



**STATE OF MONTANA
INVITATION FOR BID (IFB)
(THIS IS NOT AN ORDER)**

IFB Number: 115006	IFB Title: Snow Removal Services for Department of Environmental Quality's Remote Offices Located in Billings, Montana
IFB Due Date and Time: December 15, 2014 2:00 p.m., Local Time	Number of Pages: 10

ISSUING AGENCY INFORMATION

Procurement Officer: Vicki Woodrow	Issue Date: November 20, 2014
Department of Environmental Quality Office of Financial Services, Room 3 1520 East Sixth Avenue Helena, MT 59620 or PO Box 200901 Helena, MT 59620-0901	Phone: (406) 444-3101 Fax: (406) 444-1804 TTY Users, Dial 711 Website: http://vendor.mt.gov/

INSTRUCTIONS TO BIDDERS

COMPLETE THE INFORMATION BELOW AND RETURN THIS PAGE WITH YOUR BID AND ANY REQUIRED DOCUMENTS TO THE ADDRESS LISTED ABOVE UNDER "ISSUING AGENCY INFORMATION."	Mark Face of Envelope/Package: IFB Number: 115006 IFB Due Date: December 15, 2014
	Special Instructions: None

BIDDERS MUST COMPLETE THE FOLLOWING

Payment Terms: Net 30 days	Delivery Date:
Bidder Name/Address:	Authorized Bidder Signatory: (Please print name and sign in ink)
Bidder Phone Number:	Bidder FAX Number:
Bidder E-mail Address:	

IMPORTANT: SEE STANDARD TERMS AND CONDITIONS

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STANDARD TERMS AND CONDITIONS

By submitting a response to this invitation for bid, request for proposal, limited solicitation, or acceptance of a contract, the vendor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation or contract.

ACCEPTANCE/REJECTION OF BIDS, PROPOSALS, OR LIMITED SOLICITATION RESPONSES: The State reserves the right to accept or reject any or all bids, proposals, or limited solicitation responses, wholly or in part, and to make awards in any manner deemed in the best interest of the State. Bids, proposals, and limited solicitation responses will be firm for 30 days, unless stated otherwise in the text of the invitation for bid, request for proposal, or limited solicitation.

ALTERATION OF SOLICITATION DOCUMENT: In the event of inconsistencies or contradictions between language contained in the State's solicitation document and a vendor's response, the language contained in the State's original solicitation document will prevail. Intentional manipulation and/or alteration of solicitation document language will result in the vendor's disqualification and possible debarment.

DEBARMENT: Contractor certifies, by submitting this bid or proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If Contractor cannot certify this statement, attach a written explanation for review by the State.

FACSIMILE RESPONSES: Facsimile responses will be accepted for invitations for bids, small purchases, or limited solicitations ONLY if they are completely received by the State Procurement Bureau prior to the time set for receipt. Bids, or portions thereof, received after the due time will not be considered. Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

FAILURE TO HONOR BID/PROPOSAL: If a bidder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with the State of Montana.

LATE BIDS AND PROPOSALS: Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to ensure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

RECIPROCAL PREFERENCE: The State of Montana applies a reciprocal preference against a vendor submitting a bid from a state or country that grants a residency preference to its resident businesses. A reciprocal preference is only applied to an invitation for bid for supplies or an invitation for bid for nonconstruction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved. For a list of states that grant resident preference, see <http://gsd.mt.gov/ProcurementServices/preferences.mcpX>.

SOLICITATION DOCUMENT EXAMINATION: Vendors shall promptly notify the State of any ambiguity, inconsistency, or error which they may discover upon examination of a solicitation document.

SECTION 1: GENERAL REQUIREMENTS

1.0 INTRODUCTION

The STATE OF MONTANA, Department of Environmental Quality (hereinafter referred to as “the State”) is soliciting bids for snow removal services for its offices located in Building IP-9 in the Airport Business Park located at 1371 Rimtop Drive in Billings, Montana. A more complete description of the supplies and/or services sought is provided in Section 3 of this IFB. Bids submitted in response to this solicitation must comply with the instructions and procedures contained herein.

1.1 CONTRACT TERM

The contract term is from contract execution through June 30, 2015. Renewals of the contract, by mutual agreement of both parties, may be made at one-year intervals, or any interval that is advantageous to the State. This contract, including any renewals, may not exceed a total of seven years, at the option of the State.

1.2 INSTRUCTIONS TO BIDDERS

1.2.1 Procurement Officer Contact Information. Contact information for the procurement officer is as follows:

Procurement Officer: Vicki Woodrow
Telephone Number: 406-444-3101
Fax Number: 406-444-1804
E-mail Address: vwoodrow@mt.gov

1.2.2 Examination of Solicitation Documents and Explanation to Bidders. Bidders are responsible for examining the solicitation documents and any addenda issued to become informed as to all conditions that might in any way affect the cost or performance of any work. Failure to do so will be at the sole risk of the bidder. Should the bidder find discrepancies in or omissions from the solicitation documents, or should their intent or meaning appear unclear or ambiguous, or should any other question arise relative to the solicitation documents, the bidder shall promptly notify the procurement officer in writing. The bidder making such request will be solely responsible for its timely receipt by the procurement officer. Replies to such notices may be made in the form of an addendum to the solicitation.

1.2.3 Interpretation or Representations. The State of Montana assumes no responsibility for any interpretation or representations made by any of its officers or agents unless interpretations or representations are incorporated into a formal written addendum to the solicitation.

1.2.4 Acknowledgment of Addendum. If the IFB is amended, then all terms and conditions which are not modified remain unchanged. It is the bidder's responsibility to keep informed of any changes to the solicitation. **Bidders must sign and return with their bid an Acknowledgment of Addendum for any addendum issued.** Bids that fail to include an Acknowledgment of Addendum may be considered nonresponsive.

1.2.5 Extension of Prices. In the case of error in the extension of prices in the bid, the unit price will govern. In a lot bid, the lot price will govern.

1.2.6 Bid Preparation Costs. The costs for developing and delivering responses to this IFB are entirely the responsibility of the bidder. The State is not liable for any expense incurred by the bidder in the preparation and presentation of their bid or any other costs incurred by the bidder prior to execution of a purchase order or contract.

1.3 BID SUBMISSION

1.3.1 Bids Must Be Sealed and Labeled. Bids must be sealed and labeled on the outside of the package to clearly indicate that they are in response to IFB 115006. ***Bids must be received at the receptionist's desk, Room 100, of DEQ's remote office in Billings, Montana, (use the west entrance of building IP-9 located at 1371 Rimtop Drive) prior to 4:00 p.m., local time, December 15, 2014.*** All prices and notations must be printed in ink or typewritten. Errors should be crossed out, corrections entered, and initialed by the person signing the bid.

1.3.2 Late Bids. ***Regardless of cause, late bids will not be accepted and will automatically be disqualified from further consideration.*** It shall be the bidder's sole risk to assure delivery at the receptionist's desk at the designated office by the designated time. Late bids will not be opened and may be returned to the bidder at the expense of the bidder or destroyed if requested.

1.3.3 Bidder's Signature. The solicitation must be signed in ink by an individual authorized to legally bind the business submitting the bid. The bidder's signature on a bid in response to this IFB guarantees that the offer has been established without collusion and without effort to preclude the State of Montana from obtaining the best possible supply or service.

1.3.4 Alternate Bids. Vendors may submit alternate bids (a bid on supplies other than specified). Alternate bids are considered only if the vendor is the lowest responsible vendor on their primary bid. Bids must be clearly identified as "Primary" and "Alternate."

1.3.5 Bid Opening. Bids will be opened at 1:00 p.m., local time December 16, 2014 in Room 100 of building IP-9 located at 1371 Rimtop Drive.

1.4 CHANGE OR WITHDRAWAL OF BIDS

1.4.1 Change or Withdrawal PRIOR to Bid Opening. Should any bidder desire to change or withdraw a bid prior to the scheduled opening, the bidder may do so by making such request in writing to the procurement officer listed in Section 1.2.1 above. This communication must be received prior to the date and hour of the bid opening by a request in writing or facsimile to the procurement officer (e-mail notices containing prices are not allowed and will be disqualified).

1.4.2 Change AFTER Bid Opening But Prior to Bid Award. After bids are opened, they may not be changed except to correct patently obvious mistakes and minor variations as allowed by ARM 2.4.405. The bidder shall submit verification of the correct bid to the State prior to the final award by the State.

1.5 BID AWARDS

1.5.1 Basis for Award. Bid award, if made, will be to the responsive and responsible bidder who offers the lowest cost to the State in accordance with the specifications set forth in the invitation for bid.

1.5.2 Rejection of Bids. While the State has every intention to award a contract as a result of this IFB, issuance of the IFB in no way constitutes a commitment by the State of Montana to award and execute a contract. Upon a determination such actions would be in its best interest, the State, in its sole discretion, reserves the right to:

- Cancel or terminate this IFB (18-4-307, MCA);
- Waive any undesirable, inconsequential, or inconsistent provisions of this IFB which would not have significant impact on any bid (ARM 2.5.505); or
- If awarded, terminate any contract if the State determines adequate state funds are not available (18-4-313, MCA).

SECTION 2: SPECIAL TERMS AND CONDITIONS

2.0 PREFERENCE NOT APPLIED

Reciprocal preference will not be applied to this purchase because federal funds are involved (ARM 2.5.408).

2.1 MONTANA PREVAILING WAGE REQUIREMENTS

The contract resulting from this IFB may be subject to Montana's prevailing wage requirements. If the total cost of services

2.1.1 Montana Resident Preference. The nature of the work performed, or services provided, under this contract meets the statutory definition of a "public works contract" in section 18-2-401, MCA. Unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of \$25,000 for construction or nonconstruction services in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted in relation to these statutes.

Unless superseded by federal law, each contractor shall ensure that at least 50% of a contractor's workers performing labor on a construction project are bona fide Montana residents.

The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with sections 18-2-403 and 18-2-409, MCA. Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry.

2.1.2 Standard Prevailing Rate of Wages. In addition, unless superseded by federal law, all employees working on a public works contract shall be paid prevailing wage rates in accordance with sections 18-2-401 through 18-2-432, MCA, and all associated administrative rules. Montana law requires that all public works contracts, as defined in section 18-2-401, MCA, in which the total cost of the contract is in excess of \$25,000, contain a provision stating for each job classification the standard prevailing wage rate, including fringe benefits, travel, per diem, and zone pay that the contractors, subcontractors, and employers shall pay during the public works contract.

The standard prevailing rate of wages paid to workers under this contract must be adjusted 12 months after the date of the award of the public works contract per section 18-2-417, MCA. The amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract. This adjustment is the sole responsibility of the contractor and no cost adjustment in this contract will be allowed to fulfill this requirement.

Furthermore, section 18-2-406, MCA, requires that all contractors, subcontractors, and employers who are performing work or providing services under a public works contract post in a prominent and accessible site on the project staging area or work area, no later than the first day of work and continuing for the entire duration of the contract, a legible statement of all wages and fringe benefits to be paid to the employees in compliance with section 18-2-423, MCA.

Section 18-2-423, MCA, requires that employees receiving an hourly wage must be paid on a weekly basis. Each contractor, subcontractor, and employer must maintain payroll records in a manner readily capable of being certified for submission under section 18-2-423, MCA, for not less than three years after the contractor's, subcontractor's, or employer's completion of work on the public works contract.

SECTION 3: SPECIFICATIONS AND PRICING SCHEDULE

3.0 PRICE ADJUSTMENTS

Price adjustments may be permitted at the time of contract renewal through a process of negotiation with the Contractor and the State. Any price increases must be based on demonstrated industrywide or regional increases in the Contractor's costs. Publications such as the Federal Bureau of Labor Statistics and the Consumer Price Index (CPI) for all Urban Consumers may be used to determine the increased value.

3.1 ALL-OR-NONE AWARD

Awards will be made on an all-or-none basis. Failure of a bidder to provide prices for all line items listed on the Schedule may be cause for rejection of the entire bid. However, a bidder may enter "No Cost" in the unit price and extended amount columns to indicate that the item is being offered at "No Cost."

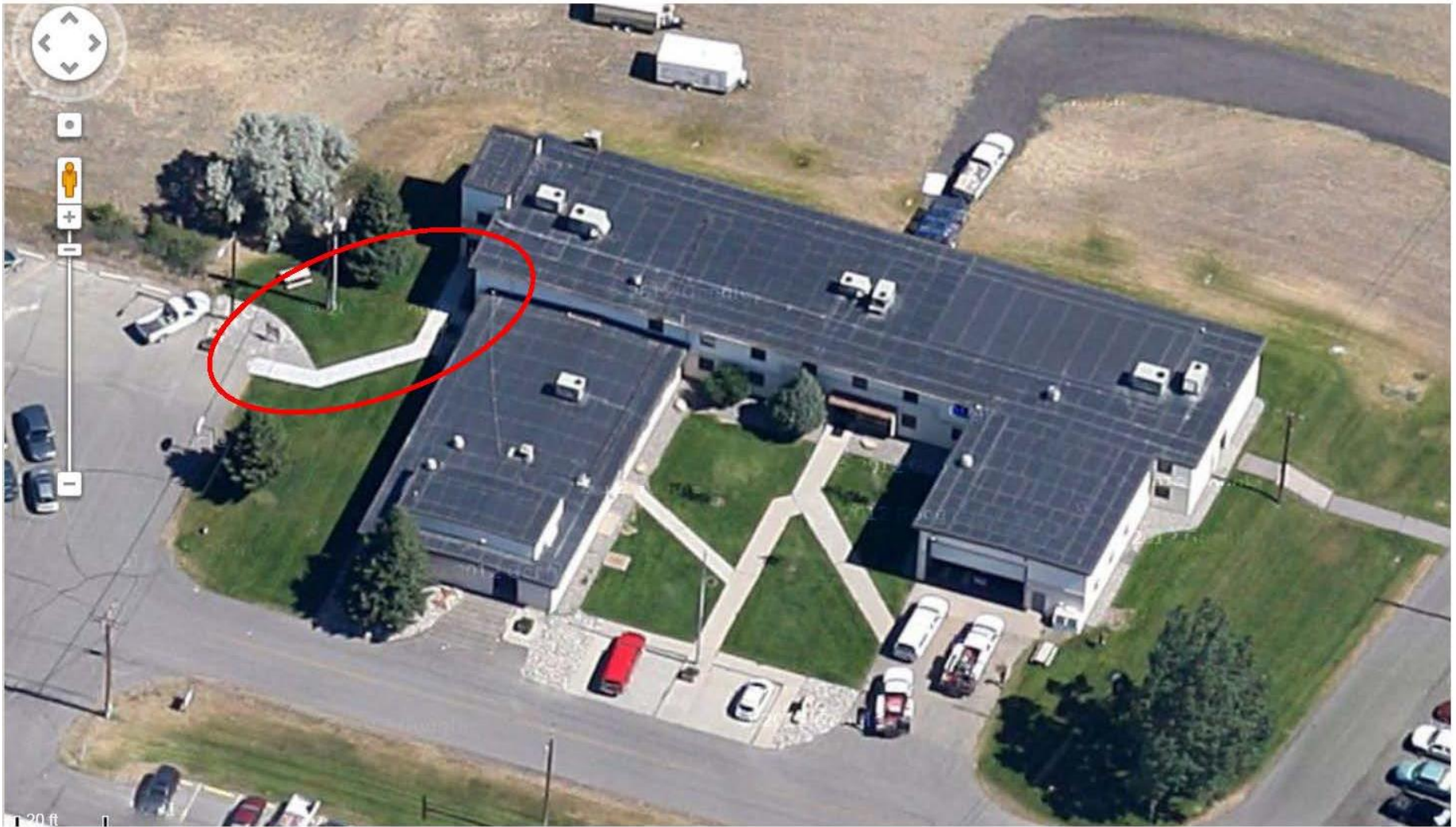
3.2 SPECIFICATIONS AND PRICING SCHEDULE

1. **Services Required.** The state is seeking a contractor to provide snow removal services at its facility located in Building IP-9 in the Airport Business Park located at 1371 Rimtop Drive in Billings, Montana. (See site map on next page.) The sidewalk that must be maintained is on the west side of the building and is approximately 55 feet long and 5 feet wide. This sidewalk runs from the parking lot curb to the building entrance. Contractor's snow removal services will be required, typically, between October 1 and April 30 of each year. Should the area experience snowfall prior to or after these dates, the State would require Contractor's services on an as-needed basis. Costs for "as-needed" services shall be in accordance with Contractor's hourly rate noted below.
2. **Specifications:** This entrance has been established in accordance with the Americans with Disabilities Act (ADA) guidelines. These guidelines state that ". . . a public agency must maintain its walkways in an accessible condition, with only isolated or temporary interruptions in accessibility (28 CFR §35.133). This includes reasonable snow removal efforts. **To ensure compliance with ADA guidelines, this sidewalk must be kept clear of ice and snow and will need to be maintained when snow fall is sufficient to impede access to the building.** This would include the need to clear curb ramps should they become inaccessible due to snow fall, become snow-blocked due to plowing of the parking lot or become blocked due to blowing wind and snow.
3. **Timing:** The hours of operation at the facility are from 8:00 a.m. to 5:00 p.m., local time. When snow removal is required, it is expected that Contractor would complete the services as close to 8:00 a.m. as possible. The State would also require Contractor to provide services at other times during the day during times of heavy snow fall that would typically require re-shoveling of the sidewalk to keep it clear of snow and ice.
4. **Cost Estimate:** The State is seeking an hourly rate for snow removal services and any other direct or indirect costs of services rendered.

Service	Hourly Rate
Snow Removal	\$ _____
Other Direct Costs	
	\$ _____
	\$ _____
	\$ _____
Indirect Costs	
	\$ _____
	\$ _____
	\$ _____

1371 Rimtop Drive, Building IP-0

Snow Removal Area is Circled – Area is ~55' in length and ~5' wide



APPENDIX A: MODEL CONTRACT

THIS CONTRACT is entered into by and between the State of Montana, Department of Environmental Quality (State), and **insert name of contractor** (Contractor), for the purpose of providing snow removal services for the State's facility located in Building IP-9 in the Airport Business Park located at 1371 Rimtop Drive in Billings, Montana. This Contract is entered into in accordance with Title 18, Montana Code Annotated (MCA), and the Administrative Rules of Montana (ARM), Title 2, chapter 5.

1. EFFECTIVE DATE, DURATION, AND RENEWAL

1.1. Contract Term. The contract's initial term is from the date of contract execution, with the effective date being the latter of the two signatures, through June 30, 2015, unless terminated earlier as provided in this contract. In no event is this contract binding on the State unless the State's authorized representative has signed it. The State's authorized signatory for this contract is the Contracts Officer for the Department of Environmental Quality.

1.2. Contract Renewal. The State may renew this contract under its then-existing terms and conditions (subject to potential cost adjustments described below in Section 2) in one -year intervals, or any interval that is advantageous to the State. This contract, including any renewals, may not exceed a total of seven years.

2. COST ADJUSTMENTS

2.1. Cost Adjustments Negotiated Based on Changes in Contractor's Costs. After the contract's initial term and if the State agrees to a renewal, the parties may negotiate cost adjustments at the time of contract renewal. Any cost increases must be based on demonstrated industrywide or regional increases in Contractor's costs. The State is not obligated to agree upon a renewal or a cost increase.

3. SERVICES AND/OR SUPPLIES

3.1. Contractor shall provide the State the services more fully described in Attachment A Scope of Work, attached hereto and incorporated herein by reference.

3.2. Contractor shall include the Contract number on all invoices, packing lists, packages, and correspondence pertaining to the Contract. If the number is not provided, the State is not obligated to pay the invoice.

4. WARRANTIES

4.1. Warranty of Services. Contractor warrants that the services provided conform to the contract requirements, including all descriptions, specifications and attachments made a part of this contract. The State's acceptance of services provided by Contractor shall not relieve Contractor from its obligations under this warranty. In addition to its other remedies under this contract, at law, or in equity, the State may, at Contractor's expense, require prompt correction of any services failing to meet Contractor's warranty herein. Services corrected by Contractor shall be subject to all the provisions of this contract in the manner and to the same extent as services originally furnished.

5. CONSIDERATION/PAYMENT

5.1. The State shall reimburse Contractor for at _____ /hour for services rendered. That State shall also reimburse Contractor for other direct and indirect costs as noted in their cost proposal in response to RFP 115006 incorporated herein by reference.

5.1.1. Contractor shall bill the State no more frequently than monthly and no less frequently than quarterly for the actual time and expenses incurred in the performance of the Contract.

5.1.2. In accordance with §17-8-242, MCA, the State shall reimburse Contractor within 30 days after receipt of each billing statement, contingent upon the following:

5.1.2.1. Payment for questioned costs may be withheld pending resolution and may require rebilling by Contractor or submittal of additional documentation, including any records required to be kept by Contractor;

5.1.2.2. The State may withhold payment if Contractor has not performed in accordance with the Contract. Such withholding cannot be greater than the additional costs to the State caused by Contractor's lack of performance.

5.2. Contractor may not use the funds received under this Contract to supplant other Contractor budgeted expenses or funds.

If Contract is funded by money from federal grants, the following clause will be included to include the federal grant information.

5.3. This Contract is funded in whole or in part by a portion of a federal grant from the **insert name of federal agency (acronym)**; in the amount of insert total amount of federal award (**insert Federal Grant No and the Federal Catalog No.**).

6. ACCOUNTING, AUDIT AND RETENTION OF RECORDS

6.1. Contractor shall maintain books, records, documents, other evidence directly pertinent to performance of work under this Contract and current accounting for all funds received and expended pursuant to this Contract in accordance with generally accepted accounting principles. Contractor's accounting system must be able to allocate costs associated with this Contract in a manner that keeps these costs separate from the costs of other contracts.

6.2. The State, the Legislative Auditor, the Legislative Fiscal Analyst, the **insert federal agency name and acronym if funded with federal money**, and the Comptroller General of the United States, or their authorized agents, have the right of access to accounting records of Contractor for purposes of making an inspection, audit, excerpts, or transcripts of funds received and expended by Contractor pursuant to this Contract. Contractor shall maintain the records at the address of its liaison in Section 17 and allow the entities in the preceding sentence to have access to them for review and copying during normal business hours for as long as the Contractor retains the records under paragraph 6.5. This Contract may be terminated by the State upon any refusal of Contractor to allow access to such records.

6.3. Contractor shall disclose all information and reports resulting from access to the records maintained in paragraph 6.1 to any of the agencies referred to in paragraph 6.2.

6.4. Audits conducted under this section must be in accordance with generally accepted auditing standards as established by the American Institute of Certified Public Accountants and with established procedures and guidelines of the reviewing or auditing agency.

6.5. All books, records, reports, accounting, and other documents maintained by Contractor under this Contract must be retained for a period of eight years after either the completion date of this Contract, or the conclusion of any litigation, claim, audit or exception relating to this Contract taken by the State or a third party, whichever is later. Contractor may not destroy any records without first offering the records to the State.

6.6. In the event that an audit shows that Contractor has not complied with federal or state laws and rules concerning the handling and expenditure of the funds received under this Contract, including any grant-related income, Contractor must correct the areas of non-compliance within six months after DEQ receives the audit report.

7. PREVAILING WAGE REQUIREMENTS

7.1. Montana Resident Preference. The nature of the work performed, or services provided, under this contract meets the statutory definition of a "public works contract" in §18-2-401, MCA. Unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of \$25,000 for construction or nonconstruction services in accordance with §18-2-401 through §18-2-432, MCA, and all administrative rules adopted under these statutes.

Unless superseded by federal law, Contractor shall ensure that at least 50% of the workers performing labor on this project are bona fide Montana residents.

The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with §18-2-403 and §18-2-409, MCA. Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry.

7.2. Standard Prevailing Rate of Wages. In addition, unless superseded by federal law, all employees working on a public works contract must be paid prevailing wage rates in accordance with §18-2-401 through §18-2-432, MCA, and all associated administrative rules. Montana law requires that all public works contracts, as defined in §18-2-401, MCA, in which the total cost of the contract is greater than \$25,000, contain a provision stating for each job classification the standard prevailing wage rate, including fringe benefits, travel, per diem, and zone pay that the contractors, subcontractors, and employers shall pay during the public works contract.

The standard prevailing rate of wages paid to workers under this contract must be adjusted 12 months after the date of the award of the public works contract per §18-2-417, MCA. The amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract. This adjustment is the sole responsibility of Contractor and no cost adjustment in this contract will be allowed to fulfill this requirement.

Because this contract has an initial term of 12 months with optional renewals, this contract is subject to the 3% adjustment when the contract length becomes more than 30 months. The 3% rate increase becomes effective upon the second renewal, and the 3% is paid starting in the third year of the contract beginning with the 25th month. The adjustment must be made and applied every 12 months for the term of the contract. This adjustment is the sole responsibility of Contractor and no cost adjustment in this contract will be allowed to fulfill this requirement.

7.3. Notice of Wages and Benefits. Furthermore, §18-2-406, MCA, requires that all contractors, subcontractors, and employers who are performing work or providing services under a public works contract post in a prominent and accessible site on the project staging area or work area, no later than the first day of work and continuing for the entire duration of the contract, a legible statement of all wages and fringe benefits to be paid to the employees in compliance with §18-2-423, MCA.

7.4. Wage Rates, Pay Schedule, and Records. Section 18-2-423, MCA, requires that employees receiving an hourly wage must be paid on a weekly basis. Each contractor, subcontractor, and employer shall maintain payroll records in a manner readily capable of being certified for submission under §18-2-423, MCA, for not less than three years after the contractor's, subcontractor's, or employer's completion of work on the public works contract. The Commissioner of the Montana Department of Labor and Industry has established the standard prevailing rate of wages in accordance with §18-2-401 and §18-2-402, MCA, for janitors and cleaners, to include removing snow from sidewalks, to be \$11.58 per hour, plus a benefit rate of \$2.96 for District 4, which includes Billings, Montana.

8. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

In accordance with §18-4-141, MCA, Contractor may not assign, transfer, or subcontract any portion of this contract without the State's prior written consent. Any subcontracting of services under this Contract must be done in a competitive manner and ensure that subcontractor rates are justified and documented in accordance of Level IV of the Executive Schedule (<http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages>). Contractor is responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by Contractor. No contractual relationships exist between any subcontractor and the State under this contract.

9. HOLD HARMLESS/INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the State, its elected and appointed officials, officers, agents, directors, and employees from and against all claims, damages,

losses and expenses, including the cost of defense thereof, to the extent caused by or arising out of Contractor's negligent acts, errors, or omissions in work or services performed under this Contract, including but not limited to, the negligent acts, errors, or omissions of any Subcontractor or anyone directly or indirectly employed by any Subcontractor for whose acts Subcontractor may be liable.

10. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Neither Contractor nor its employees are employees of the State of Montana. Contractor and any subcontractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with §39-71-401, §39-71-405, and §39-71-417, MCA. Contractor shall submit proof of compliance to the State in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. This insurance/exemption must be valid for the entire contract term and any renewal. Upon expiration of insurance/exemption, Contractor shall send a renewal document to the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901.

11. COMPLIANCE WITH LAWS

Contractor shall, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules, and regulations, including but not limited to, the Montana Human Rights Act, Title VI of 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, Title IX of the Education Amendments of 1972, the Clean Water Act (CWA), and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. Any subletting or subcontracting by Contractor subjects subcontractors to the same provision. In accordance with §49-3-207, MCA, Contractor 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 upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing this contract.

12. REQUIRED INSURANCE

12.1. Contractor, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

12.2. Primary Insurance. Contractor's insurance coverage shall be primary insurance with respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

12.3. Specific Requirements for Commercial General Liability. Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$300,000 per occurrence and \$600,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for liability arising out of activities performed by or on behalf of Contractor, including the State's general supervision of Contractor, products, and completed operations, and the premises owned, leased, occupied, or used.

12.4. Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the State. At the request of the State either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, or volunteers; or (2) at the expense of Contractor, Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

12.5. Certificate of Insurance/Endorsements. A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages, has been received by the State. Contractor must notify the State immediately of any material change in insurance coverage, such as changes

in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

13. DISABILITY ACCOMMODATIONS

The State does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to the State's Contract Liaison, identified herein.. Interested parties should provide as much advance notice as possible.

14. REGISTRATION WITH THE SECRETARY OF STATE

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with §35-1-1026 and §35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov/Business/index.asp>.

If Contract is funded with money from a Federal Grant the following are the TYPICAL federal clauses with which Contractor would need to comply. These clauses may be subject to change dependent upon the federal grant.

15. FEDERAL REQUIREMENTS

Contractor agrees to comply with the following terms and conditions as defined by the United States Code (<http://uscode.house.gov/search/criteria.shtml>), the Code of Federal Regulations (<http://www.ecfr.gov/>) applicable to the **insert agency name**, and Presidential Executive Orders (<http://www.whitehouse.gov/briefing-room/presidential-actions/executive-orders>) as they apply to the federal grant from **insert agency name** for **insert grant name**. Citations to the relevant portions of the U.S. Code, Code of Federal Regulations, and Executive Orders may be obtained at (<https://www.cfd.gov/> using the CFDA number(s) referenced in Section 5. The following provisions are incorporated into this Contract and shall be included by the Contractor in each subcontract or sub-tiered agreement under any subcontract it enters into in connection with this Contract:

15.1. Supersession (CFR). This Section applies to the work eligible for **insert agency acronym** assistance to be performed under this Contract, and the provisions within it supersede any conflicting provisions of this Contract.

15.2. Drug Free Workplace (CFR). Contractor agrees to maintain a drug-free workplace. Contractor certifies, by signing this Contract that its employees and subcontractors will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the performance of this Contract.

15.3. Lobbying (CFR). Contractor certifies that no federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence Congress or any federal agency in connection with the awarding of any federal/state contract, the making of any federal/state grant, the making of any federal/state loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal/state contract, grant, loan or cooperative agreement. If any funds other than federal or state appropriated funds have been paid or will be paid to any person for influencing or attempting to influence Congress or any federal agency in connection with this Contract, grant, loan or cooperative agreement, Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

The following clause is specific to PPAD's 319 contract

15.4. Debarment, Suspension, Ineligibility and Voluntary Exclusion (CFR). Contractor certifies that it and its principals: (1) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from the award of contracts by any federal department or agency; (2) have not within a 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; been in violation of federal or state antitrust statutes, or been convicted of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in (2) above; and, (3) have not within a 3-year period preceding this Contract, had one or more contracts terminated for cause or default by any federal or state agency.

15.5. Procurement of Recycled Good (USC). In accordance with Section 6002 of the Resource Conservation and Recovery Act, when the purchase of an item exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more, Contractor and subcontractors shall give preference to the purchase of specific products containing recycled materials.

15.6. Use of Recycled Paper (EO). Contractor certifies that recycled paper will be used for all reports, documents, or other submittals prepared by Contractor under the terms of this Contract. This requirement does not apply to reports that are prepared on forms supplied by the federal awarding agency.

15.7. Equipment, Supplies and Materials

15.7.1. Any purchase of equipment required under this Contract must be approved in advance and in writing by the State prior to purchase by Contractor.

15.7.2. The title of equipment, defined as having a purchase price of over \$5,000 and a useful life of more than one year, acquired under this Contract, shall vest with the State. Contractor agrees to maintain the equipment in good working condition and provide accountability of the equipment per state law and rule concerning Asset Management.

15.7.3. At the conclusion of this Contract, equipment shall be returned in good working condition to the State unless otherwise authorized in writing by the State and the Surplus Property Program of the Property and Supply Bureau of the General Services Division of the Montana Department of Administration. Supplies and materials with a value of less than \$5,000, purchased for and used in completing the terms of this Contract shall be the property of Contractor.

15.8. Subcontracting Under Disadvantaged Business Enterprise (DBE) Program (CFR)

15.8.1. Contractor shall assure compliance with the DBE Program when subcontracting, which includes, along with disadvantaged business enterprises, minority and women's business enterprise (MBE/WBE). Contractor shall ensure that DBEs have the opportunity to compete for procurements subcontracted under this Contract by following the Six Good Faith Efforts noted below:

15.8.1.1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and local government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

15.8.1.2. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

15.8.1.3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local government recipients, this

will include dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

15.8.1.4. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

15.8.1.5. Use the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

15.8.1.6. If the Contractor awards subcontracts, require the subcontract to take the steps in paragraph 15.8.1.1 through 15.8.1.5 of this Section.

15.8.2. Subcontracting done by Contractor under this Contract must, to the fullest extent possible, make available a "fair share" of at least 3% of funds for supplies, construction, equipment or services to "women business enterprises" (WBE), and 2% of funds to "minority business enterprises" (MBE). DEQ reserves the right to adjust the "fair share" percentages by providing written notice to Contractor. These are goals, not quotas. The requirement is that Contractor shows and documents good faith efforts to solicit DBE participation.

15.8.3. Contractor shall employ the Six Good Faith Efforts regardless of whether Contractor has achieved its "fair share" objectives as described in Section 15.8.1.

15.8.4. Contractor shall ensure payment to a DBE subcontractor for satisfactory performance is no more than 30 days from the date Contractor receives payment from DEQ.

15.8.5. Contractor shall notify the State in writing prior to termination of a DBE subcontractor for convenience.

15.8.6. If a DBE subcontractor fails to complete work under the subcontract for any reason, Contractor shall employ the Six Good Faith Efforts when soliciting for a replacement subcontractor.

15.9. Use of Funds for Refreshments or Meals. Contractor and any subcontract must obtain prior approval from EPA through DEQ prior to using these funds for the purchase of light refreshments or meals served at meetings, conferences, training workshops, and outreach activities (events) unless the event has been specified in the approved workplan. Requests for approval must include:

15.9.1. An estimated budget and description for the light refreshments, meals, and beverages to be served at the event(s);

15.9.2. A description of the purpose, agenda, location, length and timing for the event;

15.9.3. An estimated number of participants in the event and a description of their roles.

16. CONFLICT OF INTEREST

16.1. For the purposes of the Montana Code of Ethics, Contractor and each of its employees and subcontractors is a "public employee" for the purposes of this Section. As such, Contractor and each of its employees and subcontractors is subject to the requirements of Title 2, Chapter 2, MCA, regarding conflicts of interest, including but not limited to sections §2-2-104, §2-2-105, §2-2-121, and §2-2-201, MCA.

16.2. If the State discovers that an employee of Contractor is in violation of this Section, the State may, after consulting with Contractor, terminate this Contract or take other appropriate measures to address the conflict and Contractor shall reimburse the State for any services the State requires be performed by another Contractor that duplicate the services performed by the employee who violated this Section.

17. DISCLOSURE

17.1. Contractor shall notify the State of any actual, apparent, or potential conflict of interest with regard to any individual working on a work assignment or having access to information regarding a subcontract. Notification of any conflict of interest shall include both organizational conflicts of interest and personal conflicts of interest (which are defined as the same types of relationships as organizational conflicts of interest, but applicable to an individual). In the event that a personal conflict of interest exists, the individual who is affected

shall be disqualified from taking part in any way in the performance of the assigned work that created the conflict of interest situation.

17.2. Contractor certifies that it has identified all current employees and proposed subcontractor's employees that will perform work under this Contract and that have worked for the State of Montana in the last two years prior to submitting the solicitation request which resulted in the award of this Contract. Contractor further certifies that no former employee of the State of Montana or local government may work under this Contract for a period of twelve months after voluntary termination of public employment, if by working under the Contract the employee will take direct advantage, unavailable to others, of matters with which the employee was directly involved during the employee's public employment. Pursuant to §2-2-201, MCA, a former employee of state or local government may not, within 6 months following the termination of public employment, contract or be employed by an employer who contracts with the State of Montana or any of its subdivisions involving matters with which the former public employee was "directly involved", as defined in §2-2-201, MCA, during employment. Contractor further certifies it shall identify any new employees hired during this Contract that will perform work under this Contract and that have worked for the State of Montana in the last two years prior to submitting the solicitation request which resulted in the award of this Contract. Disclosure in all cases shall include the name of the agency and the nature of work performed by the employee.

18. CONTRACT TERMINATION

18.1. Termination for Cause with Notice to Cure Requirement. Either party may terminate this contract in whole or in part for failure of the other party to materially perform any of the services, duties, terms, or conditions contained in this contract after giving the other party written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 60 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

18.2. Reduction of Funding. In accordance with §18-4-313(4), MCA, the State must terminate this contract if funds are not appropriated or otherwise made available to support the State's continuation of performance of this contract in a subsequent fiscal period. If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, the State shall terminate this contract as required by law. The State shall provide Contractor the date the State's termination shall take effect. The State shall not be liable to Contractor for any payment that would have been payable had the contract not been terminated under this provision. As stated above, the State shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date the State's termination takes effect. This is Contractor's sole remedy. The State shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

18.3. Any termination of this Contract is subject to the exception that Section 6 (ACCOUNTING, AUDIT AND RETENTION OF RECORDS), relating to retention of and access to records, remains in effect.

19. EVENT OF BREACH – REMEDIES

19.1. Event of Breach by Contractor. Any one or more of the following Contractor acts or omissions constitute an event of material breach under this contract:

19.1.1. services furnished fail to conform to any requirement;

19.1.2. failure to perform any of the other terms and conditions of this contract, including but not limited to beginning work under this contract without prior State approval and breaching Section 24.1 **Technical or Contractual Problems** obligations; or

19.1.3. voluntary or involuntary bankruptcy or receivership.

19.2. Event of Breach by State. The State's failure to perform any material terms or conditions of this contract constitutes an event of breach.

19.3. Actions in Event of Breach.

19.3.1. Upon a material breach by either party, the non-breaching party may:

19.3.1.1. terminate this contract after giving written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 60 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period; or

19.3.1.2. treat this contract as materially breached and, except as the remedy is limited in this contract, pursue any of its remedies under this contract, at law or in equity.

20. FORCE MAJEURE

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than 5 working days after the onset. If the notice is not provided within the 5 day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this contract, unless the parties mutually agree that the obligation is excused because of the condition.

21. WAIVER OF BREACH

Either party's failure to enforce any contract provisions after any event of breach is not a waiver of its right to enforce the provisions and exercise appropriate remedies if the breach occurs again. Neither party may assert the defense of waiver in these situations.

22. CONFORMANCE WITH CONTRACT

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without the State Procurement Bureau's prior written consent. Products or services provided that do not conform to the contract terms, conditions, and specifications may be rejected and returned at Contractor's expense.

23. LIAISONS AND SERVICE OF NOTICES

23.1. Contract Liaisons. All project management and coordination on the State's behalf must be through a single point of contact designated as the State's liaison. Contractor shall designate a liaison who will provide the single point of contact for management and coordination of Contractor's work. All work performed under this contract must be coordinated between the State's liaison and Contractor's liaison.

___ is the State's liaison.

(Address):

(City, State, ZIP):

Telephone:

Cell Phone:

Fax:

E-mail:

___ is Contractor's liaison.

(Address):

(City, State, ZIP):

Telephone:

Cell Phone:

Fax:

E-mail:

23.2. Notifications. The State's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints must first be directed to the liaison. Notice may be provided by personal service, mail, or facsimile. If notice is provided by personal service or facsimile, the notice is effective upon receipt; if notice is provided by mail, the notice is effective within three (3) business days of mailing. A signed and dated acknowledgement of the notice is required of both parties.

24. MEETINGS

24.1. Technical or Contractual Problems. **The Contractor may be required to attend a pre-contract meeting in which the procedures for implementing the Contract will be discussed and agreed upon. The Contractor may also be required to attend a post-contract meeting with the State's Liaison named in the Contract.** Contractor shall meet with the State's personnel, or designated representatives, to resolve technical or contractual problems occurring during the contract term or to discuss the progress made by Contractor and the State in the performance of their respective obligations, at no additional cost to the State. The State may request the meetings as problems arise and will be coordinated by the State. The State shall provide Contractor a minimum of three full working-days-notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the contract.

24.2. Failure to Notify. If Contractor fails to specify in writing any problem or circumstance that materially affects the costs of its delivery of services or products, including a material breach by the State, about which Contractor knew or reasonably should have known with respect to the period during the term covered by Contractor's status report, Contractor shall not be entitled to rely upon such problem or circumstance as a purported justification for an increase in the price for the agreed upon scope.

24.3. State's Failure or Delay. For a problem or circumstance identified in Contractor's status report in which Contractor claims was the result of the State's failure or delay in discharging any State obligation, the State shall review same and determine if such problem or circumstance was in fact the result of such failure or delay. If the State agrees as to the cause of such problem or circumstance, then the parties shall extend any deadlines or due dates affected thereby, and provide for any additional charges by Contractor. This is Contractor's sole remedy. If the State does not agree as to the cause of such problem or circumstance, the parties shall each attempt to resolve the problem or circumstance in a manner satisfactory to both parties.

25. CHOICE OF LAW AND VENUE

In accordance with §18-1-401, MCA, Montana law governs this contract. Any litigation concerning this bid, proposal, or contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

26. TAX EXEMPTION

The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

27. SEVERABILITY CLAUSE

A declaration by any court or any other binding legal source that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually and materially dependent.

28. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT

28.1. Contract. This contract consists of **insert number** numbered pages, any Attachments as required, Solicitation #115006, as amended, and Contractor's response, as amended. In the case of dispute or ambiguity arising between or among the documents, the order of precedence of document interpretation is the same.

28.2. Entire Agreement. These documents are the entire agreement of the parties. They supersede all prior agreements, representations, and understandings. Any amendment or modification must be in a written agreement signed by the parties.

29. WAIVER

The State's waiver of any Contractor obligation or responsibility in a specific situation is not a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.

30. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

CONTRACTOR

DATE

BY: _____
NAME, Title
Address
Federal Employer's ID No.: **NUMBER**

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

DATE

BY: _____
VICKI J. WOODROW, Contracts Officer

Financial Services
Metcalf Building, Room 003
1520 E. Sixth Avenue
Helena, MT 59620-0901

Approved as to Legal Content:

DATE

BY: _____
DEQ Attorney

APPENDIX B
MONTANA PREVAILING WAGES RATES FOR (INSERT TYPE OF SERVICE)
SERVICES (YEAR)

**Note: This document is provided in PDF format as a separate file
and may be found with IFB No. (insert number) at
(insert web address).**
This appendix is a critical and necessary element of this IFB.

IFB Checklist

Have you remembered to:

- Check our website for the latest addendum to the IFB
- Sign each "Acknowledgment of Addendum" if required
- Sign your bid on our cover sheet
- Mark your mailing envelope or box with the IFB number and the opening date under your return address
- Carefully review the "Standard Terms and Conditions"
- Carefully review all listed requirements to ensure compliance with the IFB
- Initial all bid/pricing changes you made
- Bid F.O.B. Destination (Ship To: Address) Freight Prepaid