

**LEWIS AND CLARK COUNTY
REQUEST FOR QUALIFICATIONS
MUNICIPAL SEPARATE STORM SEWER SYSTEM
STORMWATER MANAGEMENT PLAN AND PROGRAM**

Notice is hereby given that the Board of County Commissioners of Lewis and Clark County, Montana are soliciting Statements of Qualifications (SOQs) from qualified engineering firms for professional services needed to develop a Municipal Separate Storm Sewer System (MS4) Stormwater Management Plan (SWMP) and program components in order to meet the requirements of the Montana Pollutant Discharge Elimination System (MPDES) permit.

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: Casey Hayes, Procurement Officer, chayes@lccountymt.gov. A cone of silence is established for this solicitation which prohibits any respondent, or entity with financial interest in the contract award, from communicating regarding the solicitation with any Lewis and Clark County elected official, employee, or agent other than the designated point of contact.

The deadline for SOQs 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 5, 2026. The sealed envelope containing the SOQ must be labeled, "Municipal Separate Storm Sewer System RFQ." Late SOQs are not accepted.

The County reserves the right to reject any or all SOQs received, to waive informalities, to postpone the solicitation for a period not to exceed 60 days, and to accept the SOQ that is in the best interest of the County. Respondents 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. SOQs become the property of Lewis and Clark County. The County is not responsible for costs associated with preparing a SOQ.

Published in the Helena Independent Record on November 29 and December 6, 2025.

Introduction

The MS4 program was established under the Clean Water Act (CWA) to address pollution carried by stormwater runoff into surface waters. Its main purpose is to reduce pollutant discharges from storm sewer systems owned by municipalities, counties, universities, military bases, and other public entities.

Lewis and Clark County was preliminarily notified by Montana Department of Environmental Quality (DEQ) that the urbanized area within Lewis and Clark County has exceeded a 50,000-population threshold and, in accordance with 40 C.F.R. § 122.32(a)(1), these areas, outside of incorporated cities, will be given a MS4 designation. DEQ is in the process of drafting and developing a new MPDES MS4 General Permit for the next five-year iteration (2027-2032). Upon completion of this process, Lewis and Clark County will be required to submit an Notice of Intent (NOI) permit application, SWMP, and implement permit requirements to achieve compliance.

Scope of Services

The County will contract with the selected respondent to assist in developing draft documents and data for compliance with the DEQ MPDES MS4 General Permit for the next five-year iteration (2027-2032) to consist of the following:

1. A draft boundary map of the urbanized area within Lewis and Clark County, outside of the incorporated cities, that will be subject to the 2027-2032 MPDES MS4 General Permit;
2. A draft NOI permit application and supporting application materials;
3. Mapping of stormwater components within, or impacted by, the urbanized area. The mapping shall include, at a minimum, waterways, outfall locations, inlets, subsurface conduits/pipes, dry wells, stormwater retention basis, flood mitigation and stormwater discrete conveyances, structures, and features. A GIS/mapping interface capable of both reading a geodatabase map image and feature layers;
4. A draft SWMP and plan to support and implement the six Minimum Control Measures (MCMs) required under federal and state law:
 - a. Public Education and Outreach;
 - b. Public Involvement and Participation;
 - c. Illicit Discharge Detection and Elimination;
 - d. Construction Site Storm Water Management;
 - e. Post-Construction Site Storm Water Management; and
 - f. Pollution Prevention and Good Housekeeping.

5. A draft sampling, monitoring, and reporting plan, draft supporting documents and forms, and draft standard operating procedures for compliance with the MS4 and the Total Maximum Daily Load (TDML) Program;
6. Consultation services throughout the MPDES MS4 General Permit five-year iteration.

Project Duration

The selected respondent should expect phased deliverables and consultation services on an as-needed basis through 2032.

Conduct of Solicitation

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 offeror (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 designated point of contact for this solicitation is Casey Hayes, Procurement Officer, chayes@lccountymt.gov.

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.

In order to ensure a fair and objective evaluation of all SOQs, all questions regarding the RFQ must be submitted in writing via email to the point of contact listed below on or before December 15, 2025. An addendum containing responses to questions received will be posted on the County’s website at <https://www.lccountymt.gov/Government/Grants-and-Procurement/Bids-and-Proposals-Current> no later than December 19, 2025. It is the responsibility of each respondent to check the website if it is interested in the questions received and the respective responses provided by the County. Under no circumstances may respondents contact any County staff member, agent, or elected official directly regarding this solicitation. All communications regarding this RFQ shall be directed to the designated point of contact.

RFQ Timeline

Publication of Notices	November 29 & December 6, 2025
Questions Due	December 15, 2025
Responses to Questions Posted on County Website	No later than December 19, 2025
SOQ Submittal Deadline	January 5, 2026 at 4:00 PM MST
Preliminary Evaluation Meeting	No later than January 9, 2026
Interviews	No later than January 20, 2026

Final Evaluation Meeting/Notice of Intent to Award	No later than January 23, 2026
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Statement of Qualification Content Requirements

The statement of qualifications (SOQs) should demonstrate the respondent has the professional capabilities and resources available to satisfactorily and timely complete all the tasks identified in the *Scope of Services* section of this RFQ. SOQs shall include:

1. The respondent’s legal name, address, telephone number, and principal contact email address;
2. Location of the respondent’s main office and any branch locations in Montana;
3. A statement of the respondent’s experience in the development of Municipal Separate Storm Sewer System (MS4) Stormwater Management Plan (SWMP) and related program components;
4. Qualifications of the key staff to be assigned to the project;
5. A comprehensive description of the methodology the respondent will employ to meet the requirements identified in the *Scope of Services* including a detailed work plan;
6. Present and projected workload of respondent; and
7. References for the respondent and any subconsultants to include brief project descriptions for at least three (3) clients (e.g., Lewis and Clark County, a similar local government agency, etc.) with whom the respondent or any subconsultants have worked with in the past ten (10) years which are similar in nature to *Scope of Services* described in this RFQ. Please include the following information:
 - a. Name of client;
 - b. Name and title of client’s primary contact;
 - c. Phone number, email address, and mailing address of the client’s primary contact; and
 - d. A brief description of the types of services provided, the location where the services were provided, original project budget, final cost of the project, estimated completion date, and actual completion date.

Evaluation Criteria

Criteria	Points Possible
1. Qualifications. Respondent provides qualifications of the key team members, including subconsultants and their respective relevant experience. Resumes of key team members, subconsultants, and other staff that may contribute to the support of the project should be limited to one page per team member.	20 points

2. Related Experience on Similar Projects. SOQ indicates recent experience (within ten years) exhibiting a breadth of complexity. SOQ provides project examples that include the size of the community, location, and the name of a local official knowledgeable of the project and the respondent's performance.	30 points
3. Capability to Meet Time and Budget Requirements. SOQ demonstrates the respondent's ability to meet the timeline and budget for past projects by providing information on the budgeted cost vs. actual cost and estimated completion date vs. actual completion date.	15 points
4. Methodology. A comprehensive description of the approach the respondent will employ to meet the requirements identified in the <i>Scope of Services</i> including a detailed work plan and schedule.	15 points
5. Present and Projected Workload. SOQ indicates respondent has the available resources to complete the project by the desired completion date.	5 points
6. Quality of SOQ. Legibility, clarity, grammar, accurate spelling, content, and completeness of the SOQ will be evaluated. Unnecessarily elaborate SOQs, beyond that which is sufficient to present a complete and responsive SOQ, are not desired.	10 points
7. Location and Recent/Current Work for Lewis and Clark County or a Similar Local Government Agency. Location of firm's office(s) including branch locations. Recent work and client satisfaction will factor into the evaluation process. Respondent provides references, including contact information, of local government clients in Montana.	5 points
TOTAL	100 points max

Upon receipt of SOQs, evaluation committee members will independently conduct reviews of all submissions. The evaluation committee will meet to determine responsiveness, responsibility, minimum qualifications, and conduct preliminary scoring of SOQs.

The County intends to interview the respondents deemed most qualified after preliminary evaluation. The County may, at its discretion, contact the references provided in the SOQs in order to understand the nature of the projects and determine satisfactory completion.

After interviews are conducted, the evaluation committee will meet to determine final scores. Respondents will be ranked based upon the final average scores of the committee.

The highest scoring respondent shall enter into contract negotiations with the County. Contract negotiations shall be conducted in accordance with [18-8-205, MCA](#).

SOQ Submittal

Respondents shall submit five (5) hard copies of the SOQ and one (1) digital copy in PDF format on a flash drive in a sealed envelope clearly marked *Municipal Separate Storm Sewer System*

RFQ. SOQs shall be limited to 14 single-sided pages. Double-sided printing will be considered two single-sided pages. Corporate brochures, resumes, cover letter, title pages, section dividers, and any requested contract amendments are excluded from the page limit. Minimum font size for all text shall be 12-point, excluding any graphs and tables. Respondents are solely responsible for all costs incurred in the preparation and submittal of a SOQ.

Submit SOQs to:

Lewis and Clark County Commissioners
ATTN: Municipal Separate Storm Sewer System RFQ
316 N. Park Avenue, Room 345
Helena, MT 59623

SOQs must be received no later than 4:00 PM local time on January 5, 2026, at the address listed above. SOQs received after the deadline shall not be accepted. Emailed or faxed SOQs will not be accepted. One copy of the SOQ must be marked “Original” and contain a cover letter signed by a representative of the respondent who is authorized to submit the SOQ.

This solicitation is being offered in accordance with federal and state statutes governing procurement of professional services. Accordingly, Lewis and Clark County reserves the right to negotiate an agreement based on fair and reasonable compensation for the scope of work and services proposed, as well as the right to reject any and all SOQs deemed unqualified, unsatisfactory, or inappropriate.

Contractual Terms and Conditions

The selected respondent agrees to accept and execute the County’s professional services contract, included herein. Any proposed changes to the terms and conditions of the professional services contract must be contained within the submission of the “Original” copy of the SOQ in order to be considered. Lewis and Clark County reserves the right to require the selected respondent to execute such further documents, contracts, agreements, or forms as may be reasonably necessary to express the intentions of the parties, or which may be recommended by the County Attorney’s Office.

The selected respondent shall maintain general liability insurance in the amount of one million dollars (\$1,000,000.00) per occurrence (minimum) and two million dollars (\$2,000,000.00) aggregate and shall also maintain workers’ compensation insurance. Both general liability and workers’ compensation insurance must be from an insurance carrier licensed to do business in the State of Montana. The selected respondent agrees to furnish proof of insurance to the County prior to commencing work. The County must be listed as additionally insured on the general liability insurance certificate. Insurance certificates will be provided to the County at the time a contract is executed.

All reports, information, data, and other materials prepared by the selected respondent pursuant to the agreement shall become the property of Lewis and Clark 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 by the

selected respondent for the specific purpose intended will be at Lewis and Clark County's sole risk and without liability or legal exposure to the selected respondent. No material produced in whole or in part under an agreement resulting from this solicitation may be copyrighted or patented in the United States or in any other country without the prior written approval of Lewis and Clark County.

LEWIS AND CLARK COUNTY REQUEST FOR QUALIFICATIONS STANDARD TERMS AND CONDITIONS

By submitting a Statement of Qualifications, the Respondent agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation.

1. **Authority.** This Request for Qualifications (RFQ) is issued under the authority of the Lewis and Clark County Procurement Policy. The RFQ process is a procurement option which allows the award to be based on evaluation criteria. The relative importance of all evaluation criteria is found herein and only the evaluation criteria outlined in the RFQ will be used. Lewis and Clark County (herein, the "County") reserves the right to accept or reject any or all Statements of Qualifications (SOQs), wholly or in part, and to make awards in any manner deemed in the best interest of the County.
2. **Competition.** Lewis and Clark County encourages free and open competition among Respondents to obtain quality, cost-effective services, and products. Whenever possible, specifications, 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.

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

3. **Public Inspection of SOQs.** Except as otherwise stated in these terms and conditions, all information received in response to this RFQ is deemed public information and will be available for public viewing and copying after the Notice of Intent to Award is issued.
4. **Trade Secrets.** In order for a Respondent to claim information is protected under Montana's Uniform Trade Secrets Act, a notarized Affidavit for Trade Secret Confidentiality shall be provided by the Respondent's attorney acknowledging that material included in a SOQ is open to public inspection except for information that meets the provisions of Montana's Uniform Trade Secrets Act. Trade secrets contained in the SOQ must be clearly marked and separate from materials that are open for public inspection. Respondents 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.

5. Claims of Confidentiality and Personal Safety. In order for a Respondent 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. Respondents 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 Respondent chooses to oppose. The Respondent 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 Respondent will immediately withdraw its opposition to the records request and permit the County to release the documents for examination. The County will inform the Respondent in writing of any open records request that is made, and the Respondent will have three working days from receipt of the notice to notify the County in writing whether the Respondent 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.
6. Classification of SOQs as Responsive or Non-responsive. All SOQs will be classified as either “responsive” or “non-responsive.” A SOQ is considered responsive if it conforms in all material respects to the requirements of the RFQ. A SOQ may be found non-responsive if:
 - Required information is not provided;
 - The SOQ does not conform to the specifications described and required in the RFQ.

If a SOQ is found to be non-responsive, it will receive no further consideration.

7. Determination of Respondent Responsibility. The Procurement Officer and/or the evaluation committee will decide whether a Respondent has met the standards of responsibility based on the requirements of the RFQ. Factors used to determine the responsibility may include whether the Respondent has:
 - The appropriate financial, material, equipment, or human resources to meet all contractual requirements;
 - A satisfactory record of integrity;
 - The legal ability to contract with the County;
 - Provided all information requested for use in the determination of responsibility; and

- A satisfactory record of past performance.

A Respondent may be deemed “non-responsible” at any time during the procurement process if information surfaces to support such a determination.

8. Evaluation of SOQs and Respondent Interviews/Product Demonstration. SOQs will be scored according to the evaluation criteria stated herein. The evaluation committee may ask finalists to appear for interviews or product demonstrations or to provide written responses to items requiring clarification. Any costs associated with interviews or product demonstrations are the sole responsibility of the Respondent.
9. County’s Right to Investigate and Reject. Lewis and Clark County may make such investigations as are deemed necessary to determine the ability of the Respondent to provide the product or services specified. The County reserves the right to reject any SOQ if the evidence obtained fails to satisfy the County that the Respondent is properly qualified to perform the obligations of the contract. This includes the County's ability to reject a SOQ based on negative references.
10. Respondent Selection and Contract Execution. After an evaluation of the SOQ, interviews, and/or product demonstrations, the evaluation committee will recommend a contract award, which the Procurement Officer will communicate to the selected Respondent. If the Respondent and the County cannot agree on the contract terms, the County may move to the next ranked Respondent or cancel the RFQ. The work described in the RFQ may begin only after the contract is signed by all parties.
11. County’s Rights Reserved. Submission of a SOQ confers no rights upon any Respondent and shall not obligate the County in any manner whatsoever. Lewis and Clark County reserves the right to make no award and to solicit additional SOQs at a later date.

The RFQ in no way constitutes a commitment by the County to award and execute a contract. If such actions are deemed in its best interests, the County, in its sole discretion, reserves the right to:

- Cancel or terminate this RFQ;
- Reject any or all SOQs received in response to this RFQ;
- Waive any undesirable, inconsequential, or inconsistent provisions of this RFQ; and/or
- If awarded, suspend contract execution or terminate the resulting contract if the County determines adequate funds are not available.

12. Nondiscrimination. In accordance with federal and state laws, the Respondent 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:

- Employment upgrading;
- Demotion or transfer;
- Recruitment or recruitment advertising;
- Lay-offs or terminations;
- Rates of pay or other forms of compensation;
- Selection for training; or
- Rendition of services.

Respondents shall comply with all federal, state, and local laws, rules, and regulations. Respondents and any of the Respondents' 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 Respondent 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.

13. 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 Respondent (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.

14. 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.

15. Protest Procedure. A Respondent aggrieved in connection with the solicitation or award may protest in accordance with the procedure outlined in the Lewis and Clark County procurement policy.
16. Nondiscrimination Against Firearm Entities/Trade Associations. Per Montana Code Annotated 30-20-301, a Respondent 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 Respondent shall not discriminate during the term of the contract against a firearm entity or firearm trade association.

LEWIS AND CLARK COUNTY PROFESSIONAL SERVICES CONTRACT

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 "CONSULTANT", whose address is [Street, City, State, Zip Code] and phone number is [(XXX) XXX-XXXX].

THE PARTIES AGREE AS FOLLOWS:

1. EMPLOYMENT OF CONSULTANT: COUNTY hereby employs CONSULTANT as an independent contractor to complete and perform the work or services in accordance with the solicitation, plans, and specifications attached and hereby incorporated as **Exhibit X**. COUNTY reserves the right to choose key personnel that it feels are most suited to the specific task.
2. INDEPENDENT CONTRACTOR: The parties agree that CONSULTANT is an independent contractor of COUNTY and not an employee or agent of COUNTY and is not entitled to workers compensation or any benefit of employment with COUNTY. COUNTY will not have control over the performance of this Contract by CONSULTANT or its employees, except to specify the time and place of performance. COUNTY will not be responsible for security or protection of CONSULTANT's supplies or equipment.
3. GENERAL CONDITIONS: The General Conditions for this Contract shall be as follows:
 - A. Standard of Care. The standard of care for all professional services performed or furnished by CONSULTANT under this Contract will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. CONSULTANT makes no warranties, express or implied, under this Contract or otherwise, in connection with CONSULTANT's services.
 - B. Technical Accuracy. COUNTY shall not be responsible for discovering deficiencies in the

technical accuracy of CONSULTANT's services. CONSULTANT shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in COUNTY-furnished information.

- C. Consultants. CONSULTANT may employ such sub-consultants as CONSULTANT deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by COUNTY.
 - D. Reliance on Others. Subject to the standard of care set forth in Section 3.A. of this Contract, CONSULTANT and its sub-consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
 - E. Compliance with Laws and Regulations, and Policies and Procedures:
 - i. CONSULTANT and COUNTY shall comply with applicable laws and regulations.
 - ii. CONSULTANT shall not be required to sign any documents, regardless of who requests, that would result in CONSULTANT having to certify, guarantee, or warrant the existence of conditions whose existence CONSULTANT cannot ascertain. COUNTY agrees not to make resolution of any dispute with CONSULTANT or payment of any amount due to CONSULTANT in any way contingent upon CONSULTANT signing any such documents.
 - iii. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by COUNTY's Joint Contract Documents Committee (EJCDC C-700) unless both parties mutually agree to use other general conditions.
 - iv. While performing this Contract, CONSULTANT's employees and representatives shall comply with the specific applicable requirements of COUNTY's safety programs of which CONSULTANT has been informed in writing and follow all applicable OSHA regulations.
4. ERRORS AND OMISSIONS: CONSULTANT will perform all services in a professional manner as defined in Section 3 above. CONSULTANT will hold harmless COUNTY from any loss or damage resulting from the actions of CONSULTANT. CONSULTANT acknowledges that it will be liable to COUNTY for any breach CONSULTANT causes to this Contract.
5. LIAISON: COUNTY's designated liaison with CONSULTANT is Jenny Chambers, Public Works Director, or her designee. CONSULTANT's designated liaison with COUNTY is |Name of Individual in Company|.
6. EFFECTIVE DATE AND TIME OF PERFORMANCE: CONSULTANT shall commence work under this contract beginning |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|.
7. COMPENSATION: For the satisfactory completion of the scope services, COUNTY shall pay CONSULTANT time and materials for a total sum not to exceed |Amount of Dollars/Cents

(\$X,XXX.XX). CONSULTANT 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.

8. **CONFLICT OF INTEREST**: CONSULTANT covenants that it presently has no interest and will 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. CONSULTANT further covenants, that in performing this Contract, it will employ no person who has any such interest.
9. **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. CONSULTANT 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 will be bound by all of the terms and conditions of this Contract.
10. **OWNERSHIP AND PUBLICATION OF MATERIALS**: All reports, information, data, and other materials prepared by CONSULTANT 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 by CONSULTANT for the specific purpose intended will be at COUNTY's sole risk and without liability or legal exposure to CONSULTANT. 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.
11. **INDEMNIFICATION**: CONSULTANT 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 CONSULTANT's performance of this Contract except for liability arising out of concurrent or sole negligence of COUNTY or its officers, agents or employees. Further, CONSULTANT shall indemnify, hold harmless, and defend COUNTY against all claims, demands, damages, costs, expenses or liability arising out of CONSULTANT'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.
12. **INSURANCE**: CONSULTANT 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. CONSULTANT 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.

13. COMPLIANCE WITH LAWS: CONSULTANT shall comply with applicable federal, state, and local laws, rules and regulations. CONSULTANT 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. CONSULTANT is responsible for obtaining any and all permits required to perform the Contract.
14. NONDISCRIMINATION: CONSULTANT will 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.
15. 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 will be construed under and governed by the laws of the State of Montana.
16. 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.
17. 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.

18. 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 CONSULTANT for completed and accepted work within thirty (30) days of termination. CONSULTANT shall not be entitled to payment for incomplete or unacceptable work.
19. CAPACITY TO EXECUTE: CONSULTANT 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.

End of Request for Qualifications