

ARRA PROJECT AGREEMENT MODIFICATIONS

The State of Montana, acting by and through its Department of Transportation, hereinafter called the "State", and the City of Billings, hereinafter the called the "City", entered into a Project Agreement in 2007 (attached) that provided for the design and construction of a pedestrian/bicycle trail and tunnel under Main Street (US 87/N16) in the Alkali Creek Drainage in Billings, Montana. This project known as Control Number 6396, ALKALI CREEK DRANINAGE PATH-BLNGS, is to be funded through the Community Transportation Enhancement Program (CTEP), and the American Recovery and Reinvestment Act (ARRA) of 2009.

Subsequent to the original Project Agreement, ARRA funding has become available for this project. To reflect changes in the project's costs, funding sources, and to better define the State's and City's oversight and management responsibilities needed to develop and construct this locally administered project, the State and City agree to modify the original 2007 Project Agreement as set forth below.

Under WITNESSETH THAT, the first and fourth paragraphs are replaced by the following:

WHEREAS, the City proposes to develop and construct a Community Transportation Enhancement Program (CTEP) / American Recovery and Reinvestment Act (ARRA) funded project, Control Number 6396, titled ALKALI CREEK DRAINAGE PATH-BILLINGS (hereinafter the "project"); and,

WHEREAS, the estimated cost of the project's development and construction totals \$ 2,825,290; and,

After NOW, THEREFORE, ...

Section 18 will be renumbered as Section 19, a new Section 18 will be added, and Sections 4, 5, 8, 9, 13, 14, and 15 will be modified to read:

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

Federal-Aid Program (CTEP/ARRA Funds) Account by Project Phase

[9102] Preliminary Engineering (CTEP 86.58%) (including environmental documentation)	\$ 18,000
[9202] Right-of-Way/Easement Acquisition	-0-
[9302] Incidental Construction (utility relocation involvement)	-0-
[9402] Construction Engineering (CTEP 86.58%) (including contract administration and inspections)	\$ 143,784
[9502] Construction (CTEP 86.58%)	\$ 1,230,861
[9502] Construction (ARRA 100%)	\$ 1,000,000
Total	\$ 2,392,645

Billings	Total Project	CTEP	Local Match	ARRA	Local Additional
Direct Costs	\$ 2,825,290	\$ 1,205,752	\$ 186,893	\$ 1,000,000	\$ 432,645
Total	\$ 2,825,290	\$ 1,205,752	\$ 186,893	\$ 1,000,000	\$ 432,645

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

5. The City will solicit for competitive bids and award a contract to construct the project. The solicitation for the construction contract must be by competitive bid. The City will administer any construction contract and provide the supervision, inspection and documentation required to satisfactorily complete the project. The City will conduct a mandatory pre-construction meeting to be attended by all involved parties, including, but not limited to, representatives of the City, State, FHWA, consultants, subconsultants, contractors, and all subcontractors. The preconstruction conference will include discussion of ARRA-related requirements as well as viewing a fraud training video to be furnished by the State. The State will perform a final project review to ensure substantial compliance with project plans, specifications, and estimates.

8. The City will be responsible for providing all required ARRA employment reporting. The City will submit electronically the most current ARRA employment and wage reporting form provided by the State's CTEP office for all City employees and any consultant, subconsultant, contractor, and subcontractor it may employ in the project's development and construction. The report for each calendar month must be submitted to the State's CTEP Office by the 7th day of the following month, or the last working day before the 7th if the 7th falls on a holiday or weekend. A project employee is any City employee, consultant, subconsultant, contractor or subcontractor working on the project, including supervisors, that will be paid with ARRA funds. Material suppliers are not considered project employees for reporting requirements.

9. The City will allow inspection of all work and project related records by the personnel or agents of the State, FHWA, and the Office of the Inspector General (OIG). Project related records include, but are not limited to: consultant and contractor contracts; construction advertising, bidding, and award documentation; payroll/payment records; Civil Rights documentation; and construction inspection reports, materials testing reports, and materials certifications, including Buy America certifications for iron and steel products incorporated into the project per the construction contract specifications.

13. The City will be responsible for \$ 186,893 local match and the \$ 432,645 local additional costs. The federal participation will be \$ 2,205,752 of the estimated total project cost of \$ 2,825,290. The City will be responsible for 100% of the project

costs exceeding the proposed \$ 2,825,290 required to complete the work described above.

14. The parties understand and agree that this agreement is subject to the requirements of Section 17-1-106, MCA, which requires the State to fully recover indirect costs (IDC) from the City and any other participating parties. The current IDC rate is 17.48%. The parties further understand and agree that as of October 1, 2009 the City's share of the IDC will be paid by the State per subsection (3) of Section 17-1-106, MCA. If this project extends across more than one fiscal year, more than one annual rate will be involved, as the rate may change during the life of the project.
15. The City will submit a claim once each month detailing items and quantities of acceptable work completed during the previous month as reported on the ARRA employment reporting documents described above in Item 8 to the State's CTEP Office for Project costs that are incurred. The request will be accompanied by documentation substantiating the amount requested.
18. Because ARRA funds are tied to obligation and spending requirements, the Preliminary Engineering phase of the project must be complete and ready for bid advertisement by January 15th, 2010. The Construction and Construction Engineering phases must be substantially complete by December 31st, 2010.
19. During the performance of the Agreement, the City, for itself, its assignees and successors in interest, agrees as follows:

All other terms of the original agreement will remain in full force.

IN WITNESS WHEREOF, the Department's authorized representative has signed on behalf of the State of Montana, and the Mayor of the City of Billings, has signed and affixed hereto the seal of the City.

STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION

By _____, 200__

APPROVED FOR LEGAL CONTENT



MDT Legal Counsel

CITY OF BILLINGS

ATTEST-CITY CLERK

MAYOR

_____ By _____

I, _____, Billings City Clerk, hereby certify that this agreement was regularly adopted by the Billings City Council at a meeting held on the _____ day of _____, 2007, and that the Council authorized the Mayor to sign this agreement on behalf of the City.

[OFFICIAL SEAL]

City Clerk