveys necessary to confirm the aerial mapping. This will include conducting field surveys at the intersections at the ends of the Project to confirm elevation matches into the existing adjacent streets. The Consultant will also field verify the aerial mapping (to confirm quantity volumes) by surveying three random cross-section checks in the field to compare with the cross sections developed by aerial mapping. Full coordinates (x, y, and z) will be computed by the Consultant for each point on each ground cross-section line. The ground cross

sections and the map cross sections will be plotted and compared to verify the mapping accuracy.

H. The Consultant will survey and locate all existing public and private utilities in the Project corridor above and below ground. All underground utilities will be located by a Subsurface Utility Engineering (SUE) firm approved by the LOCAL AGENCY, and all such location work will be in accordance with the MDT's criteria, which are covered in the Subsurface Utility Engineering Section.

The Consultant will perform a Phase I SUE survey as a part of the initial scope of this Agreement. A Phase II SUE survey, if required, will be performed by the Consultant as an additional cost item.

I. The Consultant will provide surveys for the relocation and/or reestablishment of section corners and property corners as necessary to determine ownership boundaries and acquire right-of-way on the Project. This includes making all the necessary ties to the Control Traverse and providing all necessary supporting documentation (see "Section Corner Relocation" Section for general requirements).

The survey of property corners and right-of-way monumentation is required when existing right-of-way is to be utilized and where new right-of-way is to be tied into the existing right-of-way. These corners and monuments are to be shown on the right-of-way plans. Wherever a section line crosses the centerline, the appropriate section corner on each side will be tied into the control traverse. All surveys involving section corners, property corners, and right-of-way monumentation will be performed by a PLS and in accordance with the MDT Survey Manual.

J. Ties to railroad property will be required where railroad right-of-way is required.

K. The Consultant will secure right-of-entry permits and permission to survey, as necessary. If a property owner refuses permission to survey or requests payment of a permit fee, the Consultant will immediately advise the LOCAL AGENCY, and the LOCAL AGENCY will obtain permission or a judicial order allowing the survey.

L. The Consultant will survey and reference the final design centerline. All controlling points, P.T. and P.C. on simple curves, T.S., S.C., C.S., and S.T. on spiral curves, and sufficient points along the tangents to maintain intervisibility (150 m) for the length of the Project will be monumented and referenced.

M. The Consultant will compute full coordinates (x, y, and z) for the control traverses and design centerline, and for all right-of-way breaks. These coordinates will be placed on the appropriate plans.

N. The Consultant will provide all signing necessary for traffic control during survey work in accordance with the requirements of the Manual on Uniform Traffic Control Devices (MUTCD).

SECTION CORNER RELOCATION

The Consultant will be responsible for all section corner reestablishment and ties to the Project.

The scope of work for section corner reestablishment and property ties is as follows:

1) All work will be performed under the supervision of a land surveyor registered in the State of Montana.

2) The Consultant will make a thorough search for all property controlling corners along the Project. After the search is complete, a meeting between the consultant's land surveyor and the LOCAL AGENCY will be held to determine the corners that will need to be tied to the control traverse. The decisions will be based upon right-of-way requirements and ownership.

3) The required lost or obliterated corners will be reestablished in accordance with the provisions of Montana law.

4) All corners will be recorded in conformance with the Corner Recordation Act of Montana. Corner forms will describe the methods used to reestablish the corners. The consultant will furnish the LOCAL AGENCY a copy of all corner recordation forms as recorded.

5) All found stones, posts, unmarked monuments, and reestablished corners will be monumented with 33"x30" flared base monuments and witnessed with a post and sign or yellow tag. The consultant will furnish the monuments. Existing monuments that clearly can be identified (i.e., BLM brass caps) and are in good condition do not need to be remonumented.

6) A search for all existing property corners (individual tract boundaries) along the Project will be made. Ties will be made to all found corners using the property tie procedure. A complete description of the found monument will appear in the notes and be shown on any drawings. Missing property corners will not be reestablished.

7) Closed traverse methods, with a minimum of two sets of horizontal angles, will be used to tie all corners.

8) Survey notes will be kept in a field book on a size of sheet and form acceptable to MDT.

9) A control diagram drawn to scale showing the traverse sequence and the corner locations will be provided. The point identification will match the field notes and computations.

10) The raw traverse, compass or least squares adjusted traverse and a listing of the corner coordinates will be provided in a format acceptable to the Department.

11) Lost or obliterated quarter corner positions that will fall within the existing paved highway will not need to be remonumented, but reference monuments will be established outside the proposed construction limits. A recordation form will be recorded.

12) If a single section line tie is required, the record and found bearings and distances between corners will be shown on the appropriate corner recordation form.

13) If more than one section line is required, a Certificate of Survey using as many sheets as necessary to clearly show all record and found bearings and distances, found and set controlling property corners, and method used to reestablish controlling property corners will be filed with the appropriate County Clerk and Recorder. A reproducible and two copies will be provided to the LOCAL AGENCY. The LOCAL AGENCY will review the Certificate of Survey prior to filing.

14) On projects with a control traverse, all property corners will be tied to the control traverse. If the consultant is preparing ROW plans, the coordinates of the property corners will be shown or listed on the drawings. The consultant will provide monuments (2" diameter Aluminum Control Traverse caps with e" rebar, and 52' witness posts with signs) for control traverse points. The Consultant will use an approved rebar drive cap for monument rebar placement. An approved drive cap is the SURV-KAP issue RB-5/8 or an equivalent.

15) On projects with only a staked baseline (centerline), ties to the baseline control points will be made in the vicinity of the section line crossings. The station of the crossing and distances to the corners from the crossing will be computed. A sketch showing each crossing will be provided. The crossing information will not be shown on the corner forms or Certificate of Survey, as the baseline may not be the final design line.

NOTE: Refer to the control traverse procedure for definition of terms used in this scope of work.

SUBSURFACE UTILITY ENGINEERING

The Consultant or Contracted Service Provider agrees to perform the required professional subsurface utility engineering services, including the obtaining of field subsurface utility data necessary to prepare right-of-way, utility, and construction plans for this project in accordance with these requirements and utilizing the level of care as specified below.

- The Consultant or Contracted Service Provider, employing qualified, competent, and experienced personnel, will perform subsurface utility engineering services in two phases.
- The first phase designate (Phase I) consists of the Consultant's or Contracted Service Provider's designating services. For the purposes of this Agreement, "designate" means to

establish by engineering, surveying, and drafting practices the presence and horizontal location of subsurface utilities using geophysical prospecting techniques, including, without limitation, electromagnetic and sonic techniques within a 0.46 meter (18") tolerance. The term "designate" for the purpose of these instructions will also mean to establish by engineering, surveying, and drafting practices the horizontal and vertical location of above-ground utilities.

- The second phase, locate (Phase II), consists of the Consultant's or Contracted Service Provider's locating (test hole) services. For the purposes of these instructions, "locate" means to establish by engineering, surveying, drafting, and vacuum excavation practices the accurate horizontal and vertical position of subsurface utilities. The Consultant or Contracted Service Provider will provide the LOCAL AGENCY with a written log of each test hole. The LOCAL AGENCY will approve the number, if any, of excavations that will be performed by the Consultant or Contracted Service Provider.
- All traffic control necessary will be performed in accordance with the *Manual on Uniform Traffic Control Devices*.

SUE – SUBSURFACE UTILITY DESIGNATING SERVICES

CONSULTANT or CONTRACTED SERVICE PROVIDER responsibilities (Phase I) are as follows:

1. Provide all equipment, personnel, survey, traffic control, and supplies required to perform designating services. The CONSULTANT or CONTRACTED SERVICE PROVIDER will determine what equipment, personnel, and supplies are required to perform designating services.
2. Conduct appropriate records research, investigate site conditions, and identify applicable project limits.
3. Obtain all necessary permits from MDT, city, county, or other municipal jurisdictions to allow the CONSULTANT or CONTRACTED SERVICE PROVIDER to work in existing streets, roads, and/or on adjacent rights-of-way, including landowner permission.
Contact the MDT District Administrator, LOCAL AGENCY, and utility companies 48 hours prior to beginning work to advise of and coordinate the work.
4. Designate the location of existing underground utilities including their major laterals and any overhead utilities that are within the project limits. Unless expressly requested, the Consultant or Contracted Service Provider will not be required to designate or record storm sewers, empty or abandoned utilities, and vault or manhole limits or dimensions.
5. All utilities will be tied to project centerline or base line with distance and station. Each underground utility must be electronically designated, surveyed, and mapped to within a tolerance of .46 meter (18") at 20-meter intervals when parallel to project centerline or base line, at all direction changes and all closures, cabinets, and huts. Underground utility crossings must be designated, surveyed, and mapped at project centerline and at the outer project limits (proposed right-of-way line when known). Each pole or structure of overhead utilities within the project limits will be surveyed to centerline and mapped. A clearance on all overhead crossings to centerline will be measured and mapped with a centerline station.
6. Draft survey information in a plan format acceptable to the LOCAL AGENCY using Computer Aided Drafting and Design systems of the Consultant or Contracted Service Provider. All

survey work, including the retracing of a survey centerline or base lines, will be determined and performed by the Consultant or Contracted Service Provider.

7. Compare survey information drafted on base plans using CADD with information provided from field data and evaluate all drafted information for accuracy and reliability.
8. Review and correct all plan sheets against all records, field sketches, CADD drafting, and field notes.
9. Review and seal all appropriate work products by a staff Professional Engineer and/or Land Surveyor (licensed in the State of Montana) who is in charge.
10. Return base plans to the LOCAL AGENCY and review the information obtained with the LOCAL AGENCY.
12. Provide the LOCAL AGENCY a summary sheet showing the individual lineal (meters or feet) of each utility company's facility designated for a project.

SUE – SUBSURFACE UTILITY LOCATING (TEST HOLE) SERVICES

CONSULTANT or CONTRACTED SERVICE PROVIDER responsibilities (Phase II) are as follows:

1. The Consultant or Contracted Service Provider shall submit his plan for Phase II services for review by the LOCAL AGENCY prior to beginning the work. The plan must show the planned number and locations of proposed test holes.

2. Provide all equipment, personnel, traffic control, survey, and supplies required to perform its locating services.

The CONSULTANT or CONTRACTED SERVICE PROVIDER shall determine what equipment, personnel, and supplies are required to perform such services.

3. Conduct appropriate records research and investigate site conditions.
4. Contact the utility companies 48 hours in advance and one call to advise and coordinate CONSULTANT or CONTRACTED SERVICE PROVIDER activities.
5. Obtain all necessary permits from MDT, city, county, or other municipal jurisdictions to allow the Consultant to work in existing streets, roads, and rights-of-way. Obtain permission of private property owners.
6. Electronically sweep underground utility facilities.
7. Excavate test holes to expose the utility and measure to both top and bottom in such a manner that ensures the safety of the excavation and the integrity of the utility. In performing such excavations, the CONSULTANT or CONTRACTED SERVICE PROVIDER shall comply with all applicable utility damage prevention laws and notify the MDT District liaison, LOCAL AGENCY and utility company 48 hours in advance of beginning work. The Consultant or Contracted Service Provider shall be responsible for any damage to a utility company facility during the locating phase (Phase II).

8. Survey and record (a) horizontal and vertical location of top and bottom of utility referenced to project datum, (b) elevation of existing grade over utility at a test hole referenced to project datum, (c) outside diameter of utility and configuration of non-encased, multi-conduit systems, (d) utility structure material compositions, when reasonably ascertainable, (e) benchmarks and/or project control used to determine elevations, (f) paving thickness and type, where applicable,

(g) general soil type and site conditions (h) record any soil contamination and (i) such other pertinent information reasonably ascertainable from the test hole site. References to project datum shall maintain vertical tolerances to " 0.015-meter (" 0.05') based on benchmarks shown on the Consultant or Contracted Service Provider work product and horizontal tolerances to applicable surveying standards. If control points or additional benchmarks are required, the Consultant or Contracted Service Provider shall perform such services according to established practices at Consultant or Contracted Service Provider cost.

9. Provide permanent restoration of the pavement within limits of the original cut, including backfill and compaction methods acceptable to the State and LOCAL AGENCY. When test holes are excavated in areas other than a roadway pavement, these disturbed areas shall be restored as nearly as reasonably possible to the condition that existed prior to excavation.

10. Evaluate and compare obtained information with utility information described in utility records and resolve conflicts.

11. Draft the horizontal location and the profile view of the utility on project plans in a format acceptable to the LOCAL AGENCY.

12. Compile information described in Item #8 above using the Consultant's automated systems and quality assurance procedures. The CONSULTANT will provide the LOCAL AGENCY a test hole data sheet for each excavation.

13. Upon request, review data obtained with the LOCAL AGENCY.

SUE – WORK ZONE TRAFFIC CONTROL

When performing field work on or adjacent to public streets or highways, it shall be the responsibility of the CONSULTANT or CONTRACTED SERVICE PROVIDER to provide traffic control devices (signs, cones, etc.) or other necessary devices, in accordance with the *Manual on Uniform Traffic Control Devices* (MUTCD) for designating (Phase I) or locating (Phase II) work.

SUE – WORK STANDARDS

Field data shall be obtained in conformity with current practices of MDT as outlined in various Unit Manuals and Unit Guidelines in regard to presentation, media, sheet sizes, scales, special drawings, and summaries thereof.

All original calculations, field notes, quantity calculations, boring logs, subsurface utility data, any necessary project special provisions, and other material in addition to the drawings prepared under this Agreement shall be the property of the LOCAL AGENCY and shall be turned over to the LOCAL AGENCY upon completion of the work.

SUE – REPRODUCTION

The Consultant or Contracted Service Provider shall be responsible for reproduction of all plans as necessary to complete the work of the Consultants or Contracted Services.

SUE – SUBCONTRACTS

The Consultant or Contracted Service Provider shall not sublet any portion of the work under this agreement without prior approval by the LOCAL AGENCY.

The Consultant or Contracted Service Provider shall be responsible for the schedule of any work sublet to others so as to ensure that the overall schedule of the project is maintained.

The Consultant or Contracted Service Provider shall be responsible for the completeness, accuracy, presentation, inclusion of data into the design and plans, and reviews of any work sublet to others.

SUE – PERFORMANCE

The Consultant or Contracted Service Provider shall perform the subsurface utility engineering services set forth herein by providing services equal to or better than the practice prevalent within the subject area of the work and commensurate with the magnitude and intricacy of the work under consideration. Such services shall be so complete that it will not be necessary for the LOCAL AGENCY to supplement any of the operation by its own personnel.

HYDRAULICS

HYDRAULIC & HYDROLOGIC ASPECTS OF BRIDGE WATERWAY OPENING, IRRIGATION, AND DRAINAGE DESIGN

The Consultant will provide all hydraulic analysis and design necessary for the Project. This category of service includes hydrologic/hydraulic reports for bridges, design of project drainage and irrigation facilities, design of storm drain trunkline, inlets, and outfall facilities, evaluation of flood potential and risk assessment, and preparation and submittal of local floodplain permit applications, coordination and resolution of inquiries and receipt of approved permit as required. Details of required hydraulic features are also required. The design of hydraulic features must be performed in accordance with the procedures outlined in the MDT's adopted AASHTO Drainage Manual chapters and Department Design manuals listed above, in addition to considering current reference materials in the areas of bridge scour, stream stability, and fish passage. The Consultant will prepare and furnish Preliminary, Final, and updated Hydraulics Reports for LOCAL AGENCY review in accordance with the Consultant Flow Chart provided in the Department's Consultant Users Manual and Activity Descriptions.

A. General Hydraulic Requirements

1. *The hydraulic and hydrologic aspects of all drainage will be evaluated during the planning, location, and design phases of the Project. All sites, either in place on the present roadway/project site or required on the new roadway/project site, involving culverts, bridge waterway openings, irrigation ditches, channel changes, storm drain systems, and special requirements including riprap, guide banks, energy dissipaters, and channel linings shall be subject to hydrologic and hydraulic investigations. Existing and proposed water related facilities shall be analyzed using Federal and MDT procedure and policy guidelines as outlined in the documents in:*

Current policies and procedures recommended by the U.S. Department of Transportation in Federal-Aid Policy Guide, 23 CFR 650A, Location and Hydraulic Design of Encroachments on Floodplains, and the policies and procedures of the MDT referenced in the next paragraph.

2. All work will be in accordance with the following AASHTO Drainage Manual chapters as modified and adopted by the MDT. These chapters can be accessed on the MDT's internet; Hydraulics Section.

- a. Chapter 7, Hydrology
- b. Chapter 9, Culverts
- c. Chapter 10, Bridges
- d. Chapter 13, Storm Drainage Systems

B. Hydraulic Reports

In addition, all crossings will be supported by documentation in the following general format: (A detailed list of tasks and documentation requirements for individual reports are included in the Consultant Users Manual and Activity Descriptions.)

1. Preliminary Hydraulic Report

This report will include the hydrologic and preliminary hydraulic analysis required to evaluate environmental impacts and establish the preliminary project alignment and grade.

2. Final Hydraulic Report

This report will update and supplement the preliminary hydraulic report to reflect modifications necessary as project design proceeds. All information and data included in the Preliminary Hydraulic Report will also be included in the final report. In addition, this report will include the economic analysis and comprehensive study for all proposed drainage and irrigation facilities and longitudinal floodplain encroachments for the highway facility or highway transportation project. In addition, the report shall include a detailed summary, file documentation, and detailed recommendations.

3. Final Hydraulic Update

This report is an addendum to the Final Hydraulic Report and includes final documentation of permits, agreements, and hydraulic plan updates as a result of inspections, right-of-way negotiations, and agreements.

4. Field survey recommendations and local historical information shall be included in the report; however, they are to be used only as guidelines.

5. When other state or federal agencies or irrigation districts have facilities that conflict with the Project, the Consultant shall request approval of design details for relocation or modification of their respective facilities by letter and signed prints.

ENVIRONMENTAL

GENERAL

The Consultant or Contracted Service will address and resolve all potential environmental issues, including but not limited to, social, economic, farmlands, 4(f) and 6(f), air quality, cultural, and biological impacts, as applicable. This will include the preparation and distribution of all environmental documents, as well as all the research, testing, and coordination necessary to complete the environmental process. The Consultant or Contracted Service will provide copies of supporting documentation to the LOCAL AGENCY. Draft copies of all environmental documents will be provided to the MDT and FHWA via the LOCAL AGENCY for review and comment.

A. The Consultant or Contracted Service will research, coordinate, and prepare the environmental document for this Project in accordance with current State and Federal regulations. This will include the preparation of secondary documents as noted below and the incorporation of the applicable information, as well as any comments received from governmental agencies or other sources.

1. The Consultant or Contracted Service will evaluate the biological impacts of the Project. This will include coordination with the U.S Fish and Wildlife Service as necessary to obtain threatened/endangered species clearances, and coordination with the Montana Department of Fish, Wildlife and Parks and the Montana Natural Heritage Program regarding impacts to wildlife, fish, or species of special concern. The Consultant or Contracted Service will prepare the Biological Resources Report, which will evaluate and resolve any biological, wildlife, and wetlands issues on the Project.

2. The Consultant or Contracted Service will conduct a cultural resources survey for the Project and complete a Cultural Resource Report. The LOCAL AGENCY via the MDT will obtain Section 106 clearance from the State Historical Preservation Office.

3. The Consultant or Contracted Service will comply with the Cooperating Agency requirements under 23 CFR 771.111(d) if the Project uses or impacts property owned by a Federal or State agency.

4. The Consultant or Contracted Service will comply with the Farmland Protection Policy Act. This will include preparation of Form AD 1006 (the Farmland Conversion Impact Rating), and, if necessary, coordination with the Soil Conservation Service.

5. The Consultant or Contracted Service will prepare the applications for all environmental permits and clearances necessary for the construction of the Project (Clean Water Act Section 404 permits, Montana Stream Protection Act 124 permits, Section 402 Storm Water Permits, etc.), except for Section 106 clearance. All environmental permit applications will be coordinated through the LOCAL AGENCY.

6. The Consultant or Contracted Service will identify any 4(f) involvement due to impacts on parks, recreational areas, or historical sites. This will include contacting the Montana Department of Fish, Wildlife and Parks, and if applicable, the U.S. Forest Service as per the MDT's standard procedure. If a Section 4(f) Evaluation should be required, the 4(f) document will be prepared by the Consultant or Contracted Service. Preparation of the 4(f) document and printing of copies would be an additional cost item.

7. The Consultant or Contracted Service will prepare an air quality report for the Project or, if applicable, use the MDT's applicable standard air quality paragraph in the environmental document.

B. The Consultant or Contracted Service will address and resolve all hazardous waste issues on the Project. This will include coordination with the Montana Department of Health and Environmental Sciences and testing, if necessary, to identify any hazardous waste sites.

The Consultant or Contracted Service will perform a Phase I Hazardous Waste Study as part of the initial Project scope.

C. The Consultant or Contracted Service will complete a noise study for the Project, if applicable. This will include noise modeling and field verification in accordance with the MDT's noise policy and federal regulations.

BIOLOGICAL RESOURCES REPORT

As part of the environmental review process described in the National Environmental Policy Act, Montana Environmental Policy Act, and the Endangered Species Act, projects must be analyzed as to their potential impacts on biological resources. The Montana Department of Transportation (MDT) performs and requires these biological analyses in the form of Biological Resources Reports (BRRs), which address general biological resources, rare and sensitive species, threatened and endangered species (TES), and wetlands. Guidelines for conducting such analyses and preparing BRRs are provided below. Because the process is dynamic, coordination with a MDT biologist is suggested.

It should be noted that, in some cases, work may only be contracted out for a single biological resource, such as wetlands. In this case, the report does not need to include all sections discussed below. However, the report should stand alone, and should contain all information required under the appropriate sections, as discussed below.

General Reporting Guidelines

Analysis Areas - For vegetation, wildlife, and fisheries, analysis areas usually will extend outside project limits, and will be variable in size and location depending upon the species

investigated. Analysis areas pertaining to wetlands are more specific and are discussed below under Wetlands.

Data Collection - Interview local experts; review applicable literature and current research projects; and conduct appropriate field surveys. With the exception of wetlands, methods employed during field surveys are to be determined by the Consultant or Contracted Service, based on project and area specifics and professional judgment. Wetland delineation methodology is discussed below under Wetlands. It is important that all data collection methods be discussed/described in the BRR.

Report/Analysis - Include description of project, project area, analysis areas, and data collection methods. Include maps and/or photos, if appropriate. Discuss/describe existing biological conditions/resources. Evaluate potential direct, indirect, and cumulative impacts (past, present, and foreseeable future) resulting from the proposed project; identify measures to avoid, minimize, or mitigate projected impacts. Include documentation of pertinent correspondence with agencies or individuals. Reference sources appropriately.

Submit five (5) copies of complete final report to MDT via the LOCAL AGENCY.

An example of a general BRR format outline acceptable to MDT is attached to these instructions. The format used on the attached outline is not necessarily required, but is provided as a general guide.

Specific Reporting Guidelines

The BRR addresses potential project-related effects to biological resources such as fish and wildlife species (game and non-game), habitats (winter range, spawning, etc.) and ecological communities (old growth, riparian, etc.). The report should include information specified under Reports/Analysis above, and should address general vegetation, wildlife, and fisheries (if applicable); rare and sensitive plants, wildlife, and fish; TES, and wetlands. Rare and sensitive species, TES, and wetlands are discussed below.

Rare & Sensitive Species Section This section specifically addresses plant and animal species designated as rare or sensitive or as species of special concern by the Montana Natural Heritage Program, Montana Department of Fish, Wildlife & Parks, or U.S. Forest Service. This section typically includes an overview of species status in the area and habitat use; affects of the project on species or habitat; and measures to avoid, minimize, or mitigate for impacts. Specific surveys for pertinent rare or sensitive plants and animals will be conducted within the project or analysis area if deemed necessary by the consultant.

Threatened and Endangered Species Section This section analyzes effects of the proposed action and alternatives on species and habitats of species federally listed or proposed for listing as threatened or endangered. For consistency in semantics, this section will be entitled **Biological Assessment** and will only address listed or proposed TES and critical habitat. General guidelines for the process are outlined below.

USFWS Coordination. For EA and Cat Ex level projects, coordinate with the appropriate MDT Project Biologist for the MDT District in which the project occurs to develop a list of TES and proposed TES that may occur in the project area. The USFWS may be requested to respond with a list of species that may occur in the area. A formal list must be requested from USFWS for EIS level projects. (For MDT BRR's done in-house, a formal request for a "list" is required only for EIS projects. MDT staff develop the "list" for Cat Ex and EA level projects.) Assessments are to address all the species listed. If no species are listed, an assessment is not necessary. The USFWS may also include additional information, such as habitat use by the species or an informal opinion that the project may or may not impact the species. This information can be incorporated

into the assessment but can not constitute the assessment. A thorough assessment must be prepared and then reviewed and accepted by a MDT biologist.

Data Gathering/Assessment. For each species, include: a status review; analysis of direct, indirect, and cumulative affects; a formal "determination of effect" of the proposed action; and identification of measures to avoid or minimize potential impacts. This requires field review(s), literature searches, and information gathering from land managers and researchers, including informal consultation with the USFWS. Based on the analysis of project impacts, one of four "determinations of effect" will be assigned to each species: "no effect"; "not likely to adversely affect"; "may adversely affect"; or "beneficial effect". These are discussed below.

- A No Effect determination occurs when a project or activity will not have any effect on a listed or proposed TES, or critical habitat.
- A May Adversely Affect determination occurs when a project is likely to adversely affect a listed or proposed TES, or critical habitat. If the determination is that the project may adversely affect a listed or proposed TES or critical habitat, then Formal Consultation with the USFWS must be initiated.
- A Not Likely To Adversely Affect determination occurs when a project may have possible "effects" on a listed or proposed TES or critical habitat, such as displacement or habitat modification, but those effects are insignificant or discountable.
- A Beneficial Effect determination occurs when a project is determined to substantially improve the habitat or status of a listed or proposed TES, or its critical habitat.

The BRR will be reviewed by a MDT biologist and, if appropriate, submitted to the USFWS for their review and concurrence regarding TES. (Required for EIS; discretionary for Cat Ex and EA level documents.)

WETLAND RESOURCE INVENTORY AND IMPACT ASSESSMENT SECTION

The Consultant or Contracted Service will be responsible for conducting required wetland delineation's and will make recommendations for necessary mitigation. This will include a Wetland Resource Inventory and Impact Assessment as described below.

A completed wetland resource inventory and impact assessment will minimally include the following:

- 1) Methods -
Minimally a discussion of who did what, when, where, and how.
- 2) Description of Existing Wetlands -
 - a) A description of the wetland resources in the project area, including types, extent, commonness, and wildlife/fisheries resource values (include a project translite, USGS quad map, or similar map summarizing on one map the location of each wetland site in relation to the whole project).
 - b) A table summarizing the functional values of each wetland for which wetland site evaluation forms (see #5 below) were completed.
- 3) Wetland Impacts -

- a) A qualitative and quantitative description of the effect of new construction on each wetland or wetland complex. Identify and quantify actual wetland impacts (to the extent possible) for each roadway or transportation project alignment alternative being considered.
 - b) A table listing affected wetlands, their type, area, affected area, site location and project Station location, and a summary of the total affected area of wetlands by category, type, and for the project.
- 4) Mitigation Alternatives -
- The consultant or contracted service will identify mitigation alternatives in compliance with the MDT Interagency Wetlands Operating Procedure contained in the Interagency Operating Procedure for the Conservation of Wetland Resources Associated with Highway Construction Projects in the State of Montana (Interagency OP). A copy of the Interagency OP is available from the MDT. Alternate mitigation sites will be located on a map and identified by Township, Range, and Section. An estimate of the potential area of mitigated wetland and the resultant wetland type will be given.
- 5) Delineation and Evaluation Forms -
- Appropriate Corps of Engineers (COE) Data Forms and MDT Wetland Site Evaluation Forms (Rev. 07/01/96) for each wetland site identified on the project:
- a) Identify all wetlands and wetland complexes within the proposed project ROW and within 100' of proposed project construction limits if wetlands are located outside the proposed project construction limits. Wetland delineation's will be accomplished by application of the procedures currently in use by the COE at the time of the study.
- 6) Photographs and Maps -
- a) Photographs representative of wetlands for which COE Data Forms and MDT Wetland Site Evaluation Forms have been completed.
 - b) A scale map of each wetland site for which wetland site determination and evaluation forms have been completed (see Site Maps below).

General Guidelines

Wetland Site Determination and Evaluation Forms - Wetlands site determinations and evaluations will be completed by inspecting the project in the field and completing Department supplied Corps of Engineers Data Forms and MDT Wetland Site Evaluation forms for each wetland site identified. Wetland functional values will be assessed using the MDT Wetlands Assessment Methodology.

Site Photographs - Photographs taken as representative of wetland site types for which site evaluation forms are completed, will be mounted on 8 1/2"X11" paper, and appended to the final report. The photographs should be taken with a 35mm camera, using color print film. A vantage point should be selected which will allow as much of the wetland as possible to be included in the photograph, while maintaining sufficient detail to discern the vegetation characteristics of the representational site. A site identifier (on erasable board, clipboard with paper, etc.), will be included in the foreground of each photograph, readable on the print, and referenced on the site evaluation form(s). Use of the highest f stop possible under the existing lighting conditions, a minimum shutter speed of 1/30 sec. (hand held), and a film with ASA in the 100-400 range will give good clarity of both foreground and

background.

Site Maps - The following procedure will be used to create maps of each wetland site for which a wetland site evaluation form is completed:

- 1) Obtain scale plan maps for the affected area, if available.
- 2) If not already on the plan maps, draw in the toe-of-fill limits of the existing roadway or transportation project and the new construction limits from cross-sections.
- 3) Using a zoom transfer scope, Map-O-Graph, or other suitable means, transfer delineated wetlands onto the map. Aerial photography may be used to supplement field mapping. If available, aerial photography may be obtained from the MDT and should be the same photography used for the project photogrammetry/design mapping effort. Photo scales of 1:6000 to 1:12000 are preferred.
- 4) Label each wetland type as listed on the wetlands site evaluation forms and shade the construction impacted wetland areas.
- 5) Attach or append the finished site maps to the completed BRR.

Sample Outline

CITY OF _____ OR _____ COUNTY
Biological Resources Report

Federal Aid Project Name
Federal Aid Project and Control Number
Date

EXECUTIVE SUMMARY

INTRODUCTION

PROJECT AND GENERAL AREA DESCRIPTION

STUDY METHODS

Agency Consultation and Literature Review

Field Surveys

STUDY RESULTS

Terrestrial Resources

General Description.
Rare & Sensitive Species.
Impacts.
Mitigation/Coordination Measures.

Aquatic Resources

General Description.
Rare & Sensitive Species.
Impacts.
Mitigation/Coordination Measures.

Biological Assessment - Threatened and Endangered Species

Wildlife.
Species (each species)
Analysis.
Mitigation/Coordination Measures.
Determination of Effects.

Plants.
Species (each species)
Analysis.
Mitigation/Coordination Measures.
Determination of Effects.

Conclusions.

Wetland Resource Inventory and Impact Assessment

Wetland Descriptions.
Impacts.
Mitigation.

REFERENCES

CULTURAL RESOURCE REPORT

The Consultant or Contracted Service will be responsible for conducting a Cultural Resource study on this Project. The cultural resource study will be for the purpose of evaluation of known or suspected cultural resource sites to determine the significance of the site by applying the National Register criteria as contained in 36CFR60 and suggest any mitigating measures that may be necessary.

Following the completion of the cultural resource study, the Consultant or Contracted Service will prepare a written report of findings and recommendations. This report will be subject to approval by the MDT via the LOCAL AGENCY and shall contain the following items:

- 1) Evidence of a thorough literature and records examination for previously recorded cultural resources.
- 2) The project transite/plans and USGS topographic map (or county road map) is showing the area inventoried and locations of recorded sites in relationship to the roadway or transportation project.
- 3) A description of the inventory methods used and an estimate of the reliability of the inventory (based on ground visibility).
- 4) A description of the roadway or transportation project undertaking and its area of potential environmental impact.
- 5) A brief description of the area and its environment.
- 6) An inventory of all cultural resources 45 years old or older which are located within the potential area of environmental impact. UTM coordinates and quarter-quarter-quarter sections must be included for all recorded sites. Sites should be marked on copies of USGS topographic maps. Every attempt should be made to draw site sketch map to scale. Computer-generated maps are preferred.

Completion of a "Montana Historical-Architectural Inventory Form" will be adequate for most historic structures. The following information about historic sites should be furnished:

- a) physical description of each property
- b) date of construction (within five years)
- c) builder
- d) use or function
- e) historical content

Photographs of the structure(s) and setting should accompany written descriptions. While all those photos need not be included in the report, they should be available as negatives and be included with the report. Color negatives of the structure(s) should also be included with the report.

- 7) An evaluation of resource significance according to the National Register criteria of eligibility.

Rationale should be provided as to why a property does or does not meet the criteria.

- 8) Especially for potential National Register eligible sites, site boundaries must be identified and justified. Both written descriptions and site sketch maps and/or project transmits with site boundaries delineated will be included.
- 9) The report should include a discussion about potential rural historic landscapes in the vicinity of the project.

Five copies of the final report, including two with original black and white photos, will be provided to the MDT via the LOCAL AGENCY.

A Cultural Resource Annotated Bibliography System (CRABS) form will be prepared and submitted to the MDT via the LOCAL AGENCY along with the final report, for SHPO use.

PUBLIC INVOLVEMENT

A. The Consultant or Contracted Service will perform all public involvement activities for the project. The public involvement will be in general accordance with the MDT's Public Involvement Handbook. The Consultant's or Contracted Service's public involvement will include at least one Public Information Meeting.

1. The Consultant or Contracted Service will prepare and distribute a News Release for the Project. The News Release will be distributed to appropriate news media and to local individuals/organizations that have interest in or would likely provide input to the Project.

2. The Consultant or Contracted Service will conduct personal contacts and hold meetings as required with local officials, government agencies, affected landowners, and interest groups, both for gathering input and for communicating final decisions.

3. The Consultant or Contracted Service will prepare the visual aids and make the engineering presentations at all public meetings. The consultant or contracted service will furnish display boards where the consultant is utilizing aerial photography and mapping.

B. The Consultant or Contracted Service will contact agencies with requests for environmental information. Drafts of information request letters will be submitted to the MDT for review prior to being sent out when specifically requested to do so by the LOCAL AGENCY.

TRAFFIC ANALYSIS

The Consultant will perform all appropriate traffic engineering required for the project.

A. The Consultant will prepare and submit to the LOCAL AGENCY for approval a Traffic Engineering Report. The Report will be prepared in accordance with the MDT's Traffic Engineering Manual (Part 1- General) and will include warrants and recommendations for the traffic engineering features to be incorporated into the Project (lane numbers, left-turn bays, crosswalks, signals, lighting, intersection layouts, etc.).

B. The Consultant will perform a Signal Warrant Study to determine the requirements for signalization on the Project (both of the existing traffic signals on the route and of any need for additional traffic signals) and provide recommendations. The Signal Warrant Study Report may be incorporated into the Traffic Engineering Report or may be a separate report.

C. The Consultant will provide the necessary traffic counts (pedestrian counts, turning movement counts, etc.) as necessary to evaluate the design requirements noted above.

MATERIALS

The Consultant will perform the centerline soils survey and all geotechnical and other materials-related work as necessary to complete the Project.

A. The Consultant will conduct or will cause to have conducted all literature reviews, field surveys, field investigations, laboratory testing, and analyses required to provide full geotechnical recommendations and criteria for design of the Project. This work will include as necessary, but is not limited to, the following:

1. Soil surveys in accordance with Centerline Soils Survey (MT-207).
2. Geological field mapping and Geotechnical site review.
3. Geotechnical soil borings, exploration pits, and geophysical surveys deemed necessary by the Consultant, in consultation with the LOCAL AGENCY, to sufficiently identify and characterize earth materials encountered during, or used for, construction of the Project. In general, explorations will extend to no less than 1.5 m (5 feet) below proposed Subgrade elevation in cut sections, and in fill sections no less than the height of the fill or to a depth/strata where settlement and/or instability are considered to be insignificant. Soil borings will be sampled at intervals of 1.5 meters or less by means of a split-barrel sampler or Shelby Tube Sampler, as appropriate for the encountered conditions. Bedrock formations will be confirmed by drilling and recovering a minimum of 3.05 meters of HQ size or greater. All explorations will be documented with a formal log describing the soils and rock encountered by appropriate ASTM, USCS, or AASHTO methods and delineating stratification's, topsoil depth, first occurrence of ground water, phreatic water surface elevation at the completion of exploration, and all other observations having an influence on the Consultant's geotechnical recommendations.

4. Appropriate laboratory testing of soil and rock samples recovered during the field exploration to validate field observations and logging and to develop applicable design criteria and recommendations.

5. Necessary materials testing to evaluate earth materials to be used in construction of the Project. Where pipes, culverts, or other structural features are to be included in the overall project, corrosion testing will be conducted for concrete, steel, and aluminum. All R-value testing will be conducted by the Consultant.

B. The Consultant will provide the results of the field studies, explorations, laboratory testing, and analysis in a formal report(s). This work will include as necessary, but is not limited to, the following:

1. Centerline Soils Survey (MT-207) plans at the Alignment Review, at the Plan-In-Hand Review, and for the final plans review. The Centerline Soils Survey plans will show sampling locations, depths, and soil properties/classification on the roadway plan-and-profile sheets.

2. Evaluation of surfacing alternatives and design of the recommended surfacing section(s). The surfacing design must be reviewed by the LOCAL AGENCY before incorporation into the plans.

3. A Geotechnical Engineering report detailing findings of the various studies and providing recommendations for backslopes, unstable foundations at all embankments and structures, roadway Subgrade stabilization, subsurface drainage, shrink-swell factors, and design criteria for type, size, and depth of all structural footings/foundations at piers and abutments. Alternative design recommendations should be discussed and economic justification provided. The Geotechnical report will include the exploration logs, results of laboratory testing and analytical calculations supporting the recommendations. The geotechnical report will identify and include consideration and analysis of the proposed project work on existing adjoining or nearby structures and facilities. The Geotechnical Engineering report will be prepared by and issued under the signature and seal of a duly registered Montana Professional Engineer having demonstrable experience and competence in the practice of Geotechnical Engineering.

C. The Consultant will meet with the LOCAL AGENCY prior to beginning field explorations to review and discuss the Consultant's exploration and laboratory testing plans. Prior

to submittal of the surfacing design, the Consultant will discuss the proposed design with the LOCAL AGENCY. The Consultant will meet with the LOCAL AGENCY to discuss the geotechnical recommendations prior to submittal of the final Geotechnical Engineering report.

D. The Consultant will prepare a Preliminary Geotechnical Work Plan showing relative starting and completion times (dates) for the proposed scope of work. Prior to beginning the geotechnical work, the Consultant, in consultation with the LOCAL AGENCY, will update and revise the Geotechnical Work Plan to provide specific dates for meetings and deliverables.

SURFACING DESIGN

Design Guides - The MDT follows guidelines set forth and supported by AASHTO. This includes the use of the 1972, 1986, and 1993 Guidelines. Future Guidelines will be added as they are officially adopted by AASHTO.

Design Inputs

- The MDT currently uses, as design inputs for its surfacing recommendations, the following:
1. R-value as reported from the Hveem R-value test performed in an accredited AASHTO lab
 2. The MDT does not run R-value tests on A-6 or A-7 soils. MDT assumes the values equate to a five (5) R-value.
 3. Traffic Equivalent Single Axle Loads (ESAL'S) as provided by the MDT Traffic Unit located in the Planning Division. This information will be locally determined for projects off the state maintained system.
 4. Soils Classification as reported from tests performed in an accredited AASHTO lab.
 5. Resilient Modulus values
 6. MDT **DOES NOT** use California Bearing Ratio (CBR). However, MDT does recognize its use in any surfacing design submitted to the MDT.

Design Heuristics

1. In addition to the above listed Guides, on projects with one hundred (100) or less ESALs the MDT consults the AASHTO Low Volume Design Guide.
2. Generally, the MDT does not consider a concrete (PCCP) alternative in rural areas unless requested by the LOCAL AGENCY.
3. The MDT considers ultra thin whitetopping to be an experimental design at this time.
4. Recycled Asphalt (RAP) limit is 30% to 50% in the bottom lift and 10% maximum in the top lift of plant mix.
5. The use of milled asphalt material, outside of surfacing and roadway applications must follow **FHWA rules on assignment**. These apply to the use or disposal of roadway millings. Millings are not generally used in "digouts" for Geotechnical reasons.

Design Techniques Not Generally Supported by MDT - The Department does not generally employ or support designs other than AASHTO. However, the Department recognizes that other proven surfacing designs are available to the consultant i.e. Asphalt Institute, Crush Stone Association, ACPA, etc. Therefore, before embarking on a course of surfacing design not generally supported by the Department, the Consultant should seek and get support from the MDT, via the LOCAL AGENCY, for such surfacing design.

New Surfacing Design Features - The MDT recognizes and encourages theoretical innovation that this consultant process potentially provides the MDT. Therefore, the MDT supports innovative design concepts based on proven techniques where and whenever feasible. The Consultant should seek and get MDT support for these techniques, via the LOCAL AGENCY, prior to final design.

Non-Headquarters Information - The Consultant should also consider contacting MDT's District engineering services or LOCAL AGENCY personnel where the project is located. The Consultant

will be able to gain valuable local information on preferred construction techniques, materials, and other issues that may effect the Consultant's surfacing recommendation.

Other-Soil Resistivity Testing - The method the MDT is requiring to be used when reporting soil resistivity data used in corrosion analysis for buried metal is the Soil/Water dilution of 1:2.

RIGHT-OF-WAY

NEGOTIATIONS AND ACQUISITION

I. Right-of-Way Acquisition - General

The Consultant will provide professional services necessary to complete all authorized phases of right-of-way activity associated with this project.

The Local Agency is responsible to independently acquire good and sufficient title for Right-of-Way needed for overall project. All Right-of-Way for streets and sidewalks will be acquired in the name of the Local Agency. The State will provide appraisal review service. In acquiring Right-of-Way the Local Agency must follow all requirements of the Uniform Relocation Assistance and Real Property Acquisition Act.

In acquiring Right-of-Way the Local Agency must follow all requirements of the Uniform Relocation Assistance and Real Property Acquisition Act (Uniform Act). The Federal Highway's Real Estate Acquisition Guide for Local Public Agencies and the MDT Right-of-Way Manuals will provide guidance and procedures for acquiring Right-of-Way under the Uniform Act.

The Local Agency will strive to acquire a fee simple interest in the Right-of-Way for this project, with the exception of sidewalks, which will be acquired as easements. Sidewalk easements and construction permits maybe acquired by donation, in the name of the Local Agency, without appraisals only if 1) the landowner does not request an appraisal and 2) they are donated. If a landowner requests and is paid compensation, an appraisal/Determination of Value (DOV) will be completed, reviewed (by State) and appropriate documentation prepared.

If the Local Agency cannot acquire fee simple interest, the Local Agency government may pursue Right-of-Way acquisition under applicable state and federal laws and consent of the State, acquire instead a permanent Right-of-Way easement.

If condemnation is required to obtain Right-of-Way, the Local Agency is solely responsible for condemnation of property interest. The State will neither initiate nor participate voluntarily in any condemnation of property interest nor exercise eminent domain.

The Local Agency will prepare appraisals for all Right-of-Way acquisitions over \$10,000. A (DOV) may be used in lieu of an appraisal for right-of-way acquisitions under \$10,000, if appropriate. No appraisal or DOV will be prepared for sidewalk easements or construction permits.

The Local Agency will prepare and record the required deeds and exhibits necessary to secure the right-of-way, in a format acceptable to the Local Agency. MDT Right-of-way Plans will be prepared and authorization will be submitted to the local county courthouse to be put on file. Plans will have sufficient detail should condemnation become eminent.

The following documents will be prepared for a typical ROW Parcel:
Appraisal or DOV
ROW Agreement
Bargain & Sale Deed

ROW Exhibit
 Written Offer
 Summary Statement
 Tax Re-imbusement Form
 History/Correspondence

The following documents will be prepared for a typical Sidewalk Easement:
 Public Sidewalk Easement Agreement
 Easement Exhibit
 History/Correspondence

The Local Agency also acknowledges that according to federal regulations, if Right-of-Way is donated to a project, the value of the Right-of-Way can only be credited after the project is programmed. Donated Right-of-Way must be appraised to determine value of credit. Right-of-Way easements must be donated by private entities into public ownership or purchased from private entities with non-federal funds and placed in public ownership by deed or a public easement. No other contributions or services will be credited.

Any parcels acquired by a Grant of Possession, are not considered closed for federal reimbursement purposes and 15% of the total cost for ROW acquisition will be withheld until such time as the Right-of-Way (easements and/or deeds) are recorded (copies to MDT) for all parcels.

If new Right-of-Way is acquired, the Local Agency will certify, in writing, and supply State with documentation, prior to bid letting, that the Right-of-Way has been secured in conformance with the Uniform Act. The certification shall also state the Local Agency has right to remove or demolish any improvements which remain on the Right-of-Way and which are in conflict with the contemplated construction.

The Consultant will provide all necessary management to effectively perform the right-of-way activities authorized. This will include, but not be limited to, coordination of consultant field right-of-way personnel with the LOCAL AGENCY to obtain all necessary approvals, review and approve all documents prior to submittal to the LOCAL AGENCY and maintain adequate records and files. Information will be maintained in separate individual files for each parcel.

The Consultant will provide to the LOCAL AGENCY on a monthly basis a statement indicating current status of all Right-of-Way activities. The status report will include parcel-by-parcel information. Activity completion dates are established as a part of this contract, and it is the responsibility of the Consultant to meet these dates unless otherwise agreed to in writing. Activity Completion dates are:

Final ROW Plans _____ Appraisal _____
 Acquisition _____ Plan Revisions _____

All consultant and subcontractor field representatives, i.e., appraisers, negotiators, and relocation agents will be qualified and must be approved by the LOCAL AGENCY prior to assignments. All appraisers and review appraisers will be certified in the State of Montana. The type of certification required will be determined by LOCAL AGENCY based on the complexity of the assignment.

The Consultant will be responsible for obtaining advice from their own attorney on all legal matters such as interpretation of ownership documents, local governmental regulations, or any local matters not covered in the Right-of-Way Manual. Any request for legal advice or opinion from the LOCAL Agency's legal staff will be in writing and sent through the LOCAL AGENCY Consultant Contract Administrator.

Should condemnation proceeding be required, the Consultant will be expected to provide the LOCAL AGENCY with the necessary witnesses for expert testimony at the request of the LOCAL AGENCY.

II. As a minimum, the following items are performed by the Consultant as a part of the right-of-way acquisition depending on the phases authorized:

A. Title

Title evidence is required for all right-of-way parcels to be acquired. The Consultant is responsible for updating all titles and providing necessary documents to show ownership of property to be acquired. Obtaining adequate interest in property is absolute, and clearing of all encumbrances is necessary.

B. Deeds and Exhibits

Proper deeds, easements, and exhibits will be prepared by the Consultant in a form acceptable to the LOCAL AGENCY. The Consultant will prepare all Deeds and Exhibits in accordance with the MDT's current practices and procedures, with the first three Deeds and Exhibits submitted to the LOCAL AGENCY for checking of format and procedure prior to the Consultant preparing the remaining Deeds. The LOCAL AGENCY will check all Deeds and Exhibits against the Right-of-Way Plans prior to recording of the Deeds. The Consultant may make arrangements through LOCAL AGENCY for project personnel to take a 2-4 hour instructional class on Right-of-Way Plan Revisions and Deed Preparation. This is optional for all Consultant personnel who will be working on the Right-of-Way Plans.

C. Plan Revisions

The Consultant will make all changes to the Right-of-Way Plans resulting from final design or negotiations with the landowners that will affect the Right-of-Way Plans and Deed Exhibits in a timely manner and in accordance with the MDT's Plan Revision procedure. The Consultant will provide the revised Right-of-Way Plans along with a detailed description of revisions (Form 111A) so the LOCAL AGENCY can complete the distribution of revised plans. The revised Right-of-Way Plans must be distributed by the LOCAL AGENCY prior to the revised Deeds and Exhibits being issued to the Right-of-Way Agents.

Any proposed revisions to Right-of-Way Design after Authorization to Acquire that deviate from MDT standards as defined in the current Right-of-Way Manual will be reviewed and approved by a committee comprised of representatives of the Consultant, MDT, and LOCAL AGENCY prior to any revisions to the Right-of-Way Plans.

D. Property Owner Contact

Prior to performing on-site appraisals, the Consultant will send a notice to affected property owners informing them of the LOCAL Agency's intent to acquire the property or a portion of the property in their ownership. The notice will include:

- General information about the proposed project.
- Description of the procedures by which the LOCAL AGENCY will acquire the property.
- Information regarding the owner's right to accompany the appraiser on the inspection.

- The name and telephone number of a contact person who can answer questions and provide further information.
- Appropriate relocation assistance references where applicable.
- A copy of the MDT's information pamphlets regarding state acquisition of private property for highway projects.

E. Project Report or Sales Catalog and Property Appraisal

Prior to the commencement of appraisals, a Project Report or Sales Catalog will be completed by the Consultant and approved by the MDT via the LOCAL AGENCY. The Project Report or Sales Catalog will be approved by the MDT prior to acceptance of the value determination or appraisal. Value determinations and appraisals will be prepared in accordance with federal and departmental guidelines. Value determinations, where market value is estimated to be less than \$10,000, are prepared by the Consultant's appraiser. Appraisal reports must be approved prior to acceptance of value determination by the MDT.

The appraisal report will, at a minimum, include the following, and adhere to Chapter 5, Appraisal, and MDT Right-of-Way Manual:

- Purpose of the appraisal, definition of interest being appraised, and Statement of Assumptions and Limiting Conditions.
- Description of physical characteristics of property being appraised, including known encumbrances, title information, location, zoning, present use, analysis of highest and best use, and minimum five years sales history of the property.
- Relevant approaches to value: cost, income, and market including analysis and correlation of approaches to value, and an explanation of the final conclusion of value when more than one approach is utilized.
- Description of comparable data including information regarding physical, legal, and economic factors, parties to the transaction, source and method of financing, and verification of acquired data.
- A statement of the Current Fair Market Value of the real property to be acquired including damages and benefits, if any, to the remaining real property.

MDT appraisal formats and forms will be used to the greatest extent possible. A history documenting contacts with the landowners will be included with each appraisal report.

The Consultant will assure that the property owner or his designated representative is given an opportunity to accompany the appraiser during the appraiser's inspection of the property. Such invitation will be made in writing with sufficient lead-time for the owner to arrange to be present or request an alternative time. Certification of such is to be included on the appraisal form.

F. Outdoor Advertising

All legal off-premise signs within the acquisition are to be appraised by the Consultant's appraiser, reviewed, and acquired in accordance with Montana's Right-of-Way Manual. On-premise signs will be appraised as a part of the realty.

G. Negotiations

The negotiator will make all reasonable efforts to personally contact each property owner to make an appointment at a time and place convenient to the owner. If an owner is outside the area or state, negotiations may be conducted by Certified Mail at their request.

On the first contact, a written offer will be presented to the owner along with a summary statement of the basis for the offer.

The owner will be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification to the proposed terms and conditions of the purchase. All concerns of the owner will be given consideration and made a part of the negotiation history. Concerns outside the limits of the negotiator's authority or knowledge will be referred to the MDT via the LOCAL AGENCY.

There will be a sufficient number of personal contacts with each landowner to adequately settle the parcel or clearly indicate that an impasse has been reached and further contact would be unproductive. In the event of outstanding differences, the Consultant will continue negotiations with the owner in an effort to resolve these differences.

No settlements in amounts greater than the approved offer of Fair Market Value will be offered an owner without written approval of the LOCAL AGENCY. Recommendations for settlements above the approved market value will be accompanied by negotiation histories.

At such time as the Consultant and the LOCAL AGENCY agree an impasse has been reached with the owner, the Consultant will submit to the LOCAL AGENCY parcel files and any other relevant data required by the LOCAL AGENCY for preparation of final offer letters.

Barring positive response to the final offer letter by the property owner, the Consultant's responsibilities in regard to the right-of-way acquisition for the parcel will terminate other than providing expert testimony in condemnation proceedings.

Timely and adequate written records of all negotiations will be made on a parcel-by-parcel basis. The information for each contact will include a detailed narrative account of what transpired. The records will include:

- Date and place of contact.
- Parties of interest contacted.
- Offers made (dollar amounts).
- Counter offers.
- Reasons settlement could not be reached.
- Feedback and concerns from property owners.
- Signature of negotiator.

When negotiations are successful, a signed statement prepared by the negotiator shall certify that the written agreement embodies all considerations agreed to, that the acquired property is for use in conjunction with the federal-aid project, that the negotiator had no direct or indirect interest in the property, and that the agreement was reached without

coercion of any type. The completed parcel, including the original Deed, Right-of-Way Agreement, and any partial conveyances, trust indentures, etc., will be submitted to the MDT via the LOCAL AGENCY for review, approval, and processing of payments as specified in the Right-of-Way Agreement.

RIGHT-OF-WAY PLANS PREPARATION

Ownership Report - The ownership report needs to include the last deed of record and ownership map for all ownership's adjacent to the highway from the beginning of project to the end of project. An estimate of right-of-way acquisition and relocations costs also needs to be included.

Title Commitments - Title memos are required for all parcels when right-of-way, easements, or control/access is being acquired from a property owner (Consultant is to provide attorney opinions).

Two sets of parcelized title memos with attorney opinions are required when final right-of-way plans are submitted to LOCAL AGENCY for checking. All last instruments of conveyance are to be attached to the title memos. Complete full size sets of C.O.S.'s and subdivision plats are also required.

Irrigation Study - If construction is likely to impact irrigation facilities on adjacent properties or when irrigation facilities cross the project corridor, an irrigation study will be conducted. The irrigation study will include all items indicated in Task 4 of PMS Activity 110 (see Consultant Users Manual & Activity Descriptions).

Relocation Assistance Study - If any relocation is anticipated on the project, a Relocation Assistance Study is required.

Existing Highway and Railroad Plans & Documents - The LOCAL AGENCY will provide the Consultant with the existing right-of-way plans, if any; however, it will be the Consultants responsibility to obtain the Railroad plans and the documents of conveyance of the existing highway right-of-way.

RW Design - New right-of-way design is to minimum right-of-way standards or construction limits plus 3 meters, whichever is greater. Construction limits for the highway/project template are to be within the right-of-way. (see Chapter 10, APPENDIX 10.151 for right-of-way widths policy)

New easements will be required for channel changes and in areas where the new facility is serving someone other than the owner where the facility is being constructed.

Construction Permits are to be used for inlet/outlet ditches and approaches going 50 feet beyond the right-of-way.

Existing Right-of-Way or Easement - The type interest (right-of-way or easement) is to be identified on the right-of-way Plans. Where either existing right-of-way or easement is going to be utilized or where the new right-of-way is going to be tied into the existing right-of-way a survey retracing the existing right-of-way will need to be performed by a PLS and the appropriate information placed on the right-of-way plans.

Survey - Section Corners - wherever a section line crosses the centerline, the appropriate section corner on each side will be required to be tied into the control traverse.

Property Corners and right-of-way Monumentation - the survey of property corners and right-of-way monumentation will be required when existing right-of-way is to be utilized or where new right-of-way is to be tied into the existing. These corners and monuments are to be shown on the right-of-way plans. All surveys involving section corners, property corners and right-of-way monumentation are to be performed by a PLS and done in accordance with the MDT Survey Manual.

CONTRACT PLANS

A. The Consultant will furnish the following plans (including title sheets, typical sections, and summaries) as applicable: construction plans, bridge plans, cross-sections, right-of-way plans, utility plans, lighting plans, geometric/signalized intersection layouts, signing and pavement marking plans, landscaping plans, and erosion control plans.

The Consultant will furnish necessary prints of plans required to develop the Project. Prior to submission of plans for each stage of Project development, the Consultant will consult with the LOCAL AGENCY regarding the exact number of full and half-size sets of plans to be furnished.

B. Project Plans

1. Project plans will usually be prepared at a scale compatible with Department procedures (standard scales in metric are 1:500 for urban and 1:1000 for rural roadways) and dimensioned for construction, drainage, and intersection layouts. Plans will show all existing topographic features, surface, and subsurface facilities as indicated by the LOCAL AGENCY, Department, or utility company records for the area included in the proposed right-of-way. The contract drawings will be furnished on reproducible material (laser quality prints or approved equivalent) in both full-sized and half-sized scales and will be complete in detail for all construction in accordance with current design practices of the Department found in the Department Manuals listed in **Article I, Section 3** for preparation of Federal-Aid plans. Basic computations will be made for alignment and for layout of structures and intersections.

The plans will include title sheets, typical sections, summaries, plan and profile sheets, intersection layouts, details, drawings, etc., for grading, surfacing, drainage, etc., and all other necessary items. Fencing frames, as applicable, shall be included in the summaries.

2. As soon as possible, the Consultant will furnish plans for the Alignment Review, conduct the Alignment Review, and submit the Alignment Review Report to the LOCAL AGENCY for approval. Promptly after approval of the Alignment Review Report, the Consultant will begin preparation of a detailed Scope of Work Report. The report will describe the proposed scope of work, design parameters, project limits, special features, etc. of the Project. The Scope of Work Report will then be submitted to the LOCAL AGENCY for approval.

3. As soon as possible after approval of the Scope of Work Report, the Consultant will furnish plans for a plan-in-hand, hold the Plan-in-Hand Review, and submit a Plan-in-Hand Review Report to the LOCAL AGENCY for approval.

4. The Consultant will then proceed with the design until the Project is ready for a Final Plan Review. At such time the Consultant will furnish plans for the Final Plan Review, hold the Plan Review and submit the Final Plan Review Report to the LOCAL AGENCY for approval.

5. Where privately, publicly, or cooperative-owned utility companies (other than railroads) will require rearrangements in connection with the proposed construction, the Consultant shall advise the LOCAL AGENCY as to who owns the utilities, both overhead and underground, the number of wires, line capacity and voltage of power lines, and pipe sizes and type. If necessary, the Consultant may contact the owners regarding their facilities. However, the Consultant will make no commitments with the utilities binding upon the LOCAL AGENCY. The LOCAL AGENCY will conduct all negotiations with the public utilities and authorities; however, the Consultant will participate in such negotiations at the request of the LOCAL AGENCY.

6. When a railroad alignment or railroad right-of-way is in conflict with the proposed construction, the Consultant will advise the LOCAL AGENCY as soon as preliminary design is complete of the areas of conflict. The LOCAL AGENCY will coordinate with the affected railroad as necessary to gain approval of the preliminary design or get any revisions necessary in order that the Consultant may proceed on final design of the area in conflict. If any railroad relocation is required, the preparation of all plans for this relocation shall be considered as extra work, and a fee for the work shall be agreed upon before the Consultant proceeds with the design.

7. Cross sections will be prepared as prescribed by the Department (standard horizontal and vertical scale are 1:100).

8. Project-specific special provisions will be prepared by the Consultant for all items not covered by standard/supplemental specifications approved for use by MDT. Draft versions will be furnished for the Plan-in-Hand and Final Plan Reviews. The final submittal will consist of two numbered sets of the project manual and plans.

9. Estimates of quantities and construction cost will be prepared by the Consultant and itemized and properly symbolized in accordance with the Standard Specifications on the basis of current materials, labor, and construction costs.

10. Contract plan prints, special provisions, and estimates will be submitted by the Consultant to the MDT, via the LOCAL AGENCY, for checking before final contract plans are submitted.

11. Final designs will be accomplished for all drainage and irrigation facilities. Plans for headwalls or other minor structures will be considered as special details of the project plans and will conform to the MDT references in Article I, Section 3 of the Agreement.

12. The Consultant shall prepare the necessary plans and special provisions for detour roads and traffic control.

13. The Consultant will prepare the plans for any required retaining walls (pre-cast, wire, bin, etc.). Any unanticipated retaining walls required would be an additional cost item.

14. The project plans will contain all required plan sheets, summaries, details, cross-sections, signing plans, striping plans, etc.

D. Bridge Plans

The Consultant will prepare all necessary bridge plans for the Project.

E. Signing and Pavement Marking Plans

The Consultant will prepare the necessary plans for signing and pavement markings in conformity with the MUTCD.

F. Right-of-Way Plans

Right-of-way plans, as required, will be prepared by the Consultant in accordance with the current design practices of the Department for preparation of such plans found in the *MDT Road Design Manual*, the *MDT Right-of-way Manual*, the *MDT CADD Standards Manual*, and the section of this Appendix entitled Right-of-Way Plans preparation.

1. The LOCAL AGENCY will furnish to the Consultant, as available, prints of the existing right-of-way plans. It is the Consultant's responsibility to obtain deeds covering any existing highway right-of-way.

2. The Consultant will furnish right-of-way plans concurrent with the conduct of the work and services set forth in this Agreement and in accordance with the following guidelines:

a. Prior to the plan-in-hand, the Consultant will furnish the LOCAL AGENCY copies of the right-of-way plans. These plans should show, at a minimum, the centerline of the proposed construction, proposed right-of-way limits, existing railroad and highway right-of-way lines, section lines, 1/16 lines and quarter calls, ownership lines, parcel numbers, and relative topography.

b. The Consultant will advise by letter areas where the proposed project may be in conflict with the existing utilities and railroad facilities.

c. After the Plan-in-Hand Review when the construction limits of the Project are reasonably finalized, the Consultant will promptly complete the final right-of-way plans and furnish copies to the LOCAL AGENCY for checking. The Consultant will submit all necessary supporting data along with the right-of-way and utility plans, including title memos, all last instruments of conveyance, Certificates of Survey, and subdivision plats. The plans will include the completed right-of-way limits with total ownership information and access management features.

d. After MDT approval of the right-of-way and utility plans, the Consultant will furnish right-of-way and utility data. The Consultant will also furnish, at the same time, three sets of current (updated) construction plans, utility plans, and two sets of cross-sections showing utility topography.

3. The Consultant will furnish one complete set of right-of-way plans when the proposed project right-of-way encroaches on railroad property. The plans will be furnished as soon as the Consultant has made revisions and final right-of-way check. The encroachments will be indicated on one half-size set of the plans as follows:

- a. New and existing easements - Shaded with Dot Pattern
- b. Temporary permits - Hatched
- c. License - Cross-hatched

In addition, the Consultant will furnish 2 half-size sets of prints of the roadway construction plans. These plans will include the title sheet, typical sections, summaries, all data and detail sheets, as well as plan-and-profile sheets and cross-sections covering each encroachment area plus 200 feet before and 200 feet beyond each encroachment area.

4. The Consultant will submit one full set of final right-of-way plans.

5. The Consultant will make all routine changes to the Roadway Plans and Right-of-Way Plans resulting from right-of-way negotiations. Routine changes would not include adjustments to alignment (horizontal or vertical) or mainline typical sections. Routine changes would typically consist of adjustments to approach locations/configurations or minor adjustments to right-of-way layout. The need to make these changes may occur after the final roadway and right-of-way plans have been accepted by the Department. All revisions to the right-of-way plans after the Department has authorized the Project for acquisition will comply with the Right-of-way Bureau's revision process.

G. Utility Plans

The Consultant will show on the plans and cross-sections all public and private utilities that are in the project corridor, as located and surveyed in accordance with MDT SUE requirements.

Utility plans will be prepared by the Consultant in accordance with the current design practices of the Department for preparation of such plans, found in the *MDT Road Design Manual* and the *MDT CADD Standards Manual*, and will call out all utilities in conflict with the Project. Utility plans are a duplication of the right-of-way plans with the utility topography levels turned on, as outlined in the Reference File Scheme. The plans shall include new right-of-way, existing right-of-way, construction limits (both cut and fill), utility topography with utility conflicts circled, and utility crossing stations with overhead clearance or depth indicated.

Prints of utility plans will be furnished to the Department as required. After all necessary revisions and corrections have been made, the revised plans will be submitted to the LOCAL AGENCY for use in obtaining Utility Agreements. One set of final utility plans will be submitted at the same time that final right-of-way plans are submitted.

The final utility plan submittal shall consist of one set each of the utility plans, cross sections with all utility topography shown thereon, construction plans (complete with plan and profile, summaries, pipe locations and typical sections), signing and pavement marking plans, and electrical plans.

H. Lighting Plans

The Consultant will design and furnish the necessary lighting plans for the Project, as determined by the approved Traffic Engineering Report.

I. Signalization Plans

The Consultant will design and furnish signalization plans for all intersections where signals (including existing signals) are warranted as determined by the Consultant's approved Signal Warrant Study Report.

J. Landscaping Plans

The Consultant will design and furnish landscaping plans as necessary.

K. Erosion Control Plans

The Consultant will design and furnish the Erosion Control Plans for the project in accordance with the Department's current policy found in the *MDT CADD Standards Manual*.

Construction Engineering/Architecture

Contract Administration, Construction Inspection, and Quality Assurance Testing will be performed in accordance with the latest *Construction Manual*, *Materials Manual*, *Field Office Manual*, or *Montana Public Works Standard Specifications*, or combination of these.

1. Those areas of responsibility typically assigned to the MDT will be the responsibility of the LOCAL AGENCY and Consultant.
2. Those areas of responsibility typically assigned to the District Engineers/Administrators will be the responsibility of the LOCAL AGENCY Chief Executive.
3. The responsibilities typically assigned to the Construction Engineer, Administrative Officer, District Construction Engineer and Assistant District Construction Engineer will be the responsibility of the (Architect/Engineer) in charge, who shall advise the assigned LOCAL AGENCY Project Manager in all matters concerning construction problems, contractor appeals, and construction and construction engineering budget.
4. Those responsibilities typically assigned to an engineer or architect, surveying and mapping personnel, engineering Project Manager, District Engineering Services Supervisor, and District Materials Supervisor will be the responsibility of the Architect/Engineer in charge.
5. Pproject documentation requirements allow for the use of alternate forms as long as pertinent project information is obtained and recorded in an orderly fashion.

ACCESSING INFORMATION REGARDING MONTANA HIGHWAY PROJECTS

VISIT THE MONTANA DEPARTMENT OF TRANSPORTATION'S WEB PAGE AT:

<http://mdt.state.mt.us>

Once at the site, navigate to the second sentence and click on **Contractor's system**. This hypertext link will take you to a menu where you may select the report you'd like to view, including (the Contractor's system does not include stand-alone LOCAL AGENCY project information):

Addenda	EEO Submission Sample Format
As Read Letting List	Federal List of Debarred Bidders
Avg. Bid Prices-98	Future Projects Schedule
Avg. Bid Prices-97	Invitation for Bids
Avg. Bid Prices-96	Monthly Bid Tabs (last 12 months)
Award Sheet	Plan Holders List
DBE Directory	Quantity Sheets
DBE Program	Requisition Form
EEO Submissions	Standard Specifications Supplemental

MDT REPORTS ARE ALSO AVAILABLE FOR VIEW BY ACCESSING THE MONTANA DEPARTMENT OF TRANSPORTATION ELECTRONIC BULLETIN BOARD SYSTEM

Via a computer and modem attachment with terminal emulation software that has VT100 terminal emulation and x-modem or Kermit file transfer capabilities, use the following instructions (Examples of this are the Terminal Program in the Windows Accessories Group, Procomm, X-talk, Kermit, etc.):

INSTRUCTIONS: Phone Number: Low speed, 2400 baud modems (406) 444-6010
 Hi speed, 9600+ baud modems (406) 444-7642
 After the CONNECT XXXX (where XXXX is the speed you connect at) wait 10 seconds then hit return (enter) twice (2).
 Local>C M [enter]
 User name: CONTRACT [enter]
 After this entry, the menu is self-explanatory:
 Any questions, call User Support at (406) 444-6311.

NOTICE:

The **PLAN HOLDER List** is compiled by data in the Contract Plans Section and is distributed electronically (via the Internet and the EBB). Hard copies may be obtained by printing out the electronic file or by visiting the MDT, or contacting the Montana Contractors Association, or Private Secretary as indicated below:

- A) Access the MDT Web Page or the Electronic Bulletin Board System
 B) Go to the Montana Department of Transportation to pick one up in person free of charge:

Helena -2701 Prospect Avenue - Contract Plans Section -(Room 101)

Billings - 424 Morey

Butte - Wynne & Lowell

Missoula - 2100 West Broadway

Glendive - 503 North River Avenue

Great Falls - 104 18th Ave. NE

Lewistown - West of Lewistown

Miles City - Third & Orr

Havre - West of Havre

Kalispell - 85 Fifth Ave. E. North

Wolf Point - Highway 13 East

Bozeman - 907 North Rouse

- C) Contact one of the following Helena businesses. These businesses charge a fee. Please contact them to find out the fee:

1) Montana Contractors Association
 (406)442-4162

2) Private Secretary
 (406)449-6136

Please Note: **The PLAN HOLDERS list is available two weeks before each bid letting.** It is updated after that date on an "as needed" basis.

Contract Plans Section
Montana Department of Transportation
 (406) 444-6216

2701 Prospect Avenue
 P O Box 201001
Helena, MT 59620-1001

Appendix 12.88

Supplemental Agreement (CTEP 4-9)

EXAMPLE SUPPLEMENTAL AGREEMENT

NOTE: The agreement supplement is required when additional services will be required of the Consultant or Contracted Service Provider. Additional work will allow cost plus fringes and overhead but not an additional fee for profit unless the scope of services has changed significantly.

CONSULTANT SERVICES/CONTRACTED SERVICES AGREEMENT SUPPLEMENT

Project No. STPE (federal aid project number)
 Project Name (MDT Project Name)
 Control No. (####)
 Local Government Sponsor (Name of Lead Local Office)

Supplement No. (#)

To Whom it may Concern:

The Local or Tribal Government of (Name of City, county or Tribe(s)) desires to supplement the agreement entered into with (Consultant or Contracted Service Name) and executed on (Date on Original Agreement).

The changes to the agreement are described as follows:

SCOPE OF WORK, is hereby changed to read (general description – how the scope of work has changed from the original agreement).

TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read (number of days).

ADDITIONAL PAYMENT:

1. The Consultant/Contracted Service Provider will be paid an additional lump sum fixed fee not to exceed #### Dollars (insert actual negotiated amount for only the additional work in words as well as numbers).

2. The total additional payment to the Consultant/Contracted Service Provider (including the lump sum fixed fee) for the work covered under this Supplemental Agreement will not exceed ##### Dollars (insert actual negotiated amount in words as well as numbers).

PAYMENT, shall be amended as follows:

3. The Consultant/Contracted Service Provider will be paid a lump sum fixed fee not to exceed ##### Dollars (insert total of actual negotiated amount in words as well as numbers).

4. The total payment to the Consultant/Contracted Service Provider (including the lump sum fixed fee) for the work covered under this Agreement will not exceed ##### Dollars (insert total of actual negotiated amount in words as well as numbers)

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.

If you concur in this supplement and agree to the changes as stated above, please sign in the appropriate spaces below and return to this office for final action (execution).

Sincerely,

Consultant's/Contracted Service Provider's Signature	Date	Local Agency Approving Authority	Date
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Exhibit "A"

Summary of Payments

	Basic Agreement	Supplement # ___	Total
Direct Salary Cost			
Overhead (including Payroll Additives)			
Direct Non-Salary Costs			
Fixed Fee			
Total			

Supplements to the Agreement

An agreement shall be supplemented in writing when work that falls outside the scope of the original agreement is requested. This may be authorized through the use of a supplemental agreement. The supplemental agreement should include:

1. A statement that the original agreement will be supplemented to add/change/amend conditions.

2. A scope of work described in sufficient detail to clearly outline what additional work the consultant/contracted service provider will do.
3. The mode of payment-e.g., cost plus fixed fee, specified hourly rate, daily rate, and any indirect cost. (Note: always include a maximum amount payable.) The original agreement should be reviewed prior to negotiating any supplements.
4. A specific time for beginning and completing the project in calendar days or day and month of the year.
5. A statement of whether subletting is authorized; if so, to whom, for what, and the amount payable.
6. A summary of the estimated costs of the original agreement plus those of the supplement(s).
7. Provisions that give both parties to the agreement the authority to act.