



(remove color, highlighting and instructions before sending or printing)

Yellow = data entry needed

Green = instructions to authors

(Additional contract provisions are necessary if your project is being funded, in whole or part, by a FEMA grant or other Federal funding – talk to Purchasing)

PURCHASE AGREEMENT

THIS AGREEMENT is made and entered into _____, by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as “**CITY**,” and, _____, of _____, hereinafter referred to as “**SELLER**.”

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **PRODUCT PURCHASED:** **SELLER** agrees to sell and **CITY** agrees to purchase the goods (“Product”) as described below and, if applicable, per written **CITY’S** specifications and **SELLER’S** proposal attached hereto as Exhibit “A,” which are incorporated into this **AGREEMENT** by this reference. The Product being purchased consists of:

Item

Price

2. **PRICE:** The **CITY** agrees to pay _____ Dollars (\$_____) as the purchase price. All prices are inclusive of any applicable local, state or federal taxes that may be applied to the product to be purchased. The purchase price is free on board at the place of delivery and **SELLER** may not impose any additional, shipping, delivery or storage charges.

The prices established in this **AGREEMENT** may be extended to other political subdivisions within the State of Montana solely at the **SELLER’S** discretion.



3. **DELIVERY AND PAYMENT:** **SELLER** agrees to deliver the above-described goods or product to **CITY** within _____ days of receipt of **CITY'S** order unless otherwise provided in this **AGREEMENT**. Delivery will occur at _____ or at a place otherwise selected by **CITY**. Upon delivery, **CITY** may inspect the goods or product to ensure that it meets **CITY** specifications, and **SELLER** may obtain specifications from **CITY** upon request. If the Product meets **CITY** specifications, **CITY** shall tender the purchase price stated above to **SELLER** through the **CITY'S** normal claim process.

4. **SPECIFICATIONS:** **SELLER** agrees that this Product complies with the **CITY'S** specifications provided to **SELLER** and with the **SELLER'S** proposal thereto as accepted by the **CITY**. Unless otherwise agreed to by the **CITY**, the **CITY'S** specifications govern and control in the event of inconsistencies with the **SELLER'S** response to the same.

5. **NONDISCRIMINATION:**

A. **SELLER** shall, in performance of work under this **AGREEMENT**, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. **SELLER** is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Any subletting or subcontracting by **SELLER** subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016. **SELLER** agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this **AGREEMENT**.

B. The **SELLER** shall state, in all solicitations or advertisements for employees to work on jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical impairment/disability.

The **SELLER** and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which prohibit

discrimination against qualified protected veterans and/or qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

The **SELLER** and any subcontractor shall abide by the requirements of 41 CRF 60-1.4, which states employees or applicants may not be discharged or in any other manner discriminated against because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the **SELLER'S** legal duty to furnish information.

- C. The **SELLER** shall comply with any and all reporting requirements that may apply to it that the **CITY** may establish by regulation.
- D. The **SELLER** shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.
- E. The **SELLER** shall include the provisions of Subsections A through D of this Section in every subcontract or purchase order under this **AGREEMENT**, so as to be binding upon every such subcontractor or vendor of the **SELLER** under this **AGREEMENT**.
- F. The **SELLER** agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

6. DEFAULT AND TERMINATION: If **SELLER** fails to deliver the goods or product as set forth in Paragraphs 2 and 3 above, or violates any provision of this **AGREEMENT**, or if the goods or product fails to meet **CITY'S** specifications, **CITY** may, at its option, declare the **SELLER** in default and immediately cancel and rescind this **AGREEMENT**. Thereafter, **CITY** may procure substitute goods or product to replace the goods or product described herein. In such event, **SELLER** is liable to **CITY** for the difference between the price set forth herein and the price paid by **CITY** for replacement goods or product. Additionally, the **CITY** may pursue any other remedy it has at law or in equity.

7. WARRANTY: Unless superseded or supplemented by an express warranty, **SELLER** represents and warrants that the Product(s) are covered by implied warranties for



merchantability and fitness for the particular purpose for which they have been purchased.

8. **ASSIGNMENT:** SELLER may not assign this AGREEMENT or any of its rights hereunder without the express written consent of CITY.

9. **ENTIRE AGREEMENT:** This AGREEMENT, including its appendices, if any, is the entire understanding between the parties relating to the subject matter contained herein. No agent or representative of either party has authority to make any representations, statements, warranties or agreements not herein expressed and all modifications or amendments of this AGREEMENT, including the appendices, must be in writing and signed by an authorized representative of each of the parties hereto.

10. **GOVERNING LAW AND VENUE:** This AGREEMENT shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suit between the parties arising out of this AGREEMENT shall be the State of Montana Thirteenth Judicial District Court, Yellowstone County.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF BILLINGS, MONTANA

(PRINT BUSINESS NAME ABOVE)

CHRIS A. KUKULSKI,
CITY ADMINISTRATOR
(OR WILLIAM A. COLE, MAYOR)

SIGNATURE

PRINT NAME

APPROVED AS TO FORM

PRINT TITLE

CITY ATTORNEY'S OFFICE

(Write Phone Number for Orders Above)

ATTEST:

DENISE BOHLMAN, CITY CLERK



EXHIBIT A