

**LEWIS AND CLARK COUNTY, MONTANA  
INVITATION FOR BIDS  
MATERIAL CRUSHING PROCESSING**

Notice is hereby given that the Board of County Commissioners of Lewis and Clark County, Montana is soliciting competitive bids from interested parties for the crushing of gravel to meet Lewis and Clark County Public Works Manual Specifications for Crushed Aggregate Surfacing and processing the existing stockpile of millings, estimated at 14,500 cubic yards, to a 1.25" minus condition. Work will take place at the Lewis and Clark County Applegate Pit and be stockpiled on site in cone piles.

The complete solicitation is available online at <https://www.lccountymt.gov/Government/Grants-and-Procurement/Bids-and-Proposals-Current>. Questions related to this solicitation must be directed only to the designated point of contact for this solicitation: Jade Wills, Administrative Assistant II, [jwills@lccountymt.gov](mailto:jwills@lccountymt.gov). A cone of silence is established for this solicitation which prohibits any bidder, or entity with financial interest in the bid award, from communicating regarding the solicitation with any Lewis and Clark County elected official, employee, or agent other than the designated point of contact.

A mandatory pre-bid conference and tour will be held on January 6, 2026 at 3:00 PM located at 3402 Cooney Drive, Noxious Weed District Conference Room. Interested bidders are encouraged to attend.

The deadline for bids to be delivered to the Lewis and Clark County Commissioner's Office, located at the City-County Administrative Building, 316 North Park Avenue, Room 345, Helena, MT is on or before 4:00 PM local time on January 12, 2026. The sealed envelope containing the bid must be labeled, "Material Crushing IFB, Bid Enclosed." Bids received by this deadline will be unsealed publicly on January 13, 2026 beginning at 9:00 AM local time in Room 330 of the City-County Administrative Building. Late bids are not accepted.

All bids must be accompanied by a bid bond or other form of security as specified in Montana Code Annotated 18-1-203, payable to Lewis and Clark County, in an amount of no less than ten percent (10%) of the total bid. Bids received without the required bid security will be deemed nonresponsive.

The successful bidder shall furnish an approved performance bond and labor and materials payment bond each in the amount of one hundred percent (100%) of the contract amount.

Insurances, permits, and licenses shall be obtained by the successful bidder and certificates of such shall be provided to Lewis and Clark County.

The contractor and any of the subcontractors bidding or doing work on this project will be required to be registered with the Montana Department of Labor and Industry. Forms and registration information are available from this agency. All workers employed by the contractor or subcontractors in performance of this contract shall be paid wages as required by the

current Montana Prevailing Wage Rates. The contractor must ensure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex or national origin.

The County reserves the right to reject any or all bids received, to waive informalities, to postpone the solicitation for a period not to exceed 60 days, and to accept the bid that is in the best interest of the County. Bidders shall be bound to the terms and conditions listed in the solicitation.

This solicitation is being offered in accordance with federal and state statutes and county regulations governing procurement. Bids become the property of Lewis and Clark County. The County is not responsible for costs associated with preparing a bid.

Published in the Helena Independent Record on Saturday, December 27, 2025 and Saturday, January 3, 2026.

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**Project Description**

Lewis and Clark County is soliciting bids to provide all plant and labor required to crush and stockpile 40,000 tons of ¾" Minus aggregate meeting the Crushed Aggregate Surfacing Specifications below and extracted by the successful bidder at the Lewis and Clark County Applegate Pit. The work will also include processing an existing stockpile of 14,500 cubic yards of asphalt millings into a 1½" minus condition with no additional gradation requirements. Both materials shall be stockpiled at the work site in a non-segregated aggregate cone pile. The UNIT PRICES offered through this solicitation shall be effective for any quantity, more or less than the estimated quantity. Quantity shall be verified by the owner by an independent survey.

The project is located at the Lewis and Clark County Applegate Pit. The main entrance is on the East side of Applegate Road, 1,000 feet north of its intersection with Lincoln Road. Work is anticipated to take place between February 1, 2026, and June 1, 2026.

The Bidder shall perform quality control testing, including gradation and Atterberg Limits, on the produced ¾" Minus aggregate to ensure compliance with specifications and make necessary production adjustments. Testing will be conducted at a frequency of one test per 1,000 tons for the first 4,000 tons, or until the material meets specifications. Once compliance is verified, testing frequency will be reduced to one test per 4,000 tons.

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### **Crushed Aggregate Surfacing Specifications**

This material consists of crushed gravel, stone or other similar material consisting of hard, durable particles or fragments of stone, free of excess flat, elongated, soft or disintegrated pieces, dirt clods or other deleterious matter. This is the surface course on graveled roads, streets, and alleys. The material shall meet the gradation as set forth in Table 1.

**TABLE 1 - SPECIFICATION FOR CRUSHED AGGREGATE SURFACING**  
**Percentages by Weight Passing Square Mesh Sieves**

<b>Passing</b>	<b>¾" Minus</b>
2" sieve	--
1 ¼" sieve	--
1" sieve	--
¾" sieve	100
½" sieve	--
⅜" sieve	--
No. 4 sieve	40-80
No. 10 sieve	25-60
No. 16 sieve	--
No. 40 sieve	--
No. 200 sieve (not more than)	8-20

The material shall meet the following requirements for crushed aggregate surfacing, including added binder or blending material:

- **The target plasticity index is seven (7), with a tolerance of ± two (2).**
- Dust Ratio: the portion passing the No. 200 sieve cannot exceed two-thirds ( $\frac{2}{3}$ ) of the portion passing the No. 40 sieve.
- The maximum liquid limit for the material passing the No. 40 sieve must not exceed thirty-five (35).
- A wear factor not exceeding fifty (50%) percent at five hundred (500) revolutions.
- At least twenty (20%) percent by weight of the aggregate retained on the No. 4 sieve must have one (1) fractured face.

## BID WORKSHEET

Return To: Lewis and Clark County  
Board of County Commissioners  
316 N. Park Avenue, Room 345  
Helena, MT 59623

**Bids must be received no later than Monday, January 12, 2026, at 4:00 PM local time.**

**THE UNDERSIGNED BIDDER** has become familiar with the material solicited by Lewis and Clark County through the bid specifications. The Bidder agrees to follow and abide by all laws required in the State of Montana and Lewis and Clark County. The Bidder, having satisfied themselves of the product specifications, does submit the bid as follows:

**THE BIDDER HEREBY PROPOSES AND AGREES**, if this bid is accepted, to enter into an agreement to provide the material and/or services, and assumes all obligations, duties, and responsibilities specified herein for the following unit price.

Description	Unit	Est. Quantity	Unit Price	Extended Price
Aggregate Extraction and Crushing, ¾" Minus	Ton	40,000	\$	\$
Asphalt Millings Processing, 1¼" Minus	CY	14,500	\$	\$
Total Bid Price			\$	
Total Bid Price Written in Words:				

**THE UNDERSIGNED BIDDER HEREBY CERTIFIES THAT:**

1. This bid is genuine and is not made in the interest of, or on behalf of, any undisclosed person or firm, and is not submitted as a result of any agreement with any association, corporation, or group.
2. The Bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid.
3. The Bidder has not solicited or induced any person or firm to refrain from bidding.
4. The Bidder has not sought by collusion to obtain any advantage over any other bidder or over Lewis and Clark County.
5. The Bidder, has examined and carefully studied the Bidding Documents and any data and reference items identified in the Bidding Documents and hereby acknowledges receipt of the following addenda (if applicable).

Addendum Number:

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Addendum Date:

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Company Legal Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Federal Tax ID Number: \_\_\_\_\_

Contractor Registration Number: \_\_\_\_\_

By my signature, I certify that I have the authority and capacity to bind this company in order to provide the goods/services specified herein, in compliance with the scope of services/technical specifications, and all other terms and conditions of this Invitation for Bids at the prices provided on the Bid Worksheet.

Signature of Authorized Official Approving the Bid as Submitted:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Authorized Official's Signature

## **LEWIS AND CLARK COUNTY INVITATION FOR BIDS STANDARD TERMS AND CONDITIONS**

*By submitting a bid to this Invitation for Bids, the Bidder agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation.*

1. **Competition.** Lewis and Clark County encourages free and open competition among bidders. Whenever possible, specifications, bid invitations, and conditions are designed to accomplish this objective, consistent with the necessity to satisfy the County's needs and accomplishment of a sound economical operation.

The bidder's signature on this proposal guarantees that the prices quoted have been established without collusion with other eligible bidders and without effort to preclude Lewis and Clark County from obtaining the lowest possible competitive price.

Prior to the Notice of Intent to Award, bids may be held by Lewis and Clark County for a period not to exceed 60 days from the date of the opening of bids for the purpose of reviewing bids and investigating the qualifications of the bidders.

2. **Preparation of Bids.** Bids will be written in ink and/or typewritten on the bid forms furnished herewith. Erasures and alterations must be initialed by the bidder in ink. No verbal bids shall be accepted. The bidder agrees that the bid shall be good and may not be withdrawn during the 60-day review period.
3. **Bid Items.** The bidder warrants articles offered to conform to the specifications herein requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship, and free from defect.
4. **Special Brands.** Brand name items or descriptions used in this proposal are specified solely for the purpose of indicating standards of quality, performance, and/or use desired. Any bid offering goods or sources which deviate from the specifications must be clearly indicated by the bidder. Substitutions must be identified by the manufacturer and stock number and complete descriptive literature must be included with the bid. Goods delivered which do not conform to the contract terms, conditions, or specifications may be rejected and returned at the vendors' expense. Any bid for foreign produced products shall be so indicated and the source of supply noted for each item.
5. **Packaging.** Unless otherwise stipulated, no charges will be allowed for packing, wrapping, bags, containers, reels, etcetera. All items shall be packed in accordance with prevailing commercial practices and in such a manner as to ensure delivery in good condition and as specified herein.
6. **Delivery/Shipping.** Goods shall be prepaid, Free on Board (FOB) destination. In the event the contract terms specify FOB shipping point, shipping charges will be prepaid and

itemized as a separate item on invoicing. Such shipments shall be via the least expensive common carrier unless otherwise stipulated. Lewis and Clark County reserves the right to reject Cash on Delivery (COD).

7. **Warranty.** Bidders agree to provide a warranty for product on offer and perform all warranty and maintenance services in a professional and timely manner and acknowledge that they will be liable for any breach of this warranty.
8. **Cash Discount.** Bidders may quote a cash discount, provided it is based on a period of 60 days or more. A shorter period will not be considered in determination of a low bid. Any cash discount as part of this contract will be computed from the date of receipt of a properly executed claim or the date of completion of delivery of all items in satisfactory condition, whichever is later.
9. **Excise Taxes.** Lewis and Clark County is exempt from federal excise taxes (FET). Exemption certificates will be furnished upon request.
10. **Acceptance/Rejection of Bids.** Lewis and Clark County reserves the right to accept or reject any or all bids, wholly or in part, and to make awards in any manner deemed in the best interest of the County.
11. **All-or-None Proposals.** Bidders may submit alternate proposals on an all-or-none basis but are required to submit a primary quotation on an item-by-item basis to be considered for either type of award.
12. **Bid Determination.** The basis of the award will be dependent on the most responsible bid submitted with consideration given to the following criteria:
  - a. Purchase price;
  - b. Warranty and/or maintenance agreement;
  - c. Delivery date; and
  - d. Analysis and comparison by the county with similar or related equipment.
13. **Tabulation.** In the event that a quotation is entered in which the unit price and extension do not agree, the unit price shall prevail.
14. **Bid Proposal Worksheet.** Bidders are required to complete all Bid Proposal Worksheets and must provide a detailed proposed specification packet with the bid. Any variance to specifications the bidder wishes to seek consideration for must be clearly stated in the section provided on the Bid Proposal Worksheet.
15. **Nondiscrimination.** In accordance with federal and state laws, the bidder agrees not to discriminate against any client, employee, or applicant for employment or for services because of race, creed, color, national origin, sex, or age with regard to, but not limited to, the following:
  - a. Employment upgrading;
  - b. Demotion or transfer;

- c. Recruitment or recruitment advertising;
- d. Lay-offs or terminations;
  - i. Rates of pay or other forms of compensation;
  - ii. Selection for training; or
  - iii. Rendition of services.

Bidders and the awardee shall comply with all federal, state, and local laws, rules and regulations. Bidders and the awardee and any of the Bidders' and the awardee's sub-grantees, contractors, subcontractors, successors, transferees, and assignees shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract or agreement.

It is further understood that any vendor who is in violation of this clause shall be barred forthwith from receiving awards of any purchase from Lewis and Clark County unless a satisfactory showing is made that discriminatory practices have ceased, and the recurrence of such acts is unlikely.

**16. OSHA and EPA Requirements.** The equipment shall meet OSHA and EPA requirements and specifications on the date of the bid opening.

**17. Bid Consideration.** No bid will be considered unless accompanied by a bid bond, bank draft, money order, or certified check in the amount of not less than ten (10) percent of the total bid.

**18. Public Inspection of Bids.** Except as otherwise stated in these terms and conditions, all information received in response to this IFB is deemed public information and will be available for public viewing and copying after the Notice of Intent to Award is issued.

**19. Trade Secrets.** In order for a bidder to claim information is protected under Montana's Uniform Trade Secrets Act, a notarized Affidavit for Trade Secret Confidentiality shall be provided by the bidder's attorney acknowledging that material included in a bid is open to public inspection except for information that meets the provisions of Montana's Uniform Trade Secrets Act. Trade secrets contained in the bid must be clearly marked and separate from materials that are open for public inspection. Bidders must be prepared to pay all legal costs and fees associated with defending a claim for confidentiality in the event of a records request from another party.

**20. Claims of Confidentiality and Personal Safety.** In order for a Bidder to claim information is confidential and protected by law or a matter of personal safety, this information must be

marked and separated from the materials that are open for public inspection. Clear reference to the laws that protect the information must be provided. No confidentiality material may be contained in the pricing or cost estimates. Contract provisions shall not be covered by claims of confidentiality or personal safety. Bidders will be solely responsible for all legal costs and fees associated with defending a claim for confidentiality and/or personal safety in the event of a records request from another party which the Bidder chooses to oppose. The Bidder will either totally assume all responsibility for the opposition of the request, and all liability and costs of any such defense, thereby defending, protecting, indemnifying, and saving harmless the County or the Bidder will immediately withdraw its opposition to the records request and permit the County to release the documents for examination. The County will inform the Bidder in writing of any open records request that is made, and the Bidder will have three working days from receipt of the notice to notify the County in writing whether the Bidder opposes the request or not. Failure to provide that notice in writing will waive the claim of confidentiality and allow the County to treat the documents as a public record.

- 21. Cone of Silence.** A cone of silence shall be established on all Lewis and Clark County formal solicitation processes. The cone of silence prohibits any communication regarding a formal solicitation between any bidder (or its agents or representatives) or other entity with the potential for a financial interest in the award (or their respective agents or representatives) and any Lewis and Clark County elected official, employee, or agent other than the designated point of contact for the solicitation.

The cone of silence shall be in effect from the time of posting the formal solicitation on the County's website and until the County issues a Notice of Intent to Award, cancels the solicitation, or otherwise takes action to end the selection process.

Violations of the cone of silence may be grounds for disqualification from the selection process. The cone of silence shall not apply to communications at any public proceeding or meeting.

- 22. Advanced Payments.** Except as provided in law, provisions requiring payment by the County, fully or in part, for goods or services before receipt of such shall not be authorized.

- 23. Protest Procedure.** A bidder aggrieved in connection with the solicitation or bid award may protest in accordance with the procedure outlined in the Lewis and Clark County Procurement Policy.

- 24. Nondiscrimination Against Firearm Entities/Trade Associations.** Per Montana Code Annotated 30-20-301, a Bidder whose company has at least ten full-time employees and is awarded a contract with a value of at least \$100,000 paid wholly or partly from public funds shall not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and the awarded Bidder shall not discriminate during the term of the contract against a firearm entity or firearm trade association.

## Specific Terms and Conditions

1. **Contractor Registration.** Contractor shall be registered in order to bid on this Project. Registration shall be per Montana Code Annotated 39-9-201. All subcontractors whose portion of the work is over \$2,500 will be required to submit proof of registration with the Department of Labor and Industry.
2. **Labor Requirements.** All employees employed on the Project will be paid wages at rates as may be required by the laws of the State of Montana in accordance with Montana Prevailing Wage Rates for Heavy Construction 2025 established by the Montana Department of Labor and Industry.

Contractor must submit certified payrolls for all employees and employees of subcontractors within one week of issuing each respective payroll. Certified payrolls must be numbered sequentially and submitted on a weekly basis whether or not work was performed. If no work was performed, the Contractor should note this on the payroll.

3. **Contractor's Gross Receipts Tax.** All contractors or subcontractors performing public construction work are required to pay or have withheld from earnings one percent (1%) of the gross contract price. This tax applies to public contracts of eighty thousand dollars (\$80,000) and above.
4. **Performance and Payment Bonds.** The successful Contractor shall furnish an approved Performance Bond and a Labor and Materials Payment Bond, each in the amount of one hundred percent (100%) of the contract amount.
5. **Insurance Requirements.** Contractor agrees to maintain general liability insurance from an insurance carrier licensed to do business in the State of Montana in the amount of one million dollars (\$1,000,000) for each occurrence (minimum) and two million dollars (\$2,000,000.00) aggregate. Contractor also agrees to maintain workers compensation insurance from an insurance carrier licensed to do business in the State of Montana. Proof of general liability and workers compensation insurance shall be provided prior to commencing Project. Lewis and Clark County must be listed as an additional insured on the general liability insurance certificate.
6. **Examination of Specifications and Site of Work.** Prospective Bidders shall make a careful examination of the site of the Project, as to methods of providing ingress and egress to property, and methods of handling traffic during construction of the entire Project.

Bidders, including both the General Contractor as well as Subcontractors are required, before submitting any proposal, to read all of the specifications, proposal, contract, and bond forms carefully, to visit the site of the work, to examine carefully the local conditions, to inform themselves of the difficulties to be encountered, and judge for themselves of the accessibility of the work, and all attending circumstances affecting the cost of the work, or

time required to make an intelligent proposal.

No information given by the County or any officials thereof, other than that contained in the specifications, proposal, and other documents, shall be binding upon the County. Bidders shall rely upon their own estimates, investigations, tests, and other data which are necessary for full and complete information upon which the proposal may be based. It is mutually agreed that submission of a proposal is evidence that the Bidder has made the examinations, he will enter into the usual contract with the County.

7. **Pre-Bid Conference.** A mandatory pre-bid conference will be held at the time and location stated in the invitation or advertisement to bid. Bidders are required to attend and participate in the conference for a bid to be considered.

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**APPENDIX A**  
**LEWIS AND CLARK COUNTY**  
**INDEPENDENT CONTRACTOR CONTRACT SAMPLE**

This Contract is entered into by and between Lewis and Clark County, Montana, herein referred to as "COUNTY", and Company Name, herein referred to as "CONTRACTOR", whose address is Street, City, State, Zip Code, phone number is (XXX) XXX-XXXX, and Montana Contractor Registration Number is XXXXXX.

THE PARTIES AGREE AS FOLLOWS:

1. SCOPE OF SERVICES: CONTRACTOR agrees to complete and perform the work or services in accordance with the solicitation, plans, and specifications attached and hereby incorporated as **Exhibit X**.
2. INDEPENDENT CONTRACTOR: COUNTY hereby employs CONTRACTOR as an independent contractor to complete and perform the scope of services. It is understood by the parties hereto that CONTRACTOR is an independent CONTRACTOR and that neither its principals nor its employees, if any, are employees of COUNTY for purposes of tax, retirement system, or social security (FICA) withholding. It is further understood that pursuant to section 39-71-401, MCA, CONTRACTOR has obtained, and shall maintain at its expense for the duration of this Contract, coverage in a workers' compensation plan for its principals and employees for the services to be performed hereunder. COUNTY shall not have control over the performance of this Contract by CONTRACTOR or its employees, except to specify the time and place of performance. No changes to key personnel may be made by CONTRACTOR without consent of COUNTY. COUNTY shall not be responsible for security or protection of CONTRACTOR's supplies or equipment.
3. WARRANTY: CONTRACTOR warrants that all services shall be performed in a professional manner. CONTRACTOR acknowledges that it shall be liable for any breach of this warranty for a period of one (1) year from the time services are completed.
4. LIAISON: COUNTY's designated liaison with CONTRACTOR is Officer's Name, Officer's Title or their designee. CONTRACTOR's designated liaison with COUNTY is Name of Individual in Company.
5. EFFECTIVE DATE AND TIME OF PERFORMANCE: CONTRACTOR shall commence work [a] by Month Day, Year or [b] upon approval of this Contract by both parties and shall complete the described work by Month Day, Year.
6. COMPENSATION: For the satisfactory completion of the scope of services, COUNTY shall pay CONTRACTOR time and materials for a total sum not to exceed Amount of Dollars/Cents (\$X,XXX.XX). CONTRACTOR shall submit [a] monthly [b] quarterly or [c] final invoices to COUNTY based on **Exhibit X**, Schedule of Billing Rates. COUNTY shall pay invoices within 30 days of invoice date. Additionally, COUNTY shall withhold at least one thousand dollars (\$1,000.00) of the total Contract price pursuant to section 18-2-404 (2), MCA, until the

termination of this Contract, but may not withhold more than five percent (5%) of the total Contract price pursuant to section 18-2-316, MCA, if CONTRACTOR is performing by the terms of this Contract.

7. CONFLICT OF INTEREST: CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in the project, which would conflict in any manner or degree with the performance of its services hereunder. CONTRACTOR further covenants that in performing this Contract it shall employ no person who has such interest.
8. MODIFICATION AND ASSIGNABILITY OF CONTRACT: This Contract contains the entire agreement between the parties, and no statements, promises, or inducements made by either party, or agents of either party, which are not contained in the written Contract, are valid or binding. This Contract may not be enlarged, modified or altered except upon written agreement signed by both parties hereto. CONTRACTOR may not subcontract or assign its rights, including the right to compensation, or duties arising hereunder without the prior written consent of COUNTY. Any subcontractor or assignee shall be bound by all of the terms and conditions of this Contract.
9. OWNERSHIP AND PUBLICATION OF MATERIALS: All reports, information, data, and other materials prepared by CONTRACTOR pursuant to this Contract are the property of COUNTY which has the exclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. Any reuse without written verification or adaptation for the specific purpose intended shall be at COUNTY 's sole risk and without liability or legal exposure to CONTRACTOR. No material produced in whole or in part under this Contract may be copyrighted or patented in the United States or in any other country without the prior written approval of COUNTY.
10. INDEMNIFICATION: CONTRACTOR waives all claims and recourse against COUNTY, including the right of contribution for loss and damage to persons or property arising from, growing out of, or in any way connected with or incidental to CONTRACTOR's performance of this Contract except for liability arising out of concurrent or sole negligence of COUNTY or its officers, agents or employees. Further, CONTRACTOR shall indemnify, hold harmless, and defend COUNTY against all claims, demands, damages, costs, expenses or liability arising out of CONTRACTOR's negligent performance of this Contract except for liability arising out of the concurrent or sole negligence of COUNTY or its officers, agents or employees.
11. INSURANCE: CONTRACTOR shall maintain general liability insurance from an insurance carrier licensed to do business in the State of Montana in the amount of one million dollars (\$1,000,000.00) for each occurrence (minimum) and two million dollars (\$2,000,000.00) aggregate. CONTRACTOR also agrees to maintain workers compensation insurance from an insurance carrier licensed to do business in the State of Montana. Proof of general liability and workers compensation insurance shall be provided to COUNTY prior to commencing work under this Contract. COUNTY must be listed as an additional insured on the general liability insurance certificate for this Contract.

CONTRACTOR shall provide sufficient Performance Bond or an irrevocable letter of credit, drawn or issued by any federal or state-chartered bank or savings and loan association that is insured by or for which insurance administered by the federal deposit insurance corporation or a credit union insured by the national credit union share insurance fund in an amount equal to one hundred percent (100%) of the approximate total amount guaranteeing the full and faithful execution of the work and performance of the Contract.

CONTRACTOR shall provide a good and sufficient Payment Bond or an irrevocable letter of credit, drawn on or issued by any federally or state-chartered bank or savings and loan association that is insured by or for which insurance administered by the federal deposit insurance corporation or a credit union insured by the national credit union share insurance fund in an amount equal to one hundred percent (100%) of the approximate total amount guaranteeing the full and proper protection of all claimant's supplying labor and materials in the execution of the work provided for and for the use of each such claimant.

12. COMPLIANCE WITH LAWS: CONTRACTOR shall comply with applicable federal, state, and local laws, rules and regulations. CONTRACTOR or subcontractors doing work on this project shall be required to obtain registration with the Montana Secretary of State's Office and the Montana Department of Labor and Industry. CONTRACTOR is responsible for obtaining any and all permits required to perform the Contract.
13. NONDISCRIMINATION: CONTRACTOR shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, national origin, or sexual orientation.
14. MONTANA PREVAILING WAGE: All employees employed by CONTRACTOR or their subcontractor(s) in performance of this Contract which exceeds twenty-five thousand dollars (\$25,000.00) will be paid wages at rates as may be required by the laws of the State of Montana in accordance with the schedule of Montana Prevailing Wage Rates established by the Montana Department of Labor and Industry. Rates applicable to this Contract are attached as **Exhibit X** and, by this reference, made part of this Contract.

Each CONTRACTOR (Prime and sub) must submit (through the prime CONTRACTOR) certified payrolls for each week from the time the project begins through completion. Certified payrolls must be numbered sequentially and submitted on a weekly basis whether or not work was performed. If no work was performed, CONTRACTOR shall note this on the payroll.

15. PREFERENCE: CONTRACTOR unequivocally agrees to give preference to the employment of bona fide Montana residents in compliance with 18-2-403 (1), MCA. Pursuant to 18-2-409, MCA, except for projects involving the expenditure of federal aid funds or where residency preference laws are specifically prohibited by federal law, CONTRACTOR shall ensure that at least 50% of the workers of CONTRACTOR (including workers employed by subcontractors) working on the project shall be bona fide Montana residents.

16. SPECIAL FUEL TAX: ***This Section only applies if CONTRACTOR is doing work pertaining to a***

**public road.** As required by 15-70-403 (8-9), MCA, fuels used by CONTRACTOR and their subcontractor(s) in connection with any work performed under contracts pertaining to the construction, reconstruction, or improvement of a highway or street and its appurtenances awarded by any public agencies, including federal, state, county, municipal or other political subdivisions, must be fuel on which Montana fuel tax has been paid.

17. **CONTRACTOR'S GROSS RECEIPTS TAX:** ***This Section only applies if the Contract value exceeds eighty thousand dollars (\$80,000).*** All CONTRACTORS or subcontractors performing public construction work are required to comply with Title 15, Chapter 50, MCA and pay or have withheld from earnings one percent (1%) of the gross contract price.
18. **PLACE OF PERFORMANCE, CONSTRUCTION, AND VENUE:** Performance of this Contract is in Lewis and Clark County, Montana and venue for any litigation arising from performance of this Contract is the 1st Judicial District in and for the County of Lewis and Clark, State of Montana. This Contract shall be construed under and governed by the laws of the State of Montana.
19. **ATTORNEY FEES:** Should either party be required to resort to litigation, arbitration, or mediation to enforce the terms of this Contract, the prevailing party, whether plaintiff or defendant, shall be entitled to costs, including reasonable attorney's fees and expert witness fees. If the court, arbitrator, or mediator awards relief to both parties, each party shall bear its own costs in their entirety.
20. **FAILURE TO PERFORM:** Upon any material default or substantial failure to perform this Contract by either party, the other party shall be entitled to the following remedy:
  - A. Stop performing or accepting performance of the work until the matter is resolved;
  - B. Within a reasonable time of discovery of the defect or failure to perform, provide the other party with a written description of the defect or failure, and:
    - i. If the defect or failure to perform can be cured, demand specific remedial action within a reasonable time certain; or
    - ii. If the defect or failure to perform cannot be cured, specify any alternative performance which would be acceptable in lieu of the required performance and a time within which the alternative performance shall be required; or
    - iii. If the defect or failure to perform cannot be cured and no reasonable alternative performance is acceptable, notify the other party of the termination of the Contract as of a date certain and state therein whether an action for breach of the Contract will be brought.
    - iv. Where appropriate, obtain completion of the performance of the remaining balance of the Contract within the original party.
  - C. If the defect or failure to perform is not corrected or alternative performance completed within the time certain specified, the party alleging breach may initiate an action in the 1st Judicial District in and for the County of Lewis and Clark, State of Montana. If an action is brought, the prevailing party shall be entitled to attorney's fees as well as other costs of suit.

21. TERMINATION: Either party may terminate this Contract upon thirty (30) days written notice to the other party. If this Contract is terminated prior to completion, COUNTY shall pay CONTRACTOR for completed and accepted work within thirty (30) days of termination. CONTRACTOR shall not be entitled to payment for incomplete or unacceptable work.
22. AUTHORITY AND CAPACITY TO EXECUTE: CONTRACTOR and COUNTY represent that the undersigned individuals possess the authority and capacity to enter into and bind the parties to the terms and conditions contained in this Contract.

