



# MIDTOWN MASTER PLAN

REQUEST FOR PROPOSALS

PROPOSALS DUE APRIL 1, 2022

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The Missoula Midtown Association (Association) and other public, private, and nonprofit partners are seeking the services of a consulting team with broad experience in visioning, urban planning and design, landscape architecture, parking, transportation, market and housing analysis, citizen outreach and implementation to create a Midtown Master Plan (MMP). The MMP will reflect Midtown’s values and reinforce our unique character, culture, and economic activity. It will provide strategies to use as a blueprint for the development of the area.

The project is funded by over 35 different partners, including 30 private businesses from the Midtown area and six public partners. As the public event space in Midtown, the Missoula County Fairgrounds will be available to host socially distant meetings and provide general assistance for community outreach as needed. The anticipated budget is \$470,000.00.

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## PROJECT MANAGEMENT

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The Missoula Midtown Association is a 501(c)6 organization dedicated to the promotion, enhancement, and accessibility of the midtown area as it relates to businesses, residents, and the community. Its goals are to provide resources and information related to the success and growth of a healthy business community and enhance the quality of life and place for visitors and residents alike. All businesses, interested parties, and individuals are eligible for membership in the Missoula Midtown Association and can join at any time. Suitability is not based on geographic location.

The Missoula Midtown Foundation (Foundation) is a 501(c)3 organization with a close relationship with the Missoula Midtown Association. The Foundation researches issues associated with the ongoing development, infrastructure, historic preservation, and planning of Missoula Midtown for the benefit of all citizens of Missoula County, and assists in providing the public with education regarding these important community issues. The Foundation and the Association share staff and consultants.

The MMP will be managed through the Association. While the Association is generally focused on Midtown, the MMP will provide benefits to the entire community. The Association has appointed a steering committee who specialize in land use planning and development, public process, community organizing and outreach, and fundraising to advise on the process. The selection and contracting process will be managed by the Executive Director of the Association, in consultation with a selection committee. The project will be managed by the Executive Director and the MMP steering committee chair, in consultation with the steering committee, and under the governance of the Association Board of Directors. There will also be a technical advisory committee made up of local subject area experts to help draft and implement the MMP.

## PROCUREMENT PROCESS

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Although the Association is a private entity, this process follows established best practices for public procurement. About half the funding for this project has been contributed from public entities, and we anticipate the MMP being adopted by relevant local and state agencies.

Selection will be a three-step process: 1. Prescreening 2. Review and preliminary scoring 3. Interviews and final scoring. The consultant group (consultant) who leads this effort on behalf of the Association will be chosen by a selection committee of public servants and private leaders, through a process led by the Executive Director. The selection committee reserves the right to accept or reject any proposal, any part of a proposal, and/or any individual or firm put forward in a proposal. Upon selecting the best team to lead the effort and successfully negotiating contract terms and conditions, the Association's Board of Directors will approve the contract.

Prior to being reviewed by the selection committee, the Executive Director and steering committee chair will qualify teams based on prescreening criteria. Incomplete proposals or unqualified teams will not be reviewed by the selection committee.

### CONTACT INFORMATION

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Melanie Brock, Missoula Midtown Association/Foundation Executive Director

Email: [midtown@missoulamidtown.com](mailto:midtown@missoulamidtown.com)

Phone: 406.370.8816

**Proposals are due electronically via email to [midtown@missoulamidtown.com](mailto:midtown@missoulamidtown.com) by 5:00 pm on April 1, 2022. Late submissions will not be accepted.**

### PROCUREMENT TIMELINE

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February 15, 2022	RFP published	<a href="https://missoulamidtown.com/mast erplan/">https://missoulamidtown.com/mast erplan/</a>
March 11, 2022	RFP clarifications published (if necessary)	<a href="https://missoulamidtown.com/mast erplan/">https://missoulamidtown.com/mast erplan/</a>
April 1, 2022	Proposals due	<a href="mailto:midtown@missoulamidtown.com">midtown@missoulamidtown.com</a>
April 4 - 8, 2022	Proposals prescreened	
April 11 - 14, 2022	Qualified proposals reviewed by Selection Committee	
April 15, 2022	Top teams invited to interview	
May 2 and 3, 2022	Interviews held	Hybrid in-person/virtual *subject to change
May 5, 2022	Consultant team selected to engage in negotiation of terms and conditions. Backup team notified.	
May 11, 2022	Contract signed by Association board	

## SUBMITTAL REQUIREMENTS

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### Proposal Format

The proposal should be submitted as one document via email in a printable PDF format. The proposal may include links to other documents and/or appendices; however, the proposer should not assume these will be reviewed. All content the proposer feels is necessary for selection should be included in the body of the proposal, which should not exceed twenty 8.5x11 inch pages single-sided.

### Proposal Content

The proposal should provide sufficient detail to enable the selection committee to thoroughly evaluate and compare it with other proposals. At a minimum, the following information should be included:

- A description of the lead firm and all firms proposed to be part of the consultant team, emphasizing the qualifications and experience needed to provide the services requested in this RFP.
- Identify key personnel assigned to the project, a description of their respective roles, and an estimate of their participation in the project. Include a list of related project experience and general project duties for each team member.
- Describe the relationships between the firms being proposed as part of the consultant group with details about projects the firms have worked on together, if applicable, and identify their respective roles.
- Describe your understanding of the project goals and proposal and how your team plans to meet those goals, including the project approach and methodology. A discussion about methods you plan to use to broaden public participation and input into the process and MMP is recommended.
- A statement expressing an understanding of the project budget, including a total cost of services and details necessary to evaluate the cost review criteria listed below.
- Provide at least three references for similar projects undertaken by the lead firm, including name, address, phone number and email address where a contact person may be reached. References for other firms comprising the consultant team may also be included.

## PRESCREENING CRITERIA

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- Proposal addresses the submittal requirements
- Consultant team includes expertise and experience in the priority areas of study
- Key team members have experience managing projects of a similar scale
- Key team members have the availability to initiate and complete this project
- Consultant team demonstrates an ability to work together, and preferably has worked together on previous projects
- Consultant team understands the project budget

SELECTION CRITERIA

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<b>Criteria</b>	<b>Points</b>
Lead consultant experience	50
Missoula experience	20
Understanding of project goals	50
Approach and methodology for public involvement	50
Ability to meet the scope of work, schedule, and budget	40
Innovation and willingness to incorporate new ideas	30
Total cost of services	40
Total points available	280

The points score for total cost will be calculated as established in the Ratio Method, Cost Evaluation Methods for Requests for Proposals, Department of Administration General Services Administration, State Procurement Bureau.

## PROJECT BACKGROUND

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Recognizing the pressing need for cohesion around a vision that embraces Midtown's existing character, encourages equitable development, and promotes healthy urbanism, the Association began to lay out a path to make the Master Plan a reality in 2020. A well-developed MMP, created through an inclusive process, will offer predictability, preserve the qualities we love about Midtown, and encourage growth that contributes to a vibrant and people-oriented place. While, a haphazard approach will continue the trend of auto-oriented development, lead to frustration for developers and local officials, poor outcomes for current residents, and potentially gentrification that pushes them out of Midtown altogether.

The pandemic has shown a spotlight on how unplanned growth can impact equity and livability in Missoula. Long-term trends such as population growth, housing demand, and reduced housing inventory were exacerbated during COVID, putting acute pressure on, and driving up the cost of renting and owning a home. Without a community vision for Midtown, we risk being caught flatfooted when demand for development increases beyond our community capacity to manage it appropriately.

Midtown's everyday retail, affordable homeownership, and available parking are qualities associated with a different experience than anywhere else in Missoula. New development should preserve and enhance this character with features like gathering spaces to nurture social connectedness, transit and bike/pedestrian networks to allow physical connections, and access to green infrastructure to reduce heat islands, noise, and air pollution. An equitable MMP will help Missoula take care not to attract development for prosperity's sake alone, but to improve all outcomes for those working and living in our community.

Midtown is challenged with reigning in the sprawl development that occurred in the middle of the 20th century and weaving auto-centric strips into the urban fabric. Over the last 20 years, a series of planning efforts have recognized that Brooks Street, as it currently exists, is a hindrance to smart growth and robust economic development in what has become the geographic center of Missoula. Most planning efforts have focused on the corridor, helping to identify challenges and infrastructure deficiencies, and all recommended transit and improved pedestrian/bicycle facilities (see Dovetailing Projects section below). However, none have approached Midtown holistically, recognizing that it already is a loved place where people live, work, and recreate – albeit with the limitations mentioned above. The MMP will fold these efforts into a broader vision that meets the project goals.

Meaningful participation from all residents will be a vital component of the MMP. The Association will engage in a separate contract with a community organizer to facilitate grassroots engagement for the project. Grassroots engagement is in addition to and separate from business and institutional engagement and community wide public relations, which will be included in the design contract associated with this RFP.

The grassroots community engagement consultant will establish a strategy for engagement in advance of the design process and become an integral part of the team once planning begins. They will help us actively engage individuals and groups who are traditionally marginalized. The grassroots engagement consultant will develop creative strategies for community organizing, information gathering from stakeholders who often feel unheard, management through change, and consensus building.

## TOTAL PROJECT BUDGET

Expenses	Projected Budget
Grassroots community engagement	\$ 50,000.00
Design consultant	\$ 470,000.00
<b>Total</b>	<b>\$ 520,000.00</b>

## GOALS

The goals of the MMP explicitly state our intention for it to remain affordable and include current residents in the process in new ways. The consultant selected will demonstrate a meaningful understanding of these issues and have a track record of engaging in undertakings that balance the perception of conflicting values – in this case, quality of life and affordability. In a sense, the process of leading a discussion about the future of Midtown is also the product – while not everyone will agree on every aspect of the MMP, they will rally around Midtown as a place.

**Provide a voice for the people who live in, work in, and utilize Midtown.** Create a space for residents, workers, and users to articulate why they love Midtown, identify the unique characteristics that should be preserved, and envision improvements that will make it better as it inevitably grows.

**Promote equitable development.** Ensure neighborhood balance with factors that promote healthy urbanism like affordable housing and retail, nearby groceries, healthcare, manufacturing and other living-wage jobs, business incubation space, green infrastructure, clean indoor and outdoor environments, quality education and growth opportunities, social gathering spaces, recreational opportunities, and mobility for all people and modes with reliable and safe connections.

**Promote a sense of belonging.** Nurture the social fabric of Midtown by promoting positive and diverse human interaction. Hone and promote the Midtown brand to drive right-sized business in the area. Maintain existing and attract new businesses that meet the needs of a safe, clean, and connected neighborhood.

**Create predictability for private investment.** Attract and retain development that meets the community vision for Midtown. Provide a clear path forward so developers have fewer hurdles when approaching design, permitting, zoning, and regulatory agencies.

**Leverage local dollars to attract Federal infrastructure funding.** Position Midtown for large capital grants to build transformative infrastructure, such as transit, which serves new and existing populations. Improve east-west connectivity in Midtown. Improve the Brooks Street Corridor to meet the multimodal transportation pressures of growth in Midtown, Miller Creek, and the Bitterroot Valley while improving – and not sacrificing – livability.

**Build on existing planning initiatives for Midtown.** Incorporate previous and ongoing work (see Dovetailing Projects section below). Several studies have been done of the area, each building on the previous effort. This will be the most ambitious scope of work-to-date and should incorporate work from the last two decades, including the Urban Renewal District III Plan, the ULI Report, and the Brooks Street Corridor Transit-Oriented Development (TOD) Infrastructure Study. Currently, the Missoula Economic Partnership is engaged in a Comprehensive Economic Development Strategy, the Tourist

Business Improvement District is initiating a Tourism plan, and the City of Missoula has applied for a RAISE grant to design bus rapid transit for the Brooks Street corridor. The City of Missoula is embarking on a comprehensive code reform project that will lead to an overall modernized, innovative, and aligned set of land use regulations merged into a unified development ordinance, which will be informed by an audit of the community policies relating to regulations and with a lens for equity in land use.

TIMELINE



## SCOPE OF WORK

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The scope will require a multidisciplinary team of land-use planners, civil and traffic engineers, parking specialists, architects, economists, housing specialists, and public outreach specialists. Currently, we expect the budget to be about \$470,000.00.

The deliverable will be an all-inclusive Master Plan in a multi-media format that accomplishes the project goals. In addition, planning will incorporate a comprehensive strategy to engage public and private businesses, citizens, and stakeholders, including supporting the grassroots engagement effort by creating a digestible visioning toolkit (maps, renderings, videos, powerpoints, etc) and taking special care to incorporate feedback gathered.

There are multi-jurisdictional agencies interested in Midtown, including the City of Missoula, Montana Department of Transportation, Missoula Metropolitan Planning Organization, Mountain Line, Missoula County, and potentially the Parking Commission to name a few. Therefore, the MMP must be developed in close coordination with these agencies, as its success requires their backing, and in some cases, their adoption.

**Evaluate existing conditions.** The consultant will begin by gaining a complete understanding of the existing conditions, including conducting a review and inventory of all previous planning efforts for the area (see Dovetailing Projects section below). The effort will analyze the infrastructure's ability to handle future land use and provide recommendations for improvements that include rough order of magnitude cost estimates. Work will include, but is not limited to, building off Brooks Street Bus Rapid Transit and Transit Oriented Development Planning Study and other previous efforts, with an emphasis on east-west multimodal connections, parking, and land use conditions; identifying historical and cultural amenities; conducting an economic conditions analysis and evaluating trends; conducting a review of the current applicable zoning and land use designations; conducting a housing and demographic analysis; and identifying any environmental constraints (perhaps by conducting Phase I environmental assessments).

**Coordinate with other projects.** There will be other planning processes occurring simultaneously (see Dovetailing Projects section below). One of the most challenging aspects of this project will be to understand these efforts and develop a coordinated strategy, working with the grassroots engagement consultant, that doesn't overwhelm or confuse people. This may include a warm handoff to other efforts or sharing MMP space with other projects, so people do not have to attend multiple meetings or be inundated with mailers.

**Develop a vision.** The existing conditions assessment will dovetail with articulating a community vision for the area, utilizing traditional design charrettes and stakeholder meetings, visioning toolkits (renderings, maps, etc.), and supporting grassroots efforts to engage all populations. Further discipline studies may be called for and may be negotiated into the contract if needed. The consultant will develop a draft of the vision and collect and incorporate community feedback about it – continuing to roll out iterations and collect feedback as needed. The MMP will be incorporated into governing policies and should identify regulatory and other barriers and potential incentives to encourage desirable growth.

**Finalize the MMP.** The consultant will ensure the community is informed about the MMP and has engaged in the process - utilizing renderings and new media to paint the picture as much as possible. The consultant should take special care to use tools to articulate the vision for people unfamiliar or intimidated by traditional planning documents (such as short videos, infographics, influencers, etc.). The

consultant will provide a clear strategy to implement the MMP, providing recommendations for regulatory changes, if needed. The MMP will interface with the process for comprehensive code reform and should look for ways to integrate information and recommendations from the MMP process into the comprehensive code reform project.

**MMP adoption.** The consultant will assist in preparation of presentations for agency and board adoption as well as the adoption of the plan as an amendment to the City's Growth Policy (Our Missoula). If necessary, the consultant will assist agencies to incorporate the MMP into the format their processes and policies require. Finally, the consultant will provide implementation strategies to assist the community in prioritizing and identifying entities to lead various action items.

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#### PRIORITY AREAS OF STUDY

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**People & Equity.** Demographic analysis of who lives, works, and plays in Midtown. Develop strategies to maintain their presence, improve the quality of life for existing residents, and welcome new residents and users. Explore opportunities for tourism.

**Land Use.** Evaluate the accessibility of public and private spaces, including hotel, food, commercial, mixed-use, residential, office, medical and institutional, educational, arts and entertainment, housing, parks, trails, and recreation opportunities.

**Connectivity.** Assess transit, street design, Brooks Street Corridor circulation (taking care not to duplicate efforts underway), east-west connections, north-south connections, slant street, Reserve Street and downtown connectivity, shared mobility, pedestrian circulation, bicycle circulation, and wayfinding. Evaluate consistency of transportation infrastructure and design with desired land use or redevelopment.

**Infrastructure.** Measure the availability of sewer, water, storm sewer, communication and broadband, electricity, lighting, trees, and other green infrastructure. Develop strategy to prioritize future investments.

**Parking.** Measure availability of parking and develop a strategy which allows the conversion of expansive parking lots into viable mixed use developments. Analyze the possibility of managed, either public or private, parking to support growth in housing and commercial sectors.

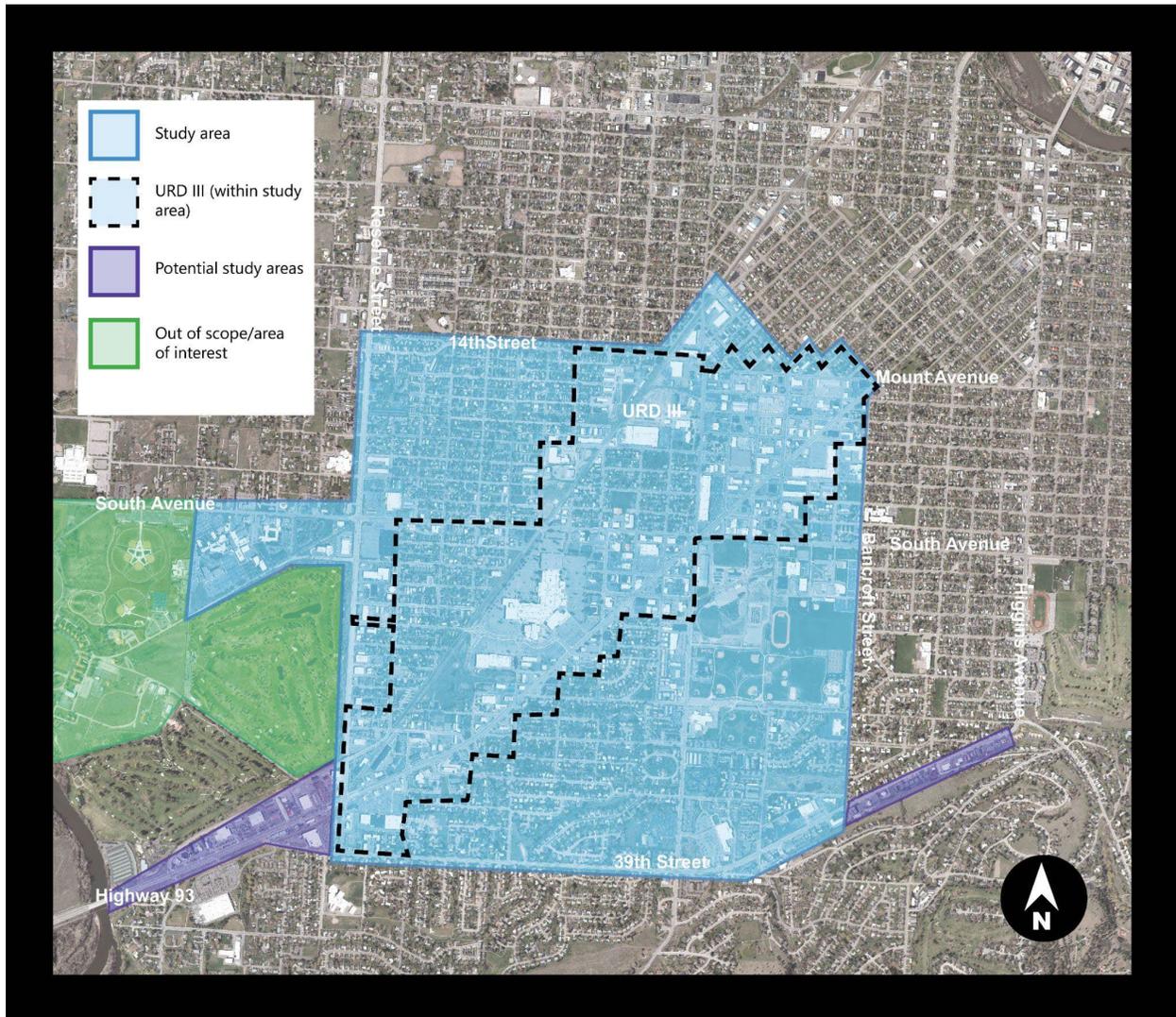
**Business & Nonprofit Health.** Support existing retail, commercial, nonprofit, medical, and other businesses and deploy development strategies to retain and attract suitable new businesses to the area.

**Housing.** Affordability analysis, evaluate work/live models, equitable and complete neighborhoods. Recommend strategies to improve quality of life while avoiding gentrification.

**Green Infrastructure.** Evaluate and identify strengths and gaps in trails and park facilities and connections. Identify ways to connect these assets to each other and key destinations outside of the study area.

**Culture, Arts, & History.** Identify and celebrate Midtown's historic features. Assess existing arts and cultural amenities and make recommendations for additional opportunities.

## STUDY AREA BOUNDARY



The study area for the MMP is intentionally large to include neighborhoods, the area called “Central Park” (Playfair Park/Fairgrounds/YMCA/ Missoula County Public Schools) and an emerging medical district, near Community Medical Center, that may come to define much of the South Reserve Street corridor. The steering committee recognizes that the project boundaries may require adjustment according to budget realities. The area in blue in the map above, including URDIII within the dashed line, is the boundary the steering committee feels is important to include. The areas in purple may also benefit from being in the MMP, and we welcome proposers’ thoughts on their inclusion. The area in green deserves its own planning effort and is outside the scope of this project. However, having such a significant impact on Midtown, it must be recognized by the MMP.

## DOVETAILING PROJECTS

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### **Brooks Street Bus Rapid Transit (BRT) and Transit Oriented Development (TOD) Planning Study**

The city in coordination with Mountain Line and other partners is undertaking a detailed planning study to identify all that is required to make bi-directional, fixed-route, center-running bus-rapid transit successful on Brooks Street, as a catalyst to foster transit-oriented development along the Brooks Street corridor. The Brooks Street BRT/TOD planning team will include a communications member who will focus on outreach to property and business owners and other stakeholders within the study area, coordination with the Montana Department of Transportation, and other community outreach as appropriate.

The Brooks Street BRT/TOD planning effort is independent of the MMP, but there will be overlap between the two efforts in many areas. The city and the Association will assemble a committee to ensure close coordination between the two efforts. The goal is to establish a consistent message about these two significant planning efforts in Midtown, to minimize confusion, and to build community consensus. The design consultant for the MMP will be expected to understand the goals of the Brooks Street BRT/TOD plan, and closely coordinate with the Brooks Street BRT/TOD team.

### **Comprehensive Economic Development Strategy**

Comprehensive Economic Development Strategy (CEDS) is a measurable, actionable, strategy-driven plan being led by the Missoula Economic Partnership (with a workgroup of local representatives from private, public, and nonprofit sectors) to identify regional priorities for economic and community development. CEDS is recognized by the United States Economic Development Administration (EDA) as the cornerstone of EDA's investments in community economic development. CEDS will focus collective priorities and efforts, help qualify the Missoula community for specific public funding, and can be used to investigate new sources of public or private funding to support shared community goals. The working vision of Missoula CEDS is "Missoula County's economy is equitable, inclusive, and resilient--offering every resident a path to prosperity for a lifetime."

### **Tourism Stewardship Plan**

Destination Missoula/Missoula Tourism Business Improvement District will be initiating a Tourism Stewardship planning process for Missoula. The goal is to provide an organized policy and planning framework for value-based, sustainable tourism development and promotion, that balances residents' quality of life with quality visitor experiences and promotes equitable economic development in our industry and community.

### **City of Missoula Comprehensive Code Reform Project**

The Comprehensive Code Reform Project will integrate all City land use regulations into one code and update the regulations to be responsive to Missoula's current and emergent land use needs, especially through the lens of equity and sustainability. The project will be responsive to city values and policies given consideration of the City's comprehensive plan (Our Missoula, City of Missoula Growth Policy) and includes coordinating with the Growth Policy Update process. It will result in a Unified Development Ordinance (UDO) for the City that is modernized, updated, streamlined, consistent, clear, aligned, and user-friendly. The process will begin in 2022 and will involve robust community engagement throughout the 3-year span of the project, with deliverables along the way. It will include comprehensive auditing of the city's existing land development regulations and processes as well as conducting a review of land use from the lens of equity.

## RELEVANT POLICIES AND PLANS

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City of Missoula Growth Policy <http://www.ci.missoula.mt.us/1748/Our-Missoula-Growth-Policy>

Missoula Long-Range Transportation Plan <https://www.missoulampo.com/long-range-transportation-plan>

Bicycle Facilities Master Plan <https://www.ci.missoula.mt.us/DocumentCenter/View/39172/2016-Bicycle-Facilities-Master-Plan?bidId>

Pedestrian Facilities Master Plan  
<https://www.ci.missoula.mt.us/DocumentCenter/View/48031/Pedestrian-Facilities-Master-Plan->

Urban Renewal District (URD III) Plan  
<http://www.ci.missoula.mt.us/DocumentCenter/View/140/Urban-Renewal-District-URD-III-Plan?bidId=>

Urban Land Institute Report  
<http://www.ci.missoula.mt.us/DocumentCenter/View/31364/ULI-Report-October-2003?bidId=>

Brooks Street Transit-Oriented Development (TOD) Infrastructure Study  
[http://www.ci.missoula.mt.us/DocumentCenter/View/53666/20191227\\_Brooks-Street-TOD-Inf-Study\\_FINAL?bidId](http://www.ci.missoula.mt.us/DocumentCenter/View/53666/20191227_Brooks-Street-TOD-Inf-Study_FINAL?bidId)

Brooks Street Corridor Study  
<http://www.ci.missoula.mt.us/DocumentCenter/View/39188/BrooksStreetCorridor-Final-Report12-20-16-HighRes>

Fairgrounds Master Plan and Design Guidelines  
[https://static1.squarespace.com/static/59bc472df9a61ebc1fe389d3/t/5b0db240562fa72bdd6d2957/1527624292578/MCFG+Design+Guidelines\\_May+24\\_Web+Version.pdf](https://static1.squarespace.com/static/59bc472df9a61ebc1fe389d3/t/5b0db240562fa72bdd6d2957/1527624292578/MCFG+Design+Guidelines_May+24_Web+Version.pdf)

CEDS [https://www.missoulapartnership.com/wp-content/uploads/2022/01/MEP\\_CEDS\\_Layout\\_Final\\_Web-large.pdf](https://www.missoulapartnership.com/wp-content/uploads/2022/01/MEP_CEDS_Layout_Final_Web-large.pdf)

Housing Report <https://www.missoularealestate.com/5valleyshousingreport>

## TERMS AND CONDITIONS

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Within the Agreement for Services between Association and the successful Consultant, the Consultant will be required to agree to all of the following terms and conditions. Each respondent should include a statement in their proposal indicating their firm's willingness to abide by the City of Missoula, State of Montana, and Federal standard terms and conditions.

### STATEMENT OF NONCOMMITMENT

Issuance of this RFP does not commit the Association to pay any costs incurred in preparation of proposals responding to this RFP. The Association reserves the right to reject any or all proposals and to re-advertise. All proposals will become property of the Association.

### QUESTIONS CONCERNING RFP/NO CONTACT PROVISION

Respondents are hereby notified not to contact any member of the selection committee, or any member of the Association, except as provided herein regarding this proposal until such time as a contract has been awarded. All inquiries pertaining to this RFP should be directed to the designated Association staff person. Failure to abide by this condition of the RFP may be cause for the rejection of the firm's proposal.

### CLARIFICATIONS AND ADDENDA TO THE RFP

It is incumbent upon each respondent to carefully examine this RFP. Any inquiries, suggestions or requests concerning interpretation, clarification or additional information shall be made in writing via email through the designated Association staff person. The Association shall not be responsible for any oral representation(s) given by any employee, representative or others. The issuance of a written addendum is the only official method whereby interpretation, clarification, or additional information can be given.

If it becomes necessary to revise or amend any part of this RFP, a good faith attempt will be made to notify all prospective respondents. All addenda will be posted on the Midtown Association website: <https://missoulamidtown.com/masterplan/>

### REJECTION RIGHTS

The Association reserves the right to reject any and all proposals or parts of proposals received in response to this RFP. The Association also reserves the right to cancel this RFP at any time and to reissue this or a substitute RFP at a later date.

### COST OF PROPOSAL PREPARATION

All costs associated with any response to this RFP, including the development of qualifications statements and participation in the selection process, are the sole responsibility of the respondent firms. The Association will not reimburse any firms for such costs, nor will any successful firms be permitted to negotiate such costs as part of any contract or agreement with the Association.

## OTHER

Any firm selected to perform any or all work associated with this RFP will be required to execute an agreement with the Association and meet any conditions on use of funds imposed by the Association.

## NON-DISCRIMINATION AND AFFIRMATIVE ACTION POLICY

The Association abides the City of Missoula non- discrimination and affirmative action policies. See Attachments A and B.

## WORKER'S COMPENSATION AND PROFESSIONAL LIABILITY INSURANCE

The successful Consultant shall be required to carry Workers Compensation and Professional Liability insurance. Complete liability insurance regarding accidents, injury, and property damage at, as well as traveling to and from the project area, will also be required. Specific amounts of liability insurance will be settled during the contract negotiations.

## INDEMNIFICATION

The final contract between the selected Consultant and the Association will include the following indemnification statement:

*Consultant shall indemnify and hold Missoula County, City of Missoula, Missoula Midtown Association, Missoula Midtown Foundation and their officers and employees harmless from and shall process and defend at its own expense all claims, demands, or suits at law or equity arising in whole or in part from the Consultant's negligence or breach of any of its obligations under this Agreement; provided that nothing herein shall require the Consultant to indemnify Missoula County, City of Missoula, Missoula Midtown Association, Missoula Midtown Foundation against and hold harmless the Missoula County, City of Missoula, Missoula Midtown Association, Missoula Midtown Foundation from claims, demands or suits based solely upon the conduct of the Missoula County, City of Missoula, Missoula Midtown Association, Missoula Midtown Foundation, their agents, officers and employees and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Consultant's agents or employees and (b) Missoula County, City of Missoula, Missoula Midtown Association, Missoula Midtown Foundation, their agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to Missoula County, City of Missoula, Missoula Midtown Association, Missoula Midtown Foundation of defending such claims and suits, etc., shall be valid and enforceable only to the extent of the Consultant's negligence or the negligence of the Consultant's agents or employees.*

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ATTACHMENT A

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**NON-DISCRIMINATION.** All hiring shall be on the basis of merit and qualification and there shall be no discrimination in employment on the basis of race, ancestry, color, physical or mental disability, religion, national origin, sex, age, marital or familial status, creed, ex-offender status, physical condition, political belief, public assistance status or sexual orientation, or gender identity or expression, except where these criteria are reasonable bona fide occupational qualifications.

**AFFIRMATIVE ACTION POLICY.** Contractors, subcontractors, sub grantees, and other firms doing business with the City of Missoula must be in compliance with the City of Missoula's Affirmative Action Plan, and Title 49 Montana Codes Annotated, entitled "Human Rights" or forfeit the right to continue such business dealings.

**The City's Affirmative Action Policy Statement is:**

The Mayor of the City of Missoula or the Mayor's designee may adopt an affirmative action plan to provide all persons equal opportunity for employment without regard to race, ancestry, color, handicap, religion, creed, national origin, sex, age, marital status. In keeping with this commitment, we are assigning to all department heads and their staff the responsibility to actively facilitate equal employment opportunity for all present employees, applicants, and trainees. This responsibility shall include assurance that employment decisions are based on furthering the principle of equal employment opportunity by imposing only valid requirements for employment and assuring that all human resource actions are administered on the basis of job necessity.

Specific responsibility for developing, implementing, monitoring and reporting are assigned to the City Personnel staff under the supervision and direction of the Chief Administrative Officer and the Mayor.

It is the policy of the City of Missoula to eliminate any practice or procedure that discriminates illegally or has an adverse impact on an "affected" class. Equal opportunity shall be provided for all City employees during their terms of employment. All applicants for City employment shall be employed on the basis of their qualifications and abilities.

The City of Missoula, where practical, shall utilize minority owned enterprises and shall ensure that subcontractors and vendors comply with this policy. Failure of subcontractors and vendors to comply with this policy statement shall jeopardize initial, continued, or renewed funds.

Our commitment is intended to promote equal opportunity in all employment practices and provide a positive program of affirmative action for the City of Missoula, its employees, program participants, trainees and applicants.

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**NONDISCRIMINATION COMPLIANCE AND AFFIRMATIVE ACTION**

Consultants will be subject to Federal, Montana and City of Missoula nondiscrimination and affirmative action laws and regulations.

**NOTICE TO CONSULTANT**

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

**NON-DISCRIMINATION AND DISABILITY ACCOMMODATION NOTICE**

The Montana Department of Transportation (MDT) is committed to conducting all of its business in an environment free of discrimination, harassment, and retaliation. In accordance with State and Federal law the MDT prohibits any and all discrimination and protections are all inclusive (hereafter “protected classes”) by its employees or anyone with whom MDT does business:

**Federal protected classes**

Race, color, national origin, sex, sexual orientation, gender identity, age, disability, and Limited English Proficiency

**State protected classes**

Race, color, national origin, parental/marital status, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, religion/creed, social origin or condition, genetic information, sex sexual orientation, gender identification or expression, national origin, ancestry, age, disability mental or physical, political or religious affiliations or ideas, military service or veteran status

For the duration of this contract/agreement, the CONSULTANT agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT will comply with all Acts and Regulations of the United States and the State of Montana relative to Non-Discrimination in Federally and State-assisted programs of the U.S. Department of Transportation and the State of Montana, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
  
2. **Nondiscrimination:**
  - a. The CONSULTANT, with regard to the work performed by it during the contract, will not discriminate, directly or indirectly, on the grounds of any of the protected classes in the selection and retention of subcontractors, including procurements of materials and leases of equipment, employment, and all other activities being performed under this contract/agreement.
  - b. CONSULTANT will provide notice to its employees and the members of the public that it serves that will include the following:

- i. Statement that CONSULTANT does not discriminate on the grounds of any protected classes.
- ii. Statement that CONSULTANT will provide employees and members of the public that it serves with reasonable accommodations for any known disability, upon request, pursuant to the Americans with Disabilities Act as Amended (ADA).
- iii. Contact information for CONSULTANT's representative tasked with handling non-discrimination complaints and providing reasonable accommodations under the ADA.
- iv. Information on how to request information in alternative accessible formats.
- c. In accordance with Mont. Code Ann. § 49-3-207, CONSULTANT will include a provision, in all of its hiring/subcontracting notices, that all hiring/subcontracting will be on the basis of merit and qualifications and that CONSULTANT does not discriminate on the grounds of any protected class.

3. **Participation by Disadvantaged Business Enterprises (DBEs):**

- a. If the CONSULTANT receives federal financial assistance as part of this contract/agreement, the CONSULTANT will make all reasonable efforts to utilize DBE firms certified by MDT for its subcontracting services. The list of all currently certified DBE firms is located on the MDT website at [mdt.mt.gov/business/contracting/civil/dbe.shtml](http://mdt.mt.gov/business/contracting/civil/dbe.shtml).
- b. By signing this agreement the CONSULTANT assures that:  
*The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor 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.*
- c. CONSULTANT must include the above assurance in each contract/agreement the CONSULTANT enters.

4. **Solicitation for Subcontracts, Including Procurement of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation, made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the CONSULTANT of the CONSULTANT's obligation under this contract/agreement and all Acts and Regulations of the United States and the State of Montana related to Non-Discrimination.

5. **Information and Reports:** The CONSULTANT will provide all information and reports required by the Acts, Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by MDT or relevant US DOT Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the

information, the CONSULTANT will so certify to MDT or relevant US DOT Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

6. **Sanctions for Noncompliance:** In the event of a CONSULTANT's noncompliance with the Non-discrimination provisions of this contract/agreement, MDT will impose such sanctions as it or the relevant US DOT Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the CONSULTANT under the contract/agreement until the CONSULTANT complies; and/or
- b. Cancelling, terminating, or suspending the contract/agreement, in whole or in part.

7. **Pertinent Non-Discrimination Authorities:**

During the performance of this contract/agreement, the CONSULTANT, for itself, its assignees, and successor in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

*Federal*

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 200d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airways Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration’s Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 et seq.).
- Executive Order 13672 prohibits discrimination in the civilian federal workforce on the basis of gender identity and in hiring by federal contractors on the basis of both sexual orientation and gender identity.

*State*

- Mont. Code Ann. § 49-3-205 Governmental services;
- Mont. Code Ann. § 49-3-206 Distribution of governmental funds;
- Mont. Code Ann. § 49-3-207 Nondiscrimination provision in all public contracts.

8. Incorporation of Provisions: The CONSULTANT will include the provisions of paragraph one through seven in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and/or directives issued pursuant thereto. The CONSULTANT will take action with respect to any subcontract or procurement as MDT or the relevant US DOT Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the CONSULTANT becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the CONSULTANT may request MDT to enter into any litigation to protect the interests of MDT. In addition, the CONSULTANT may request the United States to enter into the litigation to protect the interests of the United States.

**B. AUDIT REQUIREMENTS**

The LOCAL AUTHORITY may be subject to the audit requirements of 2 CFR 200 Subpart F if the audit threshold in 2 CFR 200.501 is met. An audit must be conducted in compliance with 2 CFR 200 Subpart F if required. The audit must be completed and the data collection form and reporting package submitted to the Federal Audit Clearinghouse within the earlier of 30 calendar days after the receipt of the auditor’s report(s) or nine months after the end of the audit period. For local governments and school districts, the LOCAL AUTHORITY will provide the report to the State of Montana, Department of Administration, Local Government Services Bureau. All other subrecipients such as Tribal Communities and Non-Profit Organizations will

provide the report to the State of Montana, Department of Transportation, Audit Services if audit findings are discovered.

C. DEBARMENT AND SUSPENSION (E.O.s 12549 and 12689)

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/>.

D. CONFLICT OF INTEREST (2CFR 200.112)

The Subrecipient must disclose in writing any potential conflict of interest to the MDT in accordance with applicable Federal awarding agency policy.

E. MANDATORY DISCLOSURES (2CFR 200.113)

The Subrecipient must disclose, in a timely manner, in writing to the MDT all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.338, including suspension or debarment.

F. INTERNAL CONTROLS (2 CFR 200.303)

The Subrecipient must establish and maintain effective internal controls that provide reasonable assurance to the MDT that the Subrecipient is in compliance with Federal statutes, regulations, and terms and conditions of the Federal award.

G. POLITICAL ACTIVITY (HATCH ACT)

The Subrecipient will comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

H. CERTIFICATION REGARDING FEDERAL LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements. The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement,

the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I. RESTRICTION ON STATE LOBBYING

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.