



Item: Project Agreement Modification: 25th Street North Bridge - GTF (CTEP), Office File 1306.8

From: Planning and Community Development

Initiated By: Planning and Community Development

Presented By: Craig Raymond, Director, Planning and Community Development

Action Requested: Approve Project Agreement Modification

Suggested Motion:

1. Commissioner moves:

“I move the City Commission (approve / not approve) a Project Agreement Modification with the State of Montana, Department of Transportation (MDT) increasing the total estimated project cost to \$377,562.00 for the 25th Street North Bike/Pedestrian Bridge Project”

2. Mayor requests a second to the motion, Commission discussion, public comment, and calls for the vote.

Staff Recommendation: Approve Project Agreement Modification

Summary: The Project Agreement Modifications will increase the total estimated cost of the project’s development and construction from the 2004 value of \$201,130.00 to the current estimated value of \$377,562.00. The City matching funds portions of these totals increased from \$26,991.65 to \$50,669.00 respectively. The balance of the costs above the City matching funds and up to the agreed upon project estimates will be provided by federal aid funding.

Background: The 25th Street North Bike/Pedestrian Bridge (CTEP) project was approved for funding on July 15, 2003 by the City Commission in order to construct a bike and pedestrian bridge to span over a railroad cut that passes under 25th Street North near River Drive North. In April of 2004, the City entered into a Project Specific Agreement - General with MDT that provided federal aid funding for the project. A lengthy negotiation to secure a new easement from the railroad for the bridge resulted in the project being delayed until recently. In 2014, the project resumed with an approved easement from the railroad and in April of 2015, the City Commission awarded a contract for the fabrication and delivery of a bike/pedestrian bridge. Using the selected bridge, the City’s

engineering consultant (KLJ Engineering) designed the foundation system for the bridge and developed a construction contract for the installation of the bridge. The bridge installation contract was bid and awarded to Tamietti Construction in February of this year.

During this process, costs for the engineering services, bridge procurement, and bridge installation increased from the values anticipated in 2004. In addition to the increase in costs due to the additional time, the actual bridge installation bid was approximately \$75,000.00 greater than the recent engineer's estimates. In order to complete the project, the City staff recommended funding the construction contract using the original Community Transportation Enhancement Program (CTEP) funding available to the City through the Montana Department of Transportation (MDT) and using Congestion Mitigation and Air Quality (CMAQ) Program funds, also provided through MDT, to fill the shortfall.

The attached Project Agreement Modification shows the increases to the project estimates and the CTEP funding values along with the City Matching responsibilities. Absent from this agreement is the CMAQ funding, as this value was transferred from a City CMAQ funding allotment at MDT to the City's CTEP fund with MDT.

Fiscal Impact: This project was planned to be funded through CTEP funds, matched with City Street and Park Trust funds. With higher costs than originally budgeted, the City Street and Park Funds also had to increase to meet the 13.42% match of the total dollar amount of the project which includes design, inspection, and construction. To make up for the gap in CTEP funding needed to complete the project, the Great Falls Metropolitan Transportation Planning Process approved the use CMAQ to fund a portion of the remaining costs.

Alternatives: The City Commission could reject the Project Agreement Modification

Attachments/Exhibits: Project Agreement Modification

OF 1506.8
080216.

STPE 5299(67)
25th St North Bridge-GTF
Control No. 5556

PROJECT AGREEMENT MODIFICATION

The parties entered into the attached Project Agreement in 2004 that provided for, among other things, the design and construction of a pedestrian/bicycle bridge, approximately 1,000 lineal feet of concrete sidewalk, curbing, and landscaping located in Great Falls adjacent to 25th Street. The City of Great Falls has requested an update to that Project Agreement to reflect current costs and the addition of locally prioritized federal funds to the project necessitating an amendment to the 2004 Project Agreement. Accordingly, the parties agree to modify that Agreement as set forth below.

Under WITNESSETH THAT, the fourth paragraph will be modified to read:

WHEREAS, the total estimated cost of the project's development and construction totals \$377,562; and,

After NOW, THEREFORE, ...

Sections 4 and 12 will be modified to read:

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

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

[9102] Preliminary Engineering (86.58% CTEP) (including environmental documentation)	\$	46,687
[9202] Right-of-Way/Easement Acquisition (86.58% CTEP)	\$	14,705
[9302] Incidental Construction (64.93% CTEP)	\$	-0-
[9402] Construction Engineering (86.58% CTEP)	\$	9,124
[9502] Construction (86.58% CTEP)	\$	307,046
TOTAL		377,562

City of Great Falls	Project	CTEP Funds	City Matching Funds	Additional Funds
Direct Costs	\$ 377,562	\$ 326,893	\$ 50,669	\$ -0-
TOTAL	\$ 377,562	\$ 326,893	\$ 50,669	\$ -0-

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

12. The City will be responsible for the \$50,669 local matching funds. The Federal cost participation (CTEP funds) will be \$326,893 of the estimated total project cost of \$377,562. The City will be responsible for 100% of all costs exceeding the proposed \$377,562 that may be required to complete the project.

The parties understand and agree that this agreement is subject to the requirements of Section 17-1-106, MCA, which requires the State to fully recover indirect costs (IDC) from the Federal share of costs and any other participating parties. The current IDC rate is 10.97% (July 1, 2016 to June 30, 2017) and the parties further understand and agree that as of October 1, 2009 the City's share of IDC will be paid by MDT per subsection (3). Note if this project extends across more than one fiscal year, more than one annual rate will be involved, as the rate may change during the life of the project.

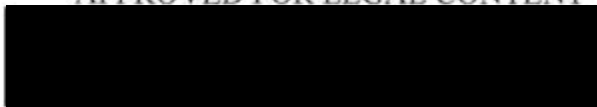
All other terms of the original agreement will remain in full force.

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

STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION

BY _____, 2016

APPROVED FOR LEGAL CONTENT



MDT Legal Counsel

GREAT FALLS CITY COMMISSION

Date approved by the Great Falls City Commission: _____

CITY OF GREAT FALLS

Gregory T. Doyon, City Manager

ATTEST:

[Seal of the City of Great Falls]

Lisa Kunz, City Clerk

I, _____, Great Falls City Clerk, hereby certify that this agreement was regularly adopted by the City Council at a meeting held on the ____ day of _____, 20____, and that the Council authorized the City Manager to sign this agreement on behalf of the City.

APPROVED FOR LEGAL CONTENT

Sara Sexe, City Attorney

PROJECT SPECIFIC AGREEMENT - GENERAL

THIS AGREEMENT is made and entered into by and between the State of Montana, acting by and through its Department of Transportation, hereinafter called the "State," and the City of Great Falls, hereinafter called the "City".

WITNESSETH THAT

WHEREAS, the City proposes to develop and construct a Community Transportation Enhancement Program (CTEP) project, STPE 5299(67), titled 25TH ST NORTH BRIDGE-GTF (hereinafter, the "project"); and,

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

WHEREAS, the State and Federal Highway Administration (FHWA) will not participate in the development and construction of the project unless the City agrees to the conditions set forth; and,

WHEREAS, the estimated cost of the project's development and construction totals \$201,130.00; and,

WHEREAS, the financial participation for the project development and construction will in part be with federal aid funds; and,

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

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

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

1. The City will develop a CTEP project described as: design and construction of a pedestrian/bicycle bridge over a railroad right-of-way adjacent to an existing vehicular bridge. Additionally, design and installation of approximately 1000 linear feet of sidewalk and curbing leading to the new bridge from the south and connecting to existing sidewalk on the north. Finally, installation of approximately 12 trees adjacent to the new sidewalk. All construction will be in accordance with ADA requirements.
2. The project is on the state-maintained system and the location is described as follows: on the east side of 26th St. N., generally between 9th Alley N. and Pasta Place, in Great Falls, Montana.
3. The purpose of this project is to provide safe, efficient and continuous facilities for bicyclists and pedestrians.
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 Account (maximum FHWA match rate) Total by account

[9102] Preliminary Engineering by Consultant (86.58%)	\$	8,380.00
[9102] Preliminary Engineering by Force Account (86.58%) (including environmental documentation)	\$	8,380.00
[9202] Right-of-Way/Easement Acquisition (86.58%)	\$	0.00
[9302] Incidental Construction (64.93%) (utility relocation involvement)	\$	0.00
[9402] Construction Engineering (86.58%) (including contract administration and inspections)	\$	8,400.00
[9502] Construction (86.58%)	\$	175,970.00
Total	\$	201,130.00

	<u>Project</u>	<u>CTEP Funds</u>	<u>Local Match</u>	<u>ADD. Contribution</u>
City of Great Falls	\$ 201,130.00	\$ 174,138.35	\$ 26,991.65	\$ 0.00
TOTAL	\$ 201,130.00	\$ 174,138.35	\$ 26,991.65	\$ 0.00

5. The general method of development includes: the City will engage a project engineer for preliminary engineering and contract bid document preparation. The City will also perform some preliminary engineering and all construction engineering activities on a force account basis. Construction will be by competitive bid. The State will perform a final inspection to ensure substantial compliance with project plans, specifications and estimates.
6. The City and any consultant(s) and/or contractor(s) it may employ in pursuit of project completion will comply with applicable Equal Employment Opportunity (EEO) requirements, Disadvantaged Business Enterprise (DBE) goals, Americans with Disabilities Act (ADA) and Federal Labor Requirements.
7. The City will provide documentation necessary to comply with applicable environmental requirements, including the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (NHPA) and Section 4(f) of the DOT Act.
8. The City will complete and submit the applicable supporting documentation to the State for review and concurrence prior to beginning the next step in the projects development or construction process, as identified in the Local and Tribal Government Transportation Project Development Guide.
9. The City will allow inspection of all work and project related records by the personnel or agents of the State and FHWA.
10. Except for any suits, claims, actions, losses, costs or damages which are solely the result of the negligent acts or omissions or misconduct of Department employees, the City agrees that it will protect, indemnify, and save harmless the State and Department of Transportation against and from all claims, liabilities, demands, causes of action, judgments (with any costs and fees that might be awarded), and losses to them from any cause whatever from the project, and including any suits, claims, actions, losses, costs or damages of any kind, including the State and Department's legal expenses, made against the State or Department by anyone arising out of, in connection with, or incidental to the project and its construction or use.
11. The City will retain project related records and documents for a period of three years after the closing of the project.

12. The City will be responsible for \$26,991.65 and Federal participation will be \$174,138.35 of the estimated total cost of \$201,130.00. The City will be responsible for 100% of the costs exceeding the proposed \$201,130.00 required to complete the project.
13. The City may submit a claim once a month detailing items and quantities of acceptable work completed that period to the CTEP Engineering Coordinator for the project development and/or construction costs incurred. The request will be accompanied by documentation substantiating the amount requested and identifying the applicable federal share.
14. This agreement shall become effective upon execution by the State and City. It may be modified only by written mutual agreement of both the City and the State.
15. The City will service, maintain, and pay the cost of operating the project described in this agreement.
16. During the performance of this Agreement, the City, for itself, its assigns 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 City 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 City, 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 City 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 City 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 City of the City's obligations under this Agreement and the Regulations relative to nondiscrimination.
- (4) Information and Reports: The City 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 City is in the exclusive possession of another who fails or refuses to furnish this information, the City 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 City'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 City under the Agreement until the City

complies, and/or

- (b) Cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) Incorporation of Provisions: The City 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 City 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 City is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the City may request the State to enter into the litigation to protect the interests of the State, and, in addition, the City 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 City 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 City will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.
- (2) The City will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: **"The City 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 City. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the City.**
- (3) All video recordings produced and created under contract and/or agreement will be closed captioned.

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

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

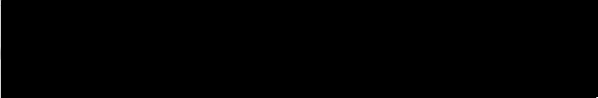
The City, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The City shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the City to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

IN WITNESS WHEREOF, the Director of Transportation or his authorized representative has hereunto signed his name on behalf of the State of Montana and the City Manager of the City of Great Falls on behalf of the Great Falls City Commission has signed his name and affixed hereto the seal of the City.

DATED this _____ day of _____, 2004

STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION

David A. Galt
Director of Transportation

BY 

Joel M. Marshik, P.E.
Chief Engineer, Engineering Division


APPROVED FOR LEGAL CONTENT



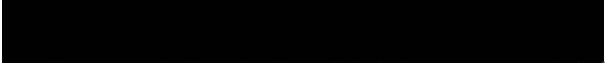
MDT Legal Counsel

CITY OF GREAT FALLS

ATTEST



Carolyn Horst-Broquist, Deputy City Clerk

CITY MANAGER


John W. Lawton, City Manager

I, Carolyn Horst-Broquist, Deputy City Clerk of the City of Great Falls, hereby certify that this agreement was regularly adopted by the Great Falls City Commission at a meeting held on the 20 day of April, 2004, and that the Commission authorized the City Manager to sign this agreement on behalf of the Commission.

[OFFICIAL SEAL]


Carolyn Horst-Broquist, Deputy City Clerk