

## EXAMPLE SUBAWARD AGREEMENT

An agreement is hereby made between the **Heart of the Rockies Initiative (HRI)** and **Entity**, (Subrecipient).

### **SECTION I: PERFORMANCE**

The Subrecipient agrees to complete the Statement of Work (SOW) and/or Work Tasks specified in Attachment A.

### **SECTION II: PERIOD OF PERFORMANCE**

Performance of this agreement shall begin on **XX XX, 2025** and be completed by **XX XX, 2027** unless this agreement is terminated or modified earlier pursuant to other sections of this agreement.

### **SECTION III: PAYMENT OF FUNDS**

HRI hereby awards a fixed price subaward of **\$XXX** for the completion of the Statement of Work and/or Work Tasks in Attachment A, as outlined below.

Subrecipient agrees:

1. To provide completed W-9 and Automated Clearing House (ACH) IRS forms to HRI within 30 days of the Effective Date of this Agreement and promptly upon any change to Subrecipient's legal business name, address, taxpayer identification number, or designated account for payments. Failure to provide completed forms may result in delayed payment under this Agreement.
2. To use funds provided by this Agreement for eligible expenses defined in the SOW and as reasonable, allocable, and allowable to complete the work elements defined in the SOW. Misuse of Agreement funds may result in penalties including, but not limited to: suspension or termination of current and future agreements, suspension or debarment from federal awards, recoupment of monies provided under an award, and civil and/or criminal penalties. Any costs incurred outside of an approved Agreement addendum shall be the responsibility of the Subrecipient.
  - a. To notify HRI immediately if any producers participating in the Subrecipient's Range Riding Program are contracted with the Natural Resources Conservation Service (NRCS) for range riding within the performance period of this grant. Under this scenario, range riding activities will not be an eligible activity and no reimbursements for such range riding participants will be made using grant funds.
  - b. To notify HRI immediately if any producers participating in the Subrecipient's Carcass Management Program are contracted with the NRCS for carcass management within the performance period of this grant. Only expenses related to the pickup, disposal, including composting, of carcasses from non-NRCS contracted producers will be eligible for reimbursement under this grant. Subrecipient will be responsible for demonstrating that reimbursement costs are

only applicable to producers not contracted with NCRS for carcass management practices.

- c. To notify HRI and the U.S. Fish & Wildlife Service Partners for Fish and Wildlife Program of any intent to install a permanent electric fence or electric drive-over mat prior to installation. All required environmental and archaeological/cultural permits shall be acquired before any installation or construction commences and provided to HRI.
3. To submit invoices no more than monthly to HRI for reimbursement. Invoices should provide a breakdown of expenses incurred by budgeted line item as reflected in Attachment B. Subrecipient agrees to include proper documentation, as determined by HRI, to substantiate the expenses being claimed in Attachment B. If match is required, Subrecipient will include the required matching share on each invoice. The Subrecipient may not request reimbursement in greater proportion to the use of match than the federal funds bear to total match.
4. To follow federal cost principles as defined in 2 CFR 200 Subpart E and Procurement Standards/Property Standards in 2 CFR 200 Subpart D.
5. To comply with all conditions outlined in the Special Conditions as defined in Attachment C.
6. To acknowledge the State of Montana - Montana Fish, Wildlife & Parks (State), HRI, and the Federal Funding Source(s) in any public notices, reports, publications, audiovisual productions, project literature, and at all public meetings and programs where the project is discussed.
7. Over the life of the Agreement, the Subrecipient may adjust within approved budgeted line items (outlined in Attachment A) by 10% of the total Agreement funds without prior approval from HRI. Adjustments greater than 10% will require prior approval from HRI and may require an addendum to this Agreement.
8. To fully comply with all applicable federal, state, and local laws, rules, regulations, and executive orders during the performance of work under this Agreement. Subrecipient may engage any person or entity to perform or support its performance of the Work Tasks ("Subcontractor"), provided each Subcontractor is bound by terms no less stringent than this Agreement. Any subletting or subcontracting by Subrecipient subjects Subcontractors to the same provisions in accordance with 49-3-207, MCA, and Executive Order No. 04-2016. Subrecipient shall be responsible for each Subcontractor's performance of the Work Tasks and shall be liable for any breach by a Subcontractor of this Agreement. Nothing contained in this Agreement shall create any contractual relationship between HRI and any Subcontractor.

HRI agrees:

1. To reimburse Subrecipient for expenses incurred performing activities specified in the attached SOW via Automated Clearing House transfer. Payments will be provided only after Subrecipient (1) returns an original executed copy of this agreement and completed W-9 and ACH forms, (2) submits a standard invoice that includes award number and subaward amount, (3) provides receipts and/or other supporting documentation for expenses incurred, including any cash or in-kind match contributed, and (4) has provided the required performance reports (see Section IV: Reporting). HRI

has the right to deny reimbursement to Subrecipient if the above requirements are not met, or if HRI determines, in its sole discretion, that the documentation for expenses incurred is insufficient.

2. To reimburse Subrecipient based upon State approval of invoices submitted in accordance with this Agreement. HRI will pay approved invoices within 10 days after receiving payment from the State. Any expenses not properly expended during the Agreement performance period shall not be reimbursed.
3. To reserve the right to refuse payment for work products or services not performed or completed to HRI's satisfaction, in HRI's sole discretion. HRI is not responsible for payment of additional work required to bring Subrecipient's work product or services up to the satisfaction of HRI.
4. To provide written notice to the Subrecipient of any failure to materially perform any of the services, duties, terms, or conditions contained in this Agreement. The written notice must demand performance to remedy the stated failure within 30 (thirty) days. If Subrecipient fails to remedy the identified condition(s) within thirty (30) days, HRI may treat this action as a material breach and may terminate this Agreement immediately. Early termination due to material breach may require the Subrecipient to reimburse HRI for expended Agreement funds.

#### **SECTION IV: REPORTING**

Subrecipient shall provide annual performance reports to HRI by January 31<sup>st</sup> of each year, detailing work conducted during the previous calendar year. A final performance report shall be submitted by August 31<sup>st</sup>, 2027. Performance reports shall include the outcomes and metrics for each activity listed in Attachment A.

#### **SECTION V: TERMINATION**

Either party may terminate this Subaward Agreement with thirty (30) days written notice to the other party. Agreement is subject to the exception that Paragraph (2) of Section VIII, relating to retention of and access to records, which will remain in effect and survive this Agreement. If this Agreement is terminated for any reason, Subrecipient forfeits all rights to any remaining payment under this Agreement.

This Agreement may be immediately terminated by either party without further liability or obligation to the other party if: (i) the other party violates any applicable U.S. state or local law, rule, regulation, or ordinance (including without limitation, any applicable advertising regulation); (ii) the other party otherwise materially breaches any provision, warranty, or representation of this Agreement, and, if such breach or violation is curable, it remains unremedied for a period of thirty (30) days following receipt of written notice detailing such breach or violation; (iii) the other party acts in a manner that would be considered immoral, illegal, indecent, harassing, lewd, incendiary, defamatory, libelous, or otherwise patently offensive, and such behavior has caused, or could reasonably cause, harm to the reputation of the complaining party and/or its affiliates; or (iv) the other party becomes insolvent, makes a general assignment for the benefit of its creditors, suffers or permits the appointment of a receiver for its business, or becomes subject to any proceeding under bankruptcy laws or any other statute or laws relating to the insolvency or protection of the rights of creditors.

## **SECTION VI: EQUAL OPPORTUNITY**

Pursuant to Sections [49-2-303](#) and [49-3-207](#), Montana Code Annotated, no part of this Agreement may be performed in a manner which discriminates against any person on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or national origin by the persons performing the Agreement. Any hiring must be on the basis of merit and qualifications directly related to the requirements of the particular position being filled.

## **SECTION VII: MODIFICATIONS AND PREVIOUS AGREEMENTS**

This Agreement contains the entire agreement between the parties, and no statements, promises, or inducements made by either party or agent of either party which are not contained in this written agreement are valid or binding. This Agreement may not be enlarged, modified, or altered except in writing and signed by the parties. No change, addition, or erasure of any printed portion of this Agreement is valid or binding upon either party.

## **SECTION VIII: RECORD RETENTION AND SIGNATURES**

The Subrecipient shall maintain books, records, documents and other evidence directly pertinent to performance of work under this Agreement pursuant to record retention requirements as provided in 2CFR 200.333 and 45 CFR 46.

The parties of this Agreement accept electronic signatures and records and/or PDF signatures in lieu of original signatures which comply with 2 CFR 200.335.

## **SECTION IX: HOLD HARMLESS AND INDEMNIFICATION**

Each party shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, or directors, to the extent allowed by law.

Each party (each, the "Indemnifying Party") agrees to indemnify, defend, and hold the other party (each, the "Indemnified Party"), along with the Indemnified Party's affiliates, officers, directors, employees, subsidiaries, parent, agents, and permitted assigns, harmless from and against any and all third party claims, losses, liabilities, damages, expenses, and costs, including reasonable outside attorneys' fees and court costs, to the extent arising out of the Indemnifying Party's: (i) negligence or willful misconduct; or (ii) material breach of any of the terms of this Agreement. The Indemnified Party shall provide the Indemnifying Party with prompt written notice of any claim and give complete control of the defense and settlement to the Indemnifying Party, and shall reasonably cooperate with the Indemnifying Party, its insurance company, and its legal counsel in its defense of such claim(s), at the Indemnifying Party's expense. This indemnity shall not cover any claims in which there is a failure to give the Indemnifying Party prompt notice, to the extent such lack of notice prejudices the defense of the claim. The Indemnifying Party may not settle any potential suit hereunder without the Indemnified Party's prior written approval, not to be unreasonably withheld, conditioned or delayed.

## **SECTION X: INSURANCE**

HRI and Subrecipient agree that sufficient general and professional liability insurance/malpractice insurance or self-insurance exists and shall be maintained to cover liability from the performance of their respective responsibilities hereunder. Parties agree that upon request evidence of adequate insurance will be provided.

### **SECTION XI: INDEPENDENT CONTRACTOR**

The details of the method and manner of the performance of the Work Tasks by Subrecipient shall be under its own control, HRI being interested only in the results thereof. Subrecipient shall be solely responsible for supervising, controlling, and directing the details and manner of the completion of the Work Tasks. Subrecipient is for all purposes hereunder an independent contractor and in no event will Subrecipient be considered an agent or employee of HRI, or any of HRI's affiliates, for any purpose.

### **SECTION XII: LIAISONS**

The Subrecipient's liaison to HRI for purposes of this project and agreement is NAME (phone: (XXX) XXX-XXXX) (email: xxx)

HRI's liaison to the Subrecipient for purposes of this project is Steve Primm (phone: 406-600-9481; steve@heart-of-rockies.org).

HRI's liaison to the Subrecipient for purposes of this agreement is Nathan Owens at the address noted below (phone: 801- 870-0670) (email: nathan@heart-of-rockies.org).

### **SECTION XIII: REPRESENTATIONS AND WARRANTIES**

Each party represents and warrants that it is duly organized, validly existing, and in good standing in its state of incorporation or organization and has full power and authority to enter this Agreement and fulfill its obligations under this Agreement. Each party further represents and warrants to the other party that the information and materials provided by it pursuant to this Agreement, to the best of such party's actual or knowledge, when used as authorized: (i) are complete, true, and accurate in every respect; (ii) do not violate any applicable law, rule, or regulation (including any and all applicable advertising regulations); and (iii) do not violate the third party rights of any person or entity in any way (including without limitation any intellectual property, privacy, defamation, or publicity rights).

### **SECTION XIII: MISCELLANEOUS PROVISIONS**

1. Successors and Assigns. This Agreement will be for the benefit of HRI'S successors and assigns and will be binding on Subrecipient's successors and assignees.
2. Notices. Each party shall deliver all communications in writing, either in person, by certified or registered mail, return receipt requested and postage prepaid, by email or facsimile (with confirmation of transmission), or by recognized overnight courier service, and addressed to the other party at the addresses set forth above (or to such other

address that the recipient may designate from time to time in writing in accordance with this section).

3. Further Assurances. Each of the parties shall execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be required to carry out the provisions of this Agreement and give effect to the transactions contemplated by this Agreement.
4. Choice of Law and Forum. This Agreement and all matters arising out of or relating to this Agreement, including tort and statutory claims, are governed by, and construed in accordance with the laws of Montana, including its statutes of limitations and applicable choice of law statutes, without giving effect to any conflict of laws provisions that would result in the application of the laws of a different jurisdiction. Either party must institute any legal suit, action, or proceeding arising out of or relating to this Agreement in the federal and state courts in each case located in Missoula, Montana.
5. Severability. The invalidity, illegality, or unenforceability of any provision of this Agreement does not affect any other provision of this Agreement or the validity, legality, or enforceability of such provision in any other jurisdiction.
6. Waiver. No waiver of any right, remedy, power, or privilege under this Agreement is effective unless contained in a writing signed by the party charged with such waiver. No failure to exercise, or delay in exercising such right, remedy, power, or privilege under this Agreement operates as a waiver of the same. No single or partial exercise of any right, remedy, power, or privilege precludes any further exercise of the same, right, remedy, power, or privilege, or the exercise of any other right, remedy, power, or privilege.
7. Assignment. Neither party may directly or indirectly assign, transfer, or delegate any or all of its rights or obligations under this Agreement, whether voluntarily or involuntarily, including by change of control, merger, operation of law, or any other manner, without the prior written consent of the other party. Any purported assignment or delegation in violation of this section shall be null and void.
8. Force Majeure. Neither party shall be liable hereunder for any failure or delay in the performance of its obligations under this Agreement, including HRI's ability to pay Subrecipient amounts due under this Agreement, if such failure or delay is on account of causes beyond its reasonable control, including civil commotion, war, fires, floods, accident, earthquakes, inclement weather, telecommunications line failures, electrical outages, network failures, government shutdown, governmental regulations or controls, casualty, strikes or labor disputes, terrorism, pandemics, epidemics, local disease outbreaks, public health emergencies, acts of God, or other similar or different occurrences beyond the reasonable control of the party so defaulting or delaying in the performance of this Agreement, for so long as such force majeure event is in effect. Each party shall make reasonable efforts to notify the other party of the occurrence of such an event within five business days of its occurrence.

#### **SECTION XIV: EXECUTION**

One original of this Agreement is to be retained by HRI and one by the Subrecipient. A copy of the original has the same force and effect for all purposes as the original.

To express the parties' intent to be bound by the terms of this Agreement, they have executed this document on the dates set out below:

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NAME  
Address

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Date

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NAME  
Address

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Date