

RESOLUTION NO. R14-41

**A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE MAYOR TO
SIGN A CONTRACT WITH THE MONTANA DEPARTMENT OF
TRANSPORTATION FOR THE TRANSIDE PROGRAM.**

BE IT RESOLVED by the City Council of the City of Laurel, Montana:

Section 1: Approval. The Contract between the City of Laurel and the Montana Department of Transportation to provide transit services for the disabled and elderly (TransADE), a copy attached hereto, is hereby approved.

Section 2: Execution. The Mayor and City Clerk of the City of Laurel are hereby given authority to execute said contract on behalf of the City.

Introduced at a regular meeting of the City Council on July 1, 2014, by Council Member
Herr.

PASSED and ADOPTED by the City Council of the City of Laurel, Montana, this 1st day of July, 2014.

APPROVED by the Mayor this 1st day of July, 2014.

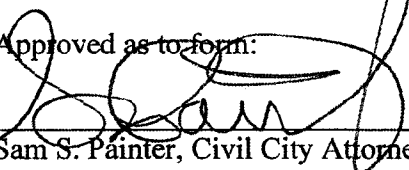
CITY OF LAUREL


Mark A. Mace, Mayor

ATTEST:


Shirley Ewan, Clerk/Treasurer

Approved as to form:


Sam S. Painter, Civil City Attorney



May 26, 2014

City of Laurel
PO Box 10
Laurel, MT 59044

Subject: 5311 & TransADE Operating FY15

Heidi-

This year you will only receive one copy of the above noted contracts and after we receive the signed contract from you, we will return a PDF copy back to you via email. If you choose not to have the contracts returned to you in PDF format, please make an additional copy of the contracts and return both signed copies to us for signature. We will then return one original back to you.

We have made some changes for Fiscal 2015 year. The first change is in regards to Section 1.7 Reporting, you agency will have 60 days to submit your quarterly report through PTMS rather than 90 days.

Second, Section 3.15, Single Audit Act, local governments will send their **Audit Reports** to: The State of Montana, Department of Administration, Local Government Services Bureau, PO Box 200101, Helena, MT 59620 all other grantees such as Tribal Communities and Non-Profit Organizations will provide send report to the State of Montana, Department of Transportation, Internal Audit Unit, PO Box 201001, Helena, MT 59620.

Furthermore, in an effort to streamline our contracts some language has been removed, but all regulations are still applicable. Please refer to the Master Agreement-20 for complete list of regulation which governs the 5311 grant. The link to this agreement is in your contract section 3.1.

Please return signed contracts to:

Montana Department of Transportation
Eric Romero
PO Box 201001
Helena, MT 59620-1001

If you have any questions, please contact me at the phone number below.

Thank you,

Eric Romero
Transit Fiscal Planner
MT Dept. of Transportation
PH: 406-444-7645

enclosures:

SECTION 5311 OPERATING CONTRACT #107718
CFDA #20.509 - Formula Grants for Other Than Urbanized Areas

This Contract is entered into between the State of Montana, DEPARTMENT OF TRANSPORTATION, TRANSPORTATION PLANNING DIVISION, 2701 Prospect Avenue, PO Box 201001, Helena, Montana (State) and City of Laurel, PO Box 10, Laurel MT 59044 and DUNS #832839562 (Grantee). Liaison for the State is David Jacobs, Transit Supervisor. Liaison for the Grantee is Heidi Jensen.

The State, having been allocated grant monies from the Federal Transit Administration (FTA), through Section 5311 of the Federal Transit Act for the Federal Fiscal Year of 2014 (October 1, 2013 – September 30, 2014), as amended, and desiring to assist the Grantee, enters into the following Contract with Grantee. Actual award is contingent upon the availability of FTA funding.

ARTICLE 1. PROJECT

SECTION 1.1 Purpose of Contract. This Contract provides assistance for the Grantee for public transportation in non-urbanized areas.

SECTION 1.2 Scope of Project. Grantee shall implement a general-public transportation system in accordance with the budget, goals and plans outlined in its SFY2015 application in accordance with the regulations of the Section 5311 program. The Grantee shall use its best efforts to efficiently and economically complete the Project.

SECTION 1.3 Project Description. Reimbursement of operating expenses described in Grantee's Application for the period July 1, 2014 through June 30, 2015.

SECTION 1.4 Period of Performance. This Contract will be effective from July 1, 2014 to June 30, 2015.

SECTION 1.5 Cost of Project. The total direct cost of the project shall be \$66,517.46. The direct costs of the Project are shared as follows:

Operating Assistance:		
Federal Share @	54.11%	25,972.80
Local Share @	45.89%	<u>22,027.20</u>
Total		48,000.00
Administrative Assistance:		
Federal Share @	80.00%	11,613.97
Local Share @	20.00%	<u>2,903.49</u>
Total		14,517.46
Preventative Maintenance:		
Federal Share @	80.00%	3,200.00
Local Share @	20.00%	<u>800.00</u>
Total		4,000.00
Totals:		
Federal Share		40,786.77
Local Share		<u>25,730.69</u>
		66,517.46

The Grantee agrees to provide matching funds to assure payment of project costs. Grantee shall provide these funds when necessary to meet project costs. The Grantee will not refund or reduce its share of the Project cost unless there is a corresponding proportional grant amount refund to the State. Furthermore, the State will make quarterly grant payments to Grantee based upon the State's approval of reports and invoices submitted by the Grantee.

Indirect costs will be eligible for reimbursement when a current Indirect Cost Allocation Plan is in place and approved by grantee's cognizant agency. Indirect costs will not be paid retroactively and must be prepared in accordance with the proper federal regulation listed below:

2 CFR Chapter I, Chapter II part 200, et al.

2 CFR Part 230 - Commercial Organization and NPO's FAR, 48 CFR Part 31

SECTION 1.6 Purchase of Project Equipment. The State, on behalf of the Grantee, or the Grantee with the State's prior approval, shall purchase all Project equipment in accordance with applicable State law and the standards set forth by the Uniform Administration Requirement for Grant and Cooperative Agreement to State and Local Government (49 CFR PART 18 Section 18.32).

SECTION 1.7 Reporting. All reports must be received within 60-days after the end of the quarter via Planning Transportation Management System (PTMS), unless there is written approval for lateness; and grantee shall advise the State in writing of project progress at such times and in such manner as the State and FTA may require, but not less than on a quarterly basis.

ARTICLE 2. TERMS AND CONDITIONS

SECTION 2.1 Default. Nonperformance by the Grantee of any obligation imposed by this Contract, including noncompliance with the federal assurances, or reduction of local project cost funding, will constitute default.

SECTION 2.2 Termination. This Contract may be terminated by the State by serving a notice of termination on the Grantee. Termination may occur for either convenience or default. If termination is for convenience, the notice shall give the Grantee thirty days to wind down its activities under this Contract. If termination occurs due to default, the notice shall state the nature of the Grantee's default, and offer the Grantee an opportunity to explain its nonperformance. If the State finds that the Grantee has a reasonable excuse for nonperformance, which is beyond the control of the Grantee, the State may set up a new work schedule and allow the completion of this Contract. In any termination, the State will make its contractual payments proportionate to the work properly performed in accordance with this Contract to the time of termination. Grantee shall account for any Project property in its possession.

SECTION 2.3 Litigation. Controversy arising from this contract may result in litigation. Arbitration is not available. This Contract shall be governed by Montana law.

SECTION 2.4 Venue. In the event of litigation concerning this Agreement, venue shall be in the First Judicial District of the State of Montana, Lewis and Clark County.

SECTION 2.5 Contract Modification. Any change in this Contract will only be by written agreement of the Parties.

SECTION 2.6 Assignment and Subcontracting. The Grantee shall not assign any portion of the work to be performed under this Agreement, or execute any contract, amendment or change order thereto, or obligate Grantee in any manner with any third party with respect to

Grantee's rights and responsibilities under this Agreement, without the prior written concurrence of the State.

SECTION 2.7 Subcontracts. The Grantee shall include in all subcontracts entered into pursuant to this Agreement a copy of this Contract, and the subcontract will make the provisions of this Contract a specific part of the subcontract. In addition, the Grantee shall include the following provisions in any advertisement or invitation to bid for any procurement under this Agreement:

SECTION 2.8 Statement of Financial Assistance. This agreement is subject to a financial assistance contract between the Montana Department of Transportation, the U. S. Department of Transportation, and the Federal Transit Administration.

SECTION 2.9 Indemnification. The Grantee shall indemnify, defend, and hold harmless the State of Montana, Department of Transportation, its employees and agents from and against all claims, demands, or actions from damages to property or injury to persons or other damage to persons or entities arising or resulting from the performance of this Contract.

SECTION 2.10 Access and Retention of Records. The Grantee agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine compliance with this Agreement. The Grantee agrees to create and retain records supporting this Agreement for a period of three years after the completion date of this Agreement or the conclusion of any claim, litigation or exception relating to this Agreement taken by the State of Montana or a third party..

SECTION 2.11 Notice. All notices arising from the provisions of this Contract shall be in writing and given to the parties at the addresses listed above, either by regular mail or delivery in person.

SECTION 2.12 Agency Assistance. No assistance, other than provided for by this Contract, will be required, but may be provided at the discretion of State.

SECTION 2.13 Severability and Integration. If any part, or parts, of this Contract are determined to be void, the remaining parts will remain valid and operative. This document, together with its schedules, attachments, and exhibits, represent the complete and entire understanding of the parties on its subject matter. No provision, express or implied, arising from any prior oral or written request, bid, inquiry, negotiation, contract, or any other form of communication, shall be a provision of this contract unless it is reduced to writing, signed by the parties, and attached to this document.

SECTION 2.14 Waivers. A party's failure to enforce any provision of this Contract shall not be construed as a waiver excusing the other party's future performance.

ARTICLE 3. FEDERAL REQUIREMENTS

SECTION 3.1 FTA Master Agreement. The Grantee understands that this contract includes requirements specifically prescribed by Federal law or regulation and does not encompass all Federal laws, regulations, and directives that may apply to the Grantee or its project. A comprehensive list of those Federal laws, regulations and directives is contained in the current FTA Master Agreement MA(20) at the FTA website <http://www.fta.dot.gov/documents/20-Master.pdf>. The clauses in this contract have been streamlined to remove most provisions not covered by statutory or regulatory certification and assurance requirements. The Grantee's signature upon this document acknowledges they have read and understand the Master Agreement.

The Grantee also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

SECTION 3.2 Prohibited Interest. No employee, officer, board member or agent of the Grantee shall participate in the selection, award, or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (1) The employee, officer, board member or agent;
- (2) Any member of his or her immediate family;
- (3) His or her partner; or
- (4) An organization which employs, or is about to employ any of the above; has a financial or other interest in the firm selected for award. The Grantee's employees, officers, board members or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties of sub-agreements.

SECTION 3.3 Ineligible Bidders. Bidders or Suppliers whose names appear on the US Comptroller General's List located at <https://www.sam.gov/portal/public/SAM/> of Ineligible Contractors are not eligible for award of, or participation in, any contract that may be awarded as a result of this agreement. Submission of a bid by any bidder constitutes certification that the bidder or any subcontractor or suppliers to him, on this proposed contract, if one is awarded, are not on the Comptroller General's List of Ineligible Contractors. A subsequent determination by FTA that a bidder knowingly made any misstatement of facts in this regard will be cause for immediate disqualification, suspension or termination of the contract for cause.

SECTION 3.4 False or Fraudulent Statements or Claims. The Grantee acknowledges that, should it make a false, fictitious, or fraudulent claim, statement, submission, or certification to the State or Federal Government in connection with this project, FTA reserves the right to pursue the procedures and impose on the Grantee the penalties of 18 USC 1001, 31 USC 3801, as may be deemed by FTA to be appropriate.

SECTION 3.5 Debarment and Suspension. The Grantee shall obtain from its third party contractors certifications required by Department of Transportation regulations, "Government-wide Debarment and Suspension (Non-procurement)," 49 CFR Part 29, and otherwise comply with the requirements of those regulations a list of debarred entities is located at <https://www.sam.gov/portal/public/SAM/>.

SECTION 3.6 No State or Federal Obligations to Third Parties. The State shall not be subject to any obligations or liabilities to any third party in connection with the performance of this Project without the specific written consent of the State and FTA. Neither the concurrence in nor the approval of the award of this contract or any subcontract, or the solicitation thereof, nor any other act performed by the State under this contract shall constitute such consent.

SECTION 3.7 Age Discrimination and ADA. The Grantee agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, Title 42 USC Chapter 76 Section 6101 *et seq.*, and implementing regulations, which prohibit employment and other discrimination against individuals on the basis of age. The Grantee also agrees to comply with the requirements of 49 USC 5301(d), 29 USC 794, the Americans with Disabilities Act, as amended (42 USC 12101 *et seq.*), and the Architectural Barriers Act of 1968, as amended (42 USC 4151 *et seq.*), as well as the applicable requirements of the regulations implementing those laws.

SECTION 3.8 Charter Service Operations. The Recipient agrees that neither it nor any public transportation operator performing work in connection with a Project financed under 49 USC chapter 53 or under 23 USC §§ 133 or 142 will engage in charter service operations, except as authorized by 49 USC § 5323(d) and FTA regulations, "Charter Service," 49 CFR Part 604, and any subsequent Charter Service regulations or FTA directives that may be issued, except to the extent that FTA determines otherwise in writing. Any charter service agreement

required by FTA regulations is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Recipient understands and agrees that in addition to any remedy specified in the charter service agreement, if a pattern of violations of that agreement is found, the violator will be barred from receiving Federal transit assistance in an amount to be determined by FTA or USDOT.

SECTION 3.9 Federal Changes. Grantee shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the State and FTA, as they may be amended or promulgated from time to time during the term of this contract. Grantee's failure to so comply shall constitute a material breach of this contract.

SECTION 3.10 Settlement of Third Party Contract Disputes or Breaches. The term "third-party contract," as used in this Agreement, is defined as a contract between the Grantee and its subcontractor in which the Grantee has procured a good and/or service commercially from the subcontractor. FTA has a vested interest in the settlement of disputes, defaults, or breaches involving any federally assisted third party contracts. FTA retains the right to a proportionate share, based on the percentage of the Federal share committed to the Project, of any proceeds derived from any third party recovery. Therefore, the Grantee shall avail itself of all legal rights available under any third party contract. The Grantee shall notify the State of any current or prospective litigation or major disputed claim pertaining to any third party contract. FTA reserves the right to concur in any compromise or settlement of the Grantee's claim(s) involving any third party contract, before making Federal assistance available to support that settlement. If the third party contract contains a liquidated damages provision, any liquidated damages recovered shall be credited to the Project account involved unless FTA permits otherwise.

SECTION 3.11 Incorporation of FTA Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein withstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Grantee shall not perform any act, fail to perform any act, or refuse to comply with any State requests which would cause the State to be in violation of the FTA terms and conditions.

SECTION 3.12 Compliance with Laws. Some of the clauses contained in this Contract are not governed solely by Federal law, but are significantly affected by State law. The laws and regulations cited in this Contract are not all-inclusive of those which may apply to the successful completion of this Contract. The Grantee understands that it is its responsibility to learn what federal, state and local laws and regulations will apply to its operation under this Contract, and that Grantee is solely responsible for its lawful compliance with all laws and regulations, including those attached hereto as Attachment A.

SECTION 3.13 Drug and Alcohol Compliance. The Grantee shall comply with USDOT Federal Transit Administration drug and alcohol rules as established in the "Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit," set forth in 49 CFR Part 40, and Part 655; Drug-Free Workplace act. Grantee understands and agrees that failure to comply with this section constitutes default pursuant to Article 2, Section 2.1.

SECTION 3.14 Privacy Act. The Grantee agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC § 552a. Among other things, the Grantee agrees to obtain the express consent of the Federal Government before the Grantee or its employees operate a system of records on behalf of the Federal Government. The Grantee understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.


SECTION 3.15 Single Audit Act. The Grantee shall perform an audit in compliance with the Single Audit Act Amendments of 1996, 31 USC 7501 et seq. and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." For local governments and school districts, the Grantee will provide the report to the State of Montana, Department of Administration, Local Government Services Bureau all other grantees such as Tribal Communities and Non-Profit Organizations will provide the report to the State of Montana, Department of Transportation, Internal Audit Unit.

SECTION 3.16 Coordination. The recipient of any capital project purchased through this program certifies: (1) the projects selected were derived from a locally developed and coordinated public transit and human services transportation plan; (2) the plan was developed through a process that included representatives of public, private and nonprofit transportation and human services providers as well as the general public; and (3) vehicle use and location is identified in the planning document and will not be altered without the prior written permission of the Montana Department of Transportation. Should the recipient of any capital project withdraw from the coordinated plan, the ownership of any vehicle purchased under the plan shall revert back to the State or the State will be reimbursed full cost of the capital.


THE GRANTEE WARRANTS that it has the lawful authority to enter this Agreement, and that it has taken all actions and complied with all procedures necessary to execute the authority lawfully in entering this Agreement, and that the undersigned signatory for Grantee has been lawfully delegated the authority to sign this Agreement on behalf of Grantee.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

**STATE OF MONTANA
DEPARTMENT OF TRANSPORTATION**

By: 
Lynn Zanto, Administrator
MDT-Rail, Transit and Planning Division
Dated: 7/11 2014


APPROVED FOR CIVIL RIGHTS CONTENT

By: 
Date: June 4 2014
MDT Civil Rights Bureau

APPROVED FOR LEGAL CONTENT

By: 
Date: June 2 2014
MDT Legal Services

CITY OF LAUREL

By: 
Printed Name: Mark A Mace
Title: Mayor
Dated: July 1 2014

GRANTEE LEGAL REVIEW (optional)

By: _____
Date: _____ 20__

ATTACHMENT A

NON-DISCRIMINATION NOTICE

During the performance of this Agreement, City of Laurel (hereafter in this Section "the Party"), 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 Party shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations (CFR), Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.
- (2) Nondiscrimination: The Party, 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 Party shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Sec. 21.5.
- (3) Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the Party for work to be performed under a subcontract, including procurement of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the Party of the Party's obligations under this Agreement and the Regulations relative to nondiscrimination.
- (4) Information and Reports: The Party will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by State or the Federal Transit Administration (FTA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the Party is in the exclusive possession of another who fails or refuses to furnish this information, the Party shall so certify to the Department or the FTA as requested, setting forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the Party's noncompliance with the nondiscrimination provisions of this Agreement, State may impose sanctions as it or the FTA determines appropriate, including, but not limited to,
 - (a) Withholding payments to the Party under the Agreement until the Party complies, and/or
 - (b) Cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) Incorporation of Provisions: The Party will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Party will take such action with respect to any subcontract or procurement as the State or the FTA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event the

Party is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the Party may request the State to enter into the litigation to protect the interests of the State, and, in addition, the Party 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, SEC. 49-3-207, MCA

In accordance with Section 49-3-207, MCA, the Party agrees that for this Agreement all hiring will be made on the basis of merit and qualifications and that there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Agreement.

C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

- (1) The Party will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.
- (2) The Party will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: **"The Party 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 Party. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the Party."**
- (3) All video recordings produced and created under contract and/or agreement will be closed-captioned.

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

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

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