

AGENDA REPORT

DATE August 3, 2004

ITEM: 2005 AGREEMENT WITH THE MONTANA DEPARTMENT
OF TRANSPORTATION FOR MAINTENANCE OF TRAFFIC
SIGNALS ON STATE ROUTES

INITIATED BY: PUBLIC WORKS DEPARTMENT

ACTION REQUESTED: AWARD AGREEMENT

PRESENTED BY: JIM REARDEN, PUBLIC WORKS DIRECTOR

RECOMMENDATION:

Staff recommends approval of the attached Traffic Signal Maintenance Agreement with the Montana Department of Transportation for FY 2004/2005.

MOTION:

I move that the City Commission approve the FY 2004/2005 Traffic Signal Maintenance Agreement with the Montana Department of Transportation and authorize the City Manager to sign the agreement.

SYNOPSIS:

The attached agreement between the City of Great Falls and the Montana Department of Transportation outlines each agencies responsibilities and details the States reimbursement to the City for maintaining State Traffic Signals located within the City limits. The City is currently maintaining sixty-four (64) traffic signals in addition to those at twenty-three (23) City signalized intersections. Three (3) flashing signal lights are also maintained for the State. The agreement also provides for the City to maintain the over-height detection system located on US 87 by Fleet Supply. Maintenance on this system is on an on-call basis with reimbursement per event. This agreement includes a 9.7% annual cost decrease over last years Traffic Signal Maintenance Agreement. The decrease in cost is due to system upgrades funded by the Montana Department of Transportation which have decreased some traffic signal maintenance needs.

BACKGROUND:

The City has an annual agreement with the Montana Department of Transportation for Traffic Signal Maintenance. The City employs two Traffic Signal Technicians to maintain signals on State and City routes, as well as City owned signals.

PARTIES

This contract is entered into on this _____ day of _____, 2004. This contract is between the Montana Department of Transportation, hereinafter referred to as MDT, and the City of Great Falls, hereinafter referred to as CITY.

SCOPE OF WORK

This contract is for traffic signal maintenance. In consideration of the payments made to the CITY by MDT in accordance with this contract, the CITY agrees to provide all of the activities ordinarily associated with traffic signal maintenance for all traffic signals located within or near the CITY limits of Great Falls for which MDT has responsibility and as listed in Exhibit A. The contract covers all of the activities ordinarily associated with traffic signal maintenance including, but not limited to, those which follow:

- a. MDT shall provide electrical power for the sixty-four (64) signals and three (3) flashers covered under this contract.
- b. The CITY will provide all maintenance necessary to the operation of the Traffic Control System and MDT will reimburse the CITY in accordance with Exhibit B for costs of labor, equipment, engineering, and materials required for the maintenance of the Traffic Control System.
- c. Out-of-town traffic signal maintenance as required by MDT may be performed if CITY workload permits. Costs shall be actual cost to the CITY and shall be billed separately at time of performance.
- d. The CITY will maintain the overheight detection system located on U.S. 87 on an on call basis and bill separately at time of performance for actual costs.

TERM

This contract is effective _____ and terminates on _____ unless otherwise agreed by the parties in writing.

PAYMENT

It is agreed that the payments associated with this contract shall be as shown in Exhibit C. This shall be a lump sum cost for the entire agreement, and shall be paid to the CITY on a monthly basis on the schedule in Exhibit C.

TERMINATION AND DEFAULT

The parties mutually agree the contract may be terminated by either party giving 30 days written notice to the other party. Such notice must be delivered by certified mail. Upon service of such notice, MDT shall be liable only for the work completed as of the date of such notice.

LEGAL COMPLIANCE

During the performance of this Agreement, the City, for itself, its assignees and successors in interest agrees as follows:

A) COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 FOR FEDERAL-AID CONTRACTS

- (1) Compliance with Regulations: The 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 though 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 Procurements 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 procurements 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: 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 Department 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, Department 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: City will include 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. City will take such action with respect to any subcontract or procurement as the Department 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 Department 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, 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) City will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.
- (2) City will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offering or other program outputs: **“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.”**

LAW AND VENUE

This contract is governed by the laws of Montana. The parties agree that any litigation concerning the contract must be brought in the First Judicial District, in and for the County of Lewis and Clark, State of Montana.

AUDIT AND RECORDS

The CITY shall maintain reasonable records of its performance under this contract. The CITY agrees that MDT, the Legislative Auditor, and/or the Legislative Fiscal Analyst may audit all records, reports, and other documents which the CITY maintains under the terms of the contract to ensure contract compliance. Such records, reports, and other documents may be audited at any reasonable time.

HOLD HARMLESS AND INDEMNITY

MDT agrees to protect the CITY and its employees against and defend any and all suits, action or actions at law, or in equity which may be brought against the CITY or any of its employees, individually or otherwise, to recover damages, for accidents occurring, growing out of, or arising from structural defects in any traffic control signal or device covered in this agreement, or because of the existence or non-existence of any traffic control signal or devices covered in this agreement, and to save them harmless therefrom.

The CITY agrees to protect, save and hold harmless the State (MDT) and its employees or representatives against any and all claims for damages by third persons or employees by way of suit, action or actions at law or equity arising from the alleged negligence, errors, or omissions of the CITY or its employees in performing the obligations and duties, including maintenance of traffic control signals or devices or failure to maintain traffic control signals or devices, required under the terms of the contract.

TIME OF ESSENCE

The parties to this contract understand and agree time is of the essence in completing the scope of work identified herein in the time set forth.

MONTANA PRODUCT PREFERENCE

The CITY agrees to provide Montana made goods where those goods are comparable in price and quality to those required by this contract, section 18-1-112(1), MCA.

MODIFICATION

This contract contains the entire terms of the agreement between the parties and no statements, promises, or inducements made by either party, or its agents which modifies, alters, or changes the scope and purpose of this contract is binding except as provided herein.

Upon written notice by either party that the scope of work or purpose of this contract is to be expanded or decreased, thereby necessitating an adjustment in payment, the parties agree that any modification will be done by separate written agreement.

COORDINATION MEETINGS

The CITY and MDT agree to meet as needed to discuss the performance of this contract.

COMPENSATED DAMAGES

It is understood that any damages that are caused by third parties will be repaired by the City, and a billing for these repairs shall be sent to MDT along with any documentation which the CITY has available to help MDT in seeking restitution. MDT shall pay the CITY's actual costs. Payment under this provision shall be in addition to the payment detailed in Exhibit C.

PRIORITIES FOR CONSTRUCTION OR RECONSTRUCTION

It is understood that the CITY uses a priority program which ranks all potential improvements. No special or different criteria will be used on the signals covered in this agreement.

IN WITNESS WHEREOF, the Director of the Department of Transportation or his authorized representative has hereunto subscribed his name on behalf of the State of Montana and the City Manager of the City of Great Falls on behalf of said City of Great Falls have subscribed their names and affixed hereto the seal of the City.

DATED this _____ day of _____, 2004.

CITY OF GREAT FALLS

JOHN LAWTON, City Manager

Approved as to form:

DAVID GLIKO, City Attorney

I, Peggy J. Bourne, Clerk of the City of Great Falls, do hereby certify that the above-mentioned agreement was regularly adopted by the Commission of Great Falls, at a meeting thereof held on the _____ day of _____, 2004, and that the Commission of Great Falls authorized the City Manager to sign this agreement on behalf of the Commission.

State of Montana
Department of Transportation

PEGGY J. BOURNE, City Clerk

MICHAEL P. JOHNSON, District Administrator
Great Falls District

Approved as to Form:

TIMOTHY W. REARDON, Chief Legal Counsel

Signed and sworn to before me on _____, by

_____.

Notary Public for the State of Montana
My Commission Expires: