

## 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 **X XX, 2025** and be completed by **July 31, 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.00** for the completion of the Statement of Work and/or Work Tasks in Attachment A, as outlined below.

|   |        |
|---|--------|
| Staff Capacity  | \$0.00 |
| Outreach & Education  | \$0.00 |
| Electric Fencing  | \$0.00 |
| Bear-Resistant Garbage Infrastructure and Community Attractant Management | \$0.00 |

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 of any intent to install a permanent electric fence or electric drive-over mat prior to installation. HRI will consult with the U.S. Fish & Wildlife Service to facilitate required compliance reviews. All required environmental and archaeological/cultural permits shall be acquired and be in HRI's possession before any installation or construction can commence.

3. To contribute \$XXX in cash matching funds toward the total project cost. These matching funds shall be provided by Subrecipient from non-federal sources and must be in the form of cash contributions (e.g., paid staff time for grizzly bear conflict prevention program activities, paid mileage for related travel, paid supplies and/or shipping costs, etc.). Subrecipient shall maintain records of all matching fund expenditures, including clear documentation of cash contributions, and provide documentation upon request. If the full amount of subaward funds is not expended, the Subrecipient will maintain a proportional cash match rate of XX% for the expended subaward funds.
4. 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. Subrecipient shall 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.
5. To follow federal cost principles as defined in 2 CFR 200 Subpart E and Procurement Standards/Property Standards in 2 CFR 200 Subpart D.
6. To comply with all conditions outlined in the Special Conditions as defined in Attachment C.
7. To acknowledge the State of Montana - Montana Fish, Wildlife & Parks (State), HRI, and the National Fish and Wildlife Foundation in any public notices, reports, publications, audiovisual productions, project literature, and at all public meetings and programs where the project is discussed.
8. 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.
9. 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 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 within four weeks of receipt of an approved invoice. If reimbursement will take longer than four weeks, HRI will notify Subrecipient as soon as possible. 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 un-remedied 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:

\_\_\_\_\_  
NAME  
Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
NAME  
Address

\_\_\_\_\_  
Date

## **Attachment A – Statement of Work**

Description: Project activities will serve to reduce livestock loss while building trust for long-term conflict resolution and result in fewer grizzly bears being lethally removed from the population due to conflicts with humans.

### **Activity 1 – Staff Capacity**

Sustain and expand staff capacity to support carnivore conflict reduction program activities. This includes program and budget management, data analysis, program reporting, and staff time for education and outreach activities.

**Budget:** \$XXX

**Outcomes:** Increased program sustainability and coordination

**Metrics:**

1. Total number of work hours supported
2. Number of new/expanded carnivore conflict reduction programs

### **Activity 2 – Outreach & Education**

Maintain or expand upon the outreach and education component to the conflict reduction work occurring on the landscape. Outreach and education components provide landowners and other community members/recreationists with increased knowledge of grizzly bear behavior, ecology, conflict reduction strategies, safety, and resources available to reduce conflict and promote connectivity.

**Budget:** \$XXX

**Outcomes:** Increased knowledge of grizzly bears and awareness of practices to reduce conflicts.

**Metrics:**

1. Number of outreach/educational events
2. Total number of individuals reached
3. Number of inquiries received from individuals interested in conflict prevention tools

### **Activity 3 – Electric Fencing**

Either portable or permanent electric fencing and/or electric drive-over mats will be used to secure both temporary and permanent attractants that may draw grizzly bears into areas occupied by humans or livestock. Examples of attractants include but are not limited to fruit trees, apiaries, compost piles, trash cans and dumpsters, residential areas, livestock, and animal carcasses.



**Budget:** \$XXX

**Outcomes:** Fewer attractants accessible to grizzly bears.

**Metrics:**

1. Linear feet of electric fencing erected/number of electric drive-over mats installed, along with locations

**Activity 4 – Bear-resistant Garbage Infrastructure and Community Attractant Management**

Bear-resistant garbage cans and dumpsters will be distributed to residences and businesses in order to secure garbage attractants and minimize conflicts with grizzly bears. New transfer stations may be established in rural areas to serve communities where no sanitation services currently exist. Existing transfer stations or container sites may be modified to better secure attractants. Grease traps and food storage lockers will be installed. Existing grain bin doors will be modified to better secure attractants.

**Budget:** \$XXX

**Outcomes:** Fewer attractants accessible to grizzly bears.

**Metrics:**

1. Number of new communities served by bear-resistant garbage infrastructure
2. Number of bear-resistant garbage cans/dumpsters distributed
3. Number of new transfer sites established
4. Number of grain bin doors modified to better secure attractants
5. Number of grease traps purchased and distributed
6. Number of food storage lockers purchased and installed

Interim Reports Due: January 31<sup>st</sup>, 2027

Final Report Due: August 31<sup>st</sup>, 2027

## Attachment B – Invoice Template

| <p>&lt;Your Company Name&gt;</p> <p>&lt;Your address&gt;</p> <p>&lt;Your contact details&gt;</p>  | <p><b>INVOICE</b></p> <hr/> <p>DATE</p> <hr/> <p>INVOICE NO.</p>  |
|---|---|
| <p>Project Title: Putting Wildlife Conservation Tools in Producers' Hands/NFWF</p> <p>Period Covered: MM/DD/YYYY to MM/DD/YYYY</p> <p style="color: #0070c0;">Note: Invoices should be submitted the first week of the month after costs are incurred</p> |   |
| <b>BILL TO</b>  | <b>SEND PAYMENT TO</b>  |
| <p>Heart of the Rockies Initiative</p> <p>120 Hickory Street, Suite B</p> <p>Missoula, MT 59801</p> <p>&lt;Phone&gt;</p> <p>&lt;Email&gt;</p>   | <p>&lt;Name / Dept&gt;</p> <p>&lt;Client Company Name&gt;</p> <p>&lt;Address&gt;</p> <p>&lt;Phone&gt;</p> |
| <b>DESCRIPTION</b>  | <b>TOTAL</b>  |
| <b>Staff Capacity</b>   |   |
| Salary  |   |
| Professional Services   |   |
| <b>SUBTOTAL</b>   |   |
| <b>Education and Outreach</b>   |   |
| Salary  |   |
| Travel  |   |
| Supplies/Materials  |   |
| Other   |   |
| <b>SUBTOTAL</b>   | \$0.00  |
| <b>Electric Fencing/Mats</b>  |   |
| Supplies  |   |
| Other   |   |
| <b>SUBTOTAL</b>   | \$0.00  |
| <b>Bear-resistant Garbage Infrastructure</b>  |   |
| Bear-resistant garbage cans   |   |
| Bear-resistant Garbage dumpsters  |   |
| Transfer sites  |   |
| Other   |   |
| <b>SUBTOTAL</b>   | \$0.00  |
| <b>Balance Due</b>  | <b>\$0.00</b>   |

## **Attachment C – Special Conditions**

***Applies to all Subrecipient Agreements and Grant Awards (herein referred to as "Award")  
initiated by Montana Fish, Wildlife & Parks (herein referred to as "State")***

1. **SAM/UEI.** Subrecipient agrees to comply with applicable requirements regarding registration with the System for Award Management (SAM) (or with a successor government-wide system officially designated by OMB). Subrecipient agrees to obtain a Unique Entity Identifier (UEI) number and to maintain a current registration. The details and processes for registration are available at <https://sam.gov/entity-registration>. Subrecipient further provides that it shall not enter into any subaward, contract or other agreement using funds provided hereunder with any party listed on the SAM Exclusions in accordance with Executive Orders 12549 and 12689. The SAM Exclusions can be found at <https://sam.gov/content/exclusions>.

2. **Suspension/Debarment.** Subrecipient confirms it is not debarred, suspended, or otherwise listed on the System for Award Management (SAM) Excluded Parties List. 2 CFR 200 Appendix II (h).

3. **Single Audit Requirement.** Subrecipients are required to allow the State of Montana (State) access to Subrecipients' records and financial statements as required under the Uniform Guidance. Subrecipients who receive less than \$750,000 in federal funds during the fiscal year are exempt from audit but are required to have available records for review or audit by the State. Subrecipients who expend \$750,000 or more in federal funds during its fiscal year are required to have a single audit conducted in accordance with 2 CFR 200.514 or undergo a program-specific audit.

4. **Risk Assessment.** A risk assessment of the Subrecipient will be conducted before an Award is made. Subrecipients who are deemed "high-risk" may have additional monitoring requirements that may be imposed as per 2 CFR 200.332(e). Additional Risk Assessments may be completed on the Subrecipient if deemed necessary throughout the life of the Award.

5. **Subrecipient Monitoring.** As a condition of the Award, the Subrecipient understands the progress of this agreement will be monitored throughout the life of the Award. Additional requirements may be imposed throughout the life of the agreement if necessary to ensure the Subrecipient is able to fulfill its financial and performance responsibilities.

a. Additionally, onsite monitoring may be conducted by the State as requested. State may conduct onsite monitoring visit(s) with Subrecipient during this Agreement to ensure project goals and objectives as outlined in the SOW are on track. State will schedule the monitoring visit(s) with Subrecipient. Subrecipient's failure to participate in any monitoring visits, missing or rescheduling two consecutive monitoring visits, or Subrecipient's failure to make a good faith effort to resolve problems may result in termination of the Agreement.

6. **Federal Funding Accountability and Transparency Act of 2006. 44 U.S.C. § 3501 ("FFATA").** As of October 1, 2015, recipients of federal awards and contracts, including the State, must comply with subrecipient reporting requirements under FFATA. Under FFATA, the State is required to report on newly issued first tier subawards of \$30,000 or more. The information reported will be made available to the public on the USASpending.gov website.

7. **Requirement to Report Potentially Duplicative Funding.** The Subrecipient agrees that if it currently has an open award of federal funds or if it receives a federal award other than this award, and those award funds have been, are being used, in whole or in part, for one or more of the identical cost items for which funds are being provided under this award, the Subrecipient will promptly notify, in writing, the State Project and Administrative Liaison listed on the Subrecipient Agreement Cover Form to eliminate any inappropriate duplication of funding.

8. **Rights to Inventions Made Under a Contract or Agreement.** Any discovery or invention that arises during the course of the contract shall be reported to the State. Subrecipient must comply with the

requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding federal agency.

**9. Copyright and Right to Use.** Any discovery or invention made, or data or text developed, or under development, as a result of work conducted under this Award, is subject to FEDERAL AGENCY requirements and regulations pertaining to reporting and patent rights, and copyrights and rights in data. In any event, STATE and FEDERAL AGENCY shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, any patented or copyrightable property developed under this Contract.

**10. Program Income.** No projects administered by the State and funded through Federal funding sources should produce an income stream. See 2 CFR 200.1 Program Income definition for definition of what is considered program income. If there is a possibility that the project will produce income, the subrecipient must confer with the State's Project and Administrative Liaison listed on the Subrecipient Agreement Cover Form prior to commencement of project.

**11. Records Retention.** Subrecipient agrees to maintain financial (including personnel records) records, receipts, supporting documents and other records pertaining to all costs and expenditures incurred under this Award for a period of three (3) years following the submission of the final invoice. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings have been resolved. Award records shall be available for inspection by authorized representatives of the State. (2 C.F.R. 200.334).

**12. Access to Records.** Subrecipient agrees to provide State, Legislative Auditor or their authorized agents access to any records necessary to determine Award compliance. State may terminate this Award without incurring liability, for Subrecipient's refusal to allow access as required by this section. (18-1-118, MCA)

**13. Drug Free Work Place.** Subrecipient agrees to comply with the requirements regarding drug-free workplace requirements in Subpart B of 32 CFR part 26, which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

**14. Reduce Text Messaging While Driving.** Pursuant to Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, 74 Fed. Reg. 51225 (October 1, 2009), the State encourages Subrecipients to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this Award and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

**15. Seat Belt Provision.** The Subrecipient is encouraged to adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company-owned, rented, or personally owned vehicles. These measures include, but are not limited to, conducting education, awareness, and other appropriate programs for their employees about the importance of wearing seat belts and the consequences of not wearing them.

**16. Trafficking in Persons.** This Award is pursuant to paragraph (g) of section 106 of the Trafficking Victims Protections Act of 2000, as amendment (2 CFR §175.15).

**17. Equal Employment Opportunity.** Compliance with Executive Order 11246 of September 24, 1965, entitled Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in U.S. Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by Subrecipients and their contractors or subrecipients.) Compliance with equal opportunity to participate in and benefit from programs described is available to all individuals without regard to their race, color, religion, national origin or ancestry, sex, age, handicap,

disability, sexual orientation, gender identity, military or veteran status or political affiliation. Complaints of discrimination should be sent to the Office of Human Resources, Montana Department of Fish, Wildlife & Parks, 1420 E. Sixth Avenue, Helena, Montana 59601.

18. **Copeland "Anti-Kickback".** Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in U.S. Department of Labor regulations (29 CFR Part 3). (All contracts and subawards for construction or repair.

19. **Historic Preservation Act.** Subrecipient shall review the Award to determine whether there is a need for approval under the Historic Preservation Act and, if so determined, will work with the State Historical Preservation Office to get that approval. This approval must be provided to the State before any ground disturbing activities proceed.

20. **Federal Prevailing Wage and other Requirement-Davis Bacon.** In all construction contracts and subcontracts in excess of \$2,000 the Contractor and all Subcontractors shall be subject to the federal Davis-Bacon Act (40 USC 276) as supplemented by the U.S. Department of Labor regulations (29 CFR Part 5).

21. **Procurement of recovered materials.** Subrecipients must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

22. **Prohibition of certain telecommunication/Video Surveillance.** The Subrecipient agrees it will not provide or use covered telecommunications equipment or services in the performance of this contract in compliance with 2 CFR 200.216. Covered telecommunications equipment or services has the meaning provided in Public Law 115-232, section 889.

23. **Clean Air and Water Act.** Compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970, the Federal Water Pollution Control Act, Executive Order 11738, and Environmental Protection Agency regulations (406 CFR Part 15). Compliance with Montana Environmental Policy Act, § 75-1-101, et seq, MCA.

24. **Contract Work Hours and Safety.** Compliance with §§ 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-330) as supplemented by U.S. Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by awardees and subrecipients more than \$2,000, and more than \$2,500 for other contracts which involve the employment of mechanics or laborers.)

25. **Protection of Whistleblowers.** Compliance with 41 U.S.C. § 4712, Enhancement of Recipient and Subrecipient Employee Whistle Protection: (a) This Award, related subawards and related contracts over the simplified acquisition threshold and all employees working on this Award, related subawards and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies established at 41 USC § 4712; (b) Recipients, their subrecipients, and their contractors awarded contracts over the simplified acquisition threshold related to this Award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC § 4712; (c) The recipient shall insert this clause, including this paragraph, in all subawards and in contracts over the simplified acquisition threshold related to this Award.

26. **Lobbying.** Subrecipient agrees that it will not expend any award funds to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in



connection with any of the following covered Federal actions: 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. The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement the provisions of Section 319 of Public Law 101-121 (31 U.S.C. Section 1352) is incorporated by reference and the State agrees to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.

**27. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

**28. Register to do Business in Montana.** If required by law, Subrecipient agrees to register with the Montana Secretary of State. Business that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with §§ 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain guidance of their attorney or accountant to determine whether their activity is considered transacting business. If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665 or visit their website at <http://sos.mt.gov>.

**29. Travel Costs.** Travel and associated costs are only eligible if they are necessary for accomplishing the objectives in the Award and have been included in the approved budget. A Subrecipient may utilize its own travel policy and rates provided those rates do not exceed the State's or Federal GSA rates. Subrecipient must provide State with copy of their travel policy with signed Award.

- a. If the Subrecipient does not have a written travel policy, they must use the State's travel rates for personal vehicle mileage, per diem, and lodging. These can be found at <https://doa.mt.gov/employee-travel> under "Travel Resources - State Employee Travel Information."
1. **Vehicle Usage Rate.** Programs utilizing motor pool vehicles must utilize the State's motor pool rate (<https://mdt.mt.gov/business/wex-fuel.aspx>). The rate must be tracked per project and reported accordingly.
- b. Award funds may not be used to pay for out-of-state travel without prior approval from the State..
- c. Award funds cannot be used for costs and fees associated with cancelation or changes to travel, (i.e., airline, hotels, registration, etc.) unless approved by State..

**30. Indirect Costs:**

- a. A Subrecipient that has an established Federally Approved Indirect Cost Rate in place may request reimbursement for indirect costs. Some federal funding sources may limit the amount of indirect that may be assessed to funding awards. Subrecipients must provide a copy of the organization's Federal Indirect Cost Negotiation Agreement with the signed Award. The Subrecipient must provide the State a new Federal Indirect Cost Negotiation Agreement as applicable.
- b. **De Minimis Indirect Cost Rate.** If eligible, a Subrecipient may elect to use the "de minimis" indirect cost rate described in 2 CFR 200.414(f). The Subrecipient must advise the State in writing of both its eligibility and its election and must comply with all associated requirements of 2 CFR 200. The "de minimis" rate may be applied only to modified total direct costs.

31. **Buy America Build America Act.** As required by Section 70914 of the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), P.L. 117-58, on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program. Recipients of an award of Federal financial assistance are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- all manufactured products used in the project are produced in the United States this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and all construction materials are manufactured in the United States--this means that all manufacturing processes for the construction material occurred in the United States.

**"Construction materials"** includes an article, material, or supply that is or consists primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall. **"Construction Materials"** does not include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

**"Domestic content procurement preference"** means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States. **"Infrastructure"** includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

**"Project"** means the construction, alteration, maintenance, or repair of infrastructure in the United States.