

Northwest Regional Planning Commission
Sub-Grant Agreement with
Central Vermont Regional Planning Commission
for
Climate Pollution Reduction Grant-Phase 2

1. Parties: This is an Agreement for services between the **Northwest Regional Planning Commission**, a public body formed by its member municipalities as enabled under 24 V.S.A. 4341, with principal place of business at 75 Fairfield Street, St. Albans, VT (hereinafter called “NRPC”) and the **Central Vermont Regional Planning Commission** with its principal place of business at 29 Main Street, Suite 4, Montpelier, VT 05602 (hereinafter called “SUBRECIPIENT”).

2. Subject Matter: The subject matter of this Grant Agreement is regional and local coordination of the federal Environmental Protection Agency climate pollution reduction grant to support the planning framework process, to outline existing energy and climate mitigation actions, and to coordinate measures to be proposed in a federal grant application.

3. Maximum Amount: In consideration of the services to be performed by SUBRECIPIENT, the NRPC agrees to pay SUBRECIPIENT in accordance with the payment provisions specified in Attachment B, a sum not to exceed: \$23,191.00

4. Agreement Term: The period of SUBRECIPIENT's performance shall begin 10/09/24 and end 05/31/27

5. Source of Funds: Federal Climate Pollution Reduction Grant funding through an agreement with the Vermont Agency of Natural Resources.

6. Amendment: No changes, modifications, or amendments in the terms and conditions of this Agreement shall be effective unless reduced to writing, numbered, and signed by the duly authorized representative of the NRPC and SUBRECIPIENT.

7. Cancellation: This Agreement may be canceled by either party for any reason by giving written notice at least thirty (30) days in advance.

8. Pre-award Costs: Pre-award costs incurred in accordance with the terms of this agreement are allowable dating back to 09/01/24 .

9. Attachments: This Agreement consists of 33 pages including the following attachments which are incorporated herein:

- Attachment A –Scope of Work to be Performed
- Attachment B – Payment Provisions
- Attachment C – Standard State Provisions for Contracts and Grants—*Only the following subsections of Attachment C shall pass through to this agreement:*

- Section 10 (“False Claims Act”);
- Section 11 (“Whistleblower Protections”);
- Section 12 (“Location of State Data”);
- Section 14 (“Fair Employment Practices and Americans with Disabilities Act”);
- Section 16 (“Taxes Due the State”);
- Section 18 (“Child Support”);
- Section 20 (“No Gifts or Gratuities”);
- Section 22 (“Certification Regarding Debarment”);
- Section 30 (“State Facilities”); and
- Section 32.A (“Certification Regarding Use of State Funds”)

- Attachment D - EPA General Terms and Conditions
- Attachment E - Federal Provisions: U.S. Environmental Protection Agency Climate Pollution Reduction
- Attachment F - Compliance Information Regarding Federal Nondiscrimination Laws and Regulations
- Attachment G - Other Agreement Provisions

10. UEI Requirement: The following information is required. If the SUBRECIPIENT does not have a current Unique Entity Identifier (UEI) number the SUBRECIPIENT must obtain a UEI via <https://sam.gov/content/duns-uei> . The SUBRECIPIENT shall not be paid until a UEI is on file with NRPC.

Legal Name and UEI on File with:

L97JQHE86VX3
UEI

Central Vermont Regional Planning Commission
Legal Name

WE, THE UNDERSIGNED PARTIES, AGREE TO BE BOUND BY THIS AGREEMENT.

Northwest
Regional Planning Commission

Central Vermont Regional Planning Commission

Signature: _____

Signature: _____

Name: Catherine Dimitruk

Name: _____

Title: Executive Director

Title: _____

Date: _____

Date: _____

Attachment A

Scope of Work to be Performed

Overview

The State of Vermont's Agency of Natural Resources (ANR) received a planning grant under the Environmental Protection Agency's Climate Pollution Reduction Grant (CPRG) program, which is funded through the Inflation Reduction Act of 2022. Activities under an agreement with NRPC allow the State to work with RPCs and municipalities to develop climate plan elements that fit into broader state planning so that RPCs and municipalities can implement priorities in their own plans through subsequent funding opportunities. The work outlined in this agreement will help facilitate municipal engagement in the Vermont Climate Action Plan update, and the training on and municipal roll-out of a guide for municipal climate planning, which will be generated external to this scope of work, that builds off existing state plans, and incorporates best practices, pathways, and measures for planning and implementing climate plans at a local level.

External to this agreement the State will work with a contractor to review best practices for municipal climate action planning and will develop a municipal planning framework and guide that walks municipalities through incorporating climate change considerations into existing planning or developing comprehensive climate action plans. Work under this agreement includes the subrecipients supporting the municipal climate planning framework and guide through participation on a technical advisory committee, developing municipal and regional enhanced energy plans, and outreach and training on the municipal climate planning framework and guide once complete.

NRPC will serve as the entity coordinating the work detailed in this agreement and will facilitate the collection and assimilation of information to complete the required deliverables under this agreement.

Program Requirements

CPRG planning grant funds are restricted to projects that are directly related to the development, updating, or evaluation of state or metropolitan plans to reduce climate pollution (i.e., to reduce GHG emissions and/or enhance carbon sinks). In general, funds may be used for:

1. Staffing and contractual costs necessary to develop the deliverables identified in this document;
2. Incidental costs related to the above activities, including but not limited to travel, meeting costs.

Due Dates, Performance Expectations

The tasks, milestones, and deliverables detailed below contain due dates that correspond to completion of all sub tasks. Interim milestone and subtask deadlines may be communicated to the RPC by NRPC without need for a contract amendment. Any request for extension to the due dates outlined below must be submitted to NRPC in writing. NRPC may approve or deny requests for extension. Approval or denial will be communicated in writing.

Task 1 – Support Development and Piloting of a Municipal Climate Planning Framework and Guide

NRPC shall coordinate with RPCs to support the State in the development of a climate planning framework and guide specific to the Vermont context that guides municipalities through the process of writing climate action plans that focus on emissions reduction, carbon sequestration, and climate resilience and adaptation. The climate planning framework will leverage and ensure integration and alignment with state climate planning and other local planning processes, including comprehensive land-use plans, local energy plans, capital improvement plans, local hazard mitigation plans, local emergency management plans, heat response plans, as well as any regional planning, including regional energy plans.

External to this agreement, the State will work with a contractor to lead the development of a municipal climate planning framework and guide, and piloting the use of the framework and guide with 3-4 municipalities across

the state that will result in three main categories of deliverables:

- 1) A municipal climate planning framework that identifies broad principles of climate planning for Vermont municipalities, based on best practices of climate planning from other jurisdictions, an understanding of aspects of climate planning that are already included in Vermont municipal planning structures, and an alignment with community, regional, and State climate goals.
- 2) A guide based on the framework that details the steps and process by which Vermont municipalities can incorporate and implement the principles identified in the framework into specific plans, such as capital plans, energy plans, and municipal plans, or compiled into standalone municipal climate action plans.
- 3) Piloting of the framework and guide with three to four municipalities to ensure it is scalable to meet the needs of municipalities of various sizes, capacity levels, and interests.

NRPC shall coordinate participation of RPCs on a technical advisory group, made up of planning practitioners with expertise in transportation, land use, housing, emergency management, hazard mitigation, economic development, and energy planning. The technical advisory group shall meet regularly with the State's contractor to support the review of Vermont municipal and regional planning structures, and the development of the framework and guide with a particular focus on alignment of the framework with existing local planning processes.

Together with the State's contractor, the NRPC shall also coordinate with RPCs to pilot the framework with three to four communities across the state, ensuring that the framework and guide are scalable to meet the needs of municipalities of various sizes, capacity levels, and needs. Selected RPCs will coordinate the setup of the pilot process and meetings with the selected municipalities and will serve as points of contact for the selected municipalities on feedback outside of meetings. RPCs will work with the State's contractor to refine the framework based on pilot community experiences and will recommend a suite of incentives and tools that the State could consider to drive communities to write, adopt, and implement climate plans.

Task 1 Milestones and Deliverables:

1.1 Bid Review Committee: Addison County RPC shall provide a staff member to serve on the State's bid review committee for the Municipal Climate Planning Framework and Guide.

Due Date: 10/31/24

1.2 Framework Technical Advisory Group Development and Participation:

- Work with NRPC to develop a list of planners for the technical advisory committee. The planners shall bring expertise in transportation, land use, housing, emergency management, hazard mitigation, economic development, and energy planning and represent a range of RPCs. NRPC shall submit a list, and the State shall request changes and approve in writing.
- RPC staff selected for the technical advisory committee, shall participate in a minimum of six meetings of the RPC technical advisory group with the State's contractor, providing feedback on the development of a municipal climate planning framework and guide and incorporation of existing planning requirements and structures into the framework.

Due Date: 8/30/26

1.3 Pilot the Climate Planning Framework:

- The 3-4 RPCs participating in tasks 1.3 and 1.4 will receive a contract amendment to add the pilot community task, deliverables and funding.

1.4 Framework Technical Advisory Group Feedback:

- The 3-4 RPCs participating in tasks 1.3 and 1.4 will receive a contract amendment to add the pilot community task, deliverables and funding.

Due Date: 10/30/26

Task 2 – Updating Local and Regional Energy Plans

RPCs will update regional energy plans and will work with interested municipalities to update energy plans based on the results of the survey conducted pursuant to Phase 1, Task 1A of the phase 1 Climate Pollution Reduction Grant agreement issued from the State to the Northwest Vermont Regional Planning Commission through grant #06100-CAO-CPRG-24-01. These updates will include additional analyses to support the net zero requirement in the Global Warming Solutions Act. Where a municipality has not previously adopted an energy plan, RPCs will assist with new development of relevant actions that will also be ripe for incorporation into the Comprehensive Climate Action Plan (CCAP). RPCs will provide education and awareness on local actions that can be included in the CCAP. RPCs will partner with municipal officials to conduct public outreach and provide technical assistance to support local plan adoption.

If a region or a municipality chooses to update their regional energy plan they will follow the Enhanced Energy Planning Standards from the Public Service Department. Given the Global Warming Solutions Action Net Zero requirement and the need to largely maintain Vermont’s existing forest cover to provide offsetting GHG storage and sequestration, any regional or local energy plans updated with funds from this grant shall include an additional analysis examining the future anticipated buildout of renewables in their region or municipality, and whether it can be sited without forest clearing. This analysis should be conducted by using the Prime Resource Maps developed by following the mapping standard set forth in the [Regional & Municipal Enhanced Energy Planning Standards](#) that removes all known and possible constraints from the wind and solar base maps to demonstrate areas that have a good renewable resource potential without any mapped constraints. Once Prime Resource Maps have been developed, RPCs should add an additional constraint of [habitat blocks \(both highest priority and priority\)](#) that includes forest cover down to 20 acres. Once that additional land area has been removed, an analysis should be conducted to demonstrate whether available non-forested land area is sufficient to meeting the renewable energy generation targets set by Regional Planning Commissions. If non-forested land area is not sufficient, the amount of forest clearing that would be necessary to achieve the generation targets shall be demonstrated in the analysis.

- The habitat blocks shapefile can be downloaded from Vermont’s Open Geodata Portal: https://geodata.vermont.gov/datasets/bdcd6f1bb14948c88c955fa847642d41_1/explore.
- Summary and technical information on the habitat block layer can be found online: <https://anr.vermont.gov/sites/anr/files/documents/Habitat%20Blocks%20Summary.pdf>

Task 2 Milestones and Deliverables:

2.1 Update Local Energy Plans: Update 2 local enhanced energy plans over the course of this agreement using the Regional & Municipal Enhanced Energy Planning Standards from the [Public Service Department](#). Additional plans may be added through amendment of this agreement.

- Within 30 days of the signing of this agreement, provide NRPC a list of municipalities and expected plan completion date.
- Local enhanced energy plans shall be updated using the Regional & Municipal Enhanced Energy Planning Standards from the [Public Service Department](#).
- Updates shall include an analysis of the forest avoidance or clearing needed to achieve buildout of renewables to achieve generation targets set by Regional Planning Commissions; and data, policies, and actions on emissions reduction to be incorporated in Vermont’s Comprehensive Climate Action Plan. The forest clearing analysis should be conducted as described above.

Due Date: Municipal plan schedule 30 days after signing, all others 5/31/27

2.2 Update Regional Energy Plans: The Subrecipient shall update regional enhanced energy plans using the Regional & Municipal Enhanced Energy Planning Standards from the [Public Service Department](#).

Updates shall include:

- [If applicable] The regional enhanced energy plan shall be fully updated using the Regional & Municipal Enhanced Energy Planning Standards from the Public Service Department. In addition to the enhanced energy planning standards, updated plans shall include an analysis of the forest avoidance or clearing needed to achieve buildout of renewables to achieve generation targets set by Regional Planning Commissions as described above.
- [If applicable] Complete regional sets of municipal profiles/targets updated in alignment with Act 174 requirements and the Regional & Municipal Enhanced Energy Planning Standards from the [Public Service Department](#).
- Prepare an implementation report that include a summary of the analysis of the forest avoidance or clearing conducted for the regional and municipal enhanced energy plans that would be needed to achieve buildout of renewables to achieve generation targets set by Regional Planning Commissions, as described above. Implementation reports shall be submitted to NRPC using an outline to be provided.

Due Date: 5/31/27

2.3 Summary of Emissions Reduction Priorities: The RPC shall provide an annual summary report of emissions reduction and climate priorities and actions included in regional and local plans updated using funds from this grant, organized by region and specific sector where emission reductions are expected to occur. Annual summary shall be due by June 1st every year of the grant period and shall include a summary of the work completed on Task 2 deliverable 1 and deliverable 2. NRPC shall provide a template for this report.

Due Date: Annually on June 1st with final summary due 5/31/2027.

Task 3 – Climate Planning Outreach and Engagement

The RPC will conduct outreach and engagement on the municipal climate planning framework once the framework is finalized. The RPC may host, and will assist in logistical support for public and stakeholder meetings for the Vermont Climate Action Plan due to be adopted on July 1, 2025.

Task 3 Milestones and Deliverables:

3.1 Municipal Climate Planning Framework & Guide Outreach: The RPC will conduct a minimum of one outreach meeting to present and train on the finalized municipal climate planning framework completed under Task 1. Trainings can be held at or in combination with other events. The 3-4 pilot municipalities should be included in the trainings offered in their RPC region, either through participation and joint presentation of their pilot experience, or through review and feedback on the training materials prior to delivery. The RPC shall submit a report summarizing the planning framework engagement events, and the feedback received at the events. The training materials and presentations that were used at the events shall be included as an addendum to the summary report.

Due Date: 5/31/27

3.2 CAP Municipal Stakeholder Meetings: [BCRC and CCRPC only] The RPC will assist with hosting and take notes for two virtual municipal stakeholder meetings in November 2024 to gather feedback on the recommendations in the draft Vermont Climate Action Plan.

Due Date: 11/30/24

3.3 Logistical Support for CAP Public Meetings: The RPC shall lead logistical support and shall provide other meeting support for five to seven statewide meetings in consultation with the State on the draft State of Vermont Climate Action Plan in April of 2025. Logistical support shall include booking the meeting location and payment of location fee if needed, publicize event, attending, and taking notes. The RPC will coordinate with neighboring regions to provide support for the meetings held at locations within and/or adjacent to their regions.

Due Date: 5/30/2025

Performance Reports:

A performance report that details the progress made on deliverables shall be submitted with each invoice. The report shall include a table provided by NRPC indicating:

Task 1:

- Total number of RPC staff who participated in meetings of the Municipal Climate Planning Framework Technical Advisory Committee, and total number of Advisory Committee meetings held.
- Total number of Municipal Climate Planning Framework & Guide pilot community meetings scheduled.

Task 2

- Total number of local energy plan updates completed.
- Total number of regional energy plan updates completed.
- Total regional sets of municipal profiles/targets updated.

Task 3:

- Total number of Municipal Climate Planning Framework & Guide Outreach meetings scheduled.
- Total number of CAP Municipal Stakeholder Meetings scheduled.
- Total number of CAP Public Meetings scheduled.

ATTACHMENT B PAYMENT PROVISIONS

The NRPC agrees to compensate the SUBRECIPIENT for services performed up to the maximum amounts in a Task Order provided such services are within the scope of the agreement and are authorized as provided for under the terms and conditions of this agreement.

- A. Payment Procedures. The NRPC shall pay, or cause to be paid, to the SUBRECIPIENT progress payments which may be monthly or as otherwise agreed to by the parties for actual costs incurred as determined by using cost records for each task (Tasks 1-3) and expense line items such as labor, benefits and direct and indirect costs of the required services covered by this Agreement. Also,
1. Requests for payment shall be accompanied by progress reports and be made directly to the NRPC, for all work. Any printed reports delivered under the terms of this Agreement shall be printed using both sides of the page whenever practical.
 2. Request for payment for sub-consultant activities shall be included with the SUBRECIPIENT's submittals, but will be documented separately.
 3. The NRPC shall pay for all approved services, expenses and materials accomplished or used during the period of this Agreement, and only that effort will be included on invoices under this Agreement.
 4. The above payments shall be made promptly in accordance with applicable STATE and Federal regulations. The NRPC shall seek to make payments within sixty (60) days of receipt of an invoice from the SUBRECIPIENT.
 5. All payments by the NRPC under this Agreement will be made in reliance upon the accuracy of all prior representations by the SUBRECIPIENT including but not limited to bills, invoices, progress reports and other proofs of work.
 6. Invoice Requirements: Payment must be requested using an invoice showing name of project, period in which work is completed, amount billed to date and balance by task (including a progress report and sub-contractor invoices). In the event of a multi-year or overlapping fiscal year contract, all expenses incurred in a given fiscal year must be billed in that fiscal year to qualify for reimbursement.

Invoice and supporting documentation shall be submitted electronically to Amy Adams, Office Administrator, at aadams@nrpcvt.com.

All invoices must now include the certification of expense clause: "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."

B. Maximum Payment by Task: The budget below details the maximum payable by task.

Task 1– \$1,500.00

Task 2– \$19,600.00

Task 3– \$2,091.00

C. Additional Requirements: Attachments C-F include provisions that flow down from NRPC's Agreement with the State of Vermont to the SUBRECIPIANT, and therefore become a part of this Agreement, as applicable. Should any of the provisions be contradictory or in conflict with another, the provisions flowing down from the specific funding source from NRPC's Agreement shall be primary.

The completion of the Agreement is subject to the availability of funds.

ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS

REVISED DECEMBER 7, 2023

[**NRPC Note:** Only the following subsections of Attachment C shall pass through to this agreement: Section 10 (“False Claims Act”); Section 11 (“Whistleblower Protections”); Section 12 (“Use and Protection of State Information”); Section 14 (“Fair Employment Practices and Americans with Disabilities Act”); Section 16 (“Taxes Due the State”); Section 18 (“Child Support”); Section 20 (“No Gifts or Gratuities”); Section 22 (“Certification Regarding Debarment”); Section 30 (“State Facilities”); and Section 32.A (“Certification Regarding Use of State Funds”).]

1. Definitions: For purposes of this Attachment, “Party” shall mean the Contractor, Grantee, or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

2. Entire Agreement: This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect. Where an authorized individual is either required to click-through or otherwise accept, or made subject to, any electronic terms and conditions to use or access any product or service provided hereunder, such terms and conditions are not binding and shall have no force or effect. Further, any terms and conditions of Party’s invoice, acknowledgment, confirmation, or similar document, shall not apply, and any such terms and conditions on any such document are objected to without need of further notice or objection.

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont without resort to conflict of laws principles. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State regarding its performance under this Agreement. Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

4. Sovereign Immunity: The State reserves all immunities, defenses, rights, or actions arising out of the State’s sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State’s immunities, defenses, rights, or actions shall be implied or otherwise deemed to exist by reason of the State’s entry into this Agreement.

5. No Employee Benefits For Party: The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or Federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

6. Independence: The Party will act in an independent capacity and not as officers or employees of the State.

7. Defense and Indemnity:

- A.** The Party shall defend the State and its officers and employees against all third-party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits.
- B.** After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement.

- C. The Party shall indemnify the State and its officers and employees if the State, its officers, or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party or an agent of the Party in connection with the performance of this Agreement.
- D. Notwithstanding any contrary language anywhere, in no event shall the terms of this Agreement or any document furnished by the Party in connection with its performance under this Agreement obligate the State to (1) defend or indemnify the Party or any third party, or (2) otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party or any third party.

8. Insurance: During the term of this Agreement, Party, at its expense, shall maintain in full force and effect the insurance coverages set forth in the Vermont State Insurance Specification in effect at the time of incorporation of this Attachment C into this Agreement. The terms of the Vermont State Insurance Specification are hereby incorporated by reference into this Attachment C as if fully set forth herein. A copy of the Vermont State Insurance Specification is available at: <https://aoa.vermont.gov/Risk-Claims-COI>.

9. Reliance by the State on Representations: All payments by the State under this Agreement will be made in reliance upon the accuracy of all representations made by the Party in accordance with this Agreement, including but not limited to bills, invoices, progress reports, and other proofs of work.

10. False Claims Act: Any liability to the State under the Vermont False Claims Act (32 V.S.A. § 630 et seq.) shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.

11. Whistleblower Protections: The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority, or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

12. Use and Protection of State Information:

- A. As between the State and Party, "State Data" includes all data received, obtained, or generated by the Party in connection with performance under this Agreement. Party acknowledges that certain State Data to which the Party may have access may contain information that is deemed confidential by the State, or which is otherwise confidential by law, rule, or practice, or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. ("Confidential State Data").
- B. With respect to State Data, Party shall:
 - i. take reasonable precautions for its protection;
 - ii. not rent, sell, publish, share, or otherwise appropriate it; and
 - iii. upon termination of this Agreement for any reason, Party shall dispose of or retain State Data if and to the extent required by this Agreement, law, or regulation, or otherwise requested in writing by the State.
- C. With respect to Confidential State Data, Party shall:
 - i. strictly maintain its confidentiality;
 - ii. not collect, access, use, or disclose it except as necessary to provide services to the State under this Agreement;
 - iii. provide at a minimum the same care to avoid disclosure or unauthorized use as it provides to protect its own similar confidential and proprietary information;
 - iv. implement and maintain administrative, technical, and physical safeguards and controls to protect against any anticipated threats or hazards or unauthorized access or use;
 - v. promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for Confidential State Data so that the State may seek an appropriate protective order; and
 - vi. upon termination of this Agreement for any reason, and except as necessary to comply with subsection B.iii above in this section, return or destroy all Confidential State Data remaining in its possession or control.
- D. If Party is provided or accesses, creates, collects, processes, receives, stores, or transmits Confidential State Data in any electronic form or media, Party shall utilize:
 - ~~i~~ C-Industry-standard firewall protection;

- ii. multi-factor authentication controls;
 - iii. encryption of electronic Confidential State Data while in transit and at rest;
 - iv. measures to ensure that the State Data shall not be altered without the prior written consent of the State;
 - v. measures to protect against destruction, loss, or damage of State Data due to potential environmental hazards, such as fire and water damage;
 - vi. training to implement the information security measures; and
 - vii. monitoring of the security of any portions of the Party's systems that are used in the provision of the services against intrusion.
- E. No Confidential State Data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside the United States, except with the express written permission of the State.
- F. Party shall notify the State within twenty-four hours after becoming aware of any unauthorized destruction, loss, alteration, disclosure of, or access to, any State Data.
- G. State of Vermont Cybersecurity Standard Update: Party confirms that all products and services provided to or for the use of the State under this Agreement shall be in compliance with State of Vermont Cybersecurity Standard Update in effect at the time of incorporation of this Attachment C into this Agreement. The State of Vermont Cybersecurity Standard Update prohibits the use of certain branded products in State information systems or any vendor system, and a copy is available at: <https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>
- H. In addition to the requirements of this Section 12, Party shall comply with any additional requirements regarding the protection of data that may be included in this Agreement or required by law or regulation.

13. Records Available for Audit: The Party shall maintain all records pertaining to performance under this Agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this Agreement. Records produced or acquired in a machine-readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of this Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. 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 involving the records have been resolved.

14. Fair Employment Practices and Americans with Disabilities Act: Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable, and shall include this provision in all subcontracts for work performed in Vermont. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.

15. Offset: The State may offset any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any offset of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided in 32 V.S.A. § 3113.

16. Taxes Due to the State: Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.

17. Taxation of Purchases: All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.

18. Child Support: (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date this Agreement is signed, Party is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order. Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

19. Sub-Agreements: Party shall not assign, subcontract, or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party shall be responsible and liable to the State for all acts or omissions of subcontractors and any other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

In the case this Agreement is a contract with a total cost in excess of \$250,000, the Party shall provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), as amended by Section 17 of Act No. 142 (2010) and by Section 6 of Act No. 50 (2011).

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Confidentiality and Protection of State Information"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 30 ("State Facilities"); and Section 32.A ("Certification Regarding Use of State Funds").

- 20. No Gifts or Gratuities:** Party shall not give title or possession of anything of substantial value (including property, currency, travel, and/or education programs) to any officer or employee of the State during the term of this Agreement.
- 21. Regulation of Hydrofluorocarbons:** Party confirms that all products provided to or for the use of the State under this Agreement shall not contain hydrofluorocarbons, as prohibited under 10 V.S.A. § 586.
- 22. Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible, or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds. Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: <https://bgs.vermont.gov/purchasing-contracting/debarment>.
- 23. Conflict of Interest:** Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.
- 24. Vermont Public Records Act:** Party acknowledges and agrees that this Agreement, any and all information obtained by the State from the Party in connection with this Agreement, and any obligations of the State to maintain the confidentiality of information are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 *et seq.*
- 25. Force Majeure:** Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lockouts) ("Force Majeure"). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.
- 26. Marketing:** Party shall not use the State's logo or otherwise refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.
- 27. Termination:**
- A. Non-Appropriation:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel this Agreement at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Agreement immediately, and the State shall have no obligation to pay Party from State revenues.
 - B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice.
 - C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

28. Continuity of Performance: In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

29. No Implied Waiver of Remedies: Either party's delay or failure to exercise any right, power, or remedy under this Agreement shall not impair any such right, power, or remedy, or be construed as a waiver of any such right, power, or remedy. All waivers must be in writing.

30. State Facilities: If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party's performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to, and use of, State facilities, which shall be made available upon request. State facilities will be made available to Party on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements: If this Agreement is a grant that is funded in whole or in part by Federal funds:

- A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the Federal Audit Clearinghouse within nine months. If a single audit is not required, only the Subrecipient Annual Report is required. A Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.
- B. Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission.
- C. Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

- A. Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of \$1,000, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.
- B. Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify; and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)

Attachment D: EPA General Terms and Conditions

Applicable to Sub-Recipients

Effective October 1, 2022

1. Introduction

- (a) The recipient and any sub-recipient must comply with the applicable EPA general terms and conditions outlined below. These terms and conditions are in addition to the assurances and certifications made as part of the award and terms, conditions, and restrictions reflected on the official assistance award document. Recipients **must** review their official award document for additional administrative and programmatic requirements. Failure to comply with the general terms and conditions outlined below and those directly reflected on the official assistance award document may result in enforcement actions as outlined in 2 CFR 200.339 and 200.340.
- (b) If the EPA General Terms and Conditions have been revised, EPA will update the terms and conditions when it provides additional funding (incremental or supplemental) prior to the end of the period of performance of this agreement. The recipient must comply with the revised terms and conditions after the effective date of the EPA action that leads to the revision. Revised terms and conditions do not apply to the recipient's expenditures of EPA funds or activities the recipient carries out prior to the effective date of the EPA action. EPA will inform the recipient of revised terms and conditions in the action adding additional funds.

2. **Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards** This award is subject to the requirements of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards; Title 2 CFR, Parts [200](#) and [1500](#). 2 CFR 1500.2, Adoption of 2 CFR Part 200, states the Environmental Protection Agency adopts the Office of Management and Budget (OMB) guidance Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non-Federal Entities (subparts A through F of 2 CFR Part 200), as supplemented by 2 CFR Part 1500, as the Environmental Protection Agency (EPA) policies and procedures for financial assistance administration. 2 CFR Part 1500 satisfies the requirements of 2 CFR 200.110(a) and gives regulatory effect to the OMB guidance as supplemented by 2 CFR Part 1500. This award is also subject to applicable requirements contained in EPA programmatic regulations located in 40 CFR Chapter 1 Subchapter B.

3. Termination

Consistent with 2 CFR 200.340, EPA may unilaterally terminate this award in whole or in part:

- a. if a recipient fails to comply with the terms and conditions of the award including statutory or regulatory requirements; or
- b. if the award no longer effectuates the program goals or agency priorities. Situations in which EPA may terminate an award under this provision include when:
 - (i) EPA obtains evidence that was not considered in making the award that reveals that specific award objective(s) are ineffective at achieving program goals and EPA determines that it is in the government's interest to terminate the award;
 - (ii) EPA obtains evidence that was not considered in making the award that causes EPA to significantly question the feasibility of the intended objective(s) of the award and EPA determines that it is in the government's interest to terminate the award;
 - (iii) EPA determines that the objectives of the award are no longer consistent with funding priorities for achieving program goals.

Selected Items of Cost

4. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

This term and condition implements 2 CFR 200.216 and is effective for obligations and expenditures of EPA financial assistance funding on or after 8/13/2020.

As required by 2 CFR 200.216, EPA recipients and subrecipients, including borrowers under EPA funded revolving loan fund programs, are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Recipients, subrecipients, and borrowers also may not use EPA funds to purchase:

- a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- b. Telecommunications or video surveillance services provided by such entities or using such equipment.
- c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Consistent with 2 CFR 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances:

- a. Obligating or expending EPA funds for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR 200.216 to:
 - (1) Procure or obtain, extend or renew a contract to procure or obtain;
 - (2) Enter into a contract (or extend or renew a contract) to procure; or
 - (3) Obtain the equipment, services, or systems.

Certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management](#) exclusion list.

5. Consultant Cap

EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, available at: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Information on how to calculate the maximum daily rate and the daily pay limitation is available at the Office Of Personnel Management's [Fact Sheet: How to Compute Rates of Pay](#) and [Fact Sheet: Expert and Consultant Pay](#). Specifically, to determine the maximum daily rate, follow these steps:

1. Divide the Level IV salary by 2087 to determine the hourly rate. Rates must be rounded to the nearest cent, counting one-half cent and over as the next higher cent (e.g., round \$18.845 to \$18.85).
2. Multiply the hourly rate by 8 hours. The product is the maximum daily rate.

Contracts and subcontracts with firms for services that are awarded using the procurement requirements in Subpart D of 2 CFR Part 200 are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See [2 CFR 1500.10](#).

6. Establishing and Managing Subawards

If the recipient chooses to pass funds from this assistance agreement to other entities, the recipient must comply with applicable provisions of 2 CFR Part 200 and the EPA Subaward Policy.

As a pass-through entity, the recipient agrees to:

1) Be responsible for selecting subrecipients and as appropriate conducting subaward competitions using a system for properly differentiating between subrecipients and procurement contractors under the standards at 2 CFR 200.331 and EPA's supplemental guidance in Appendix A of the EPA Subaward Policy.

- (a) For-profit organizations under EPA financial assistance programs and the pass-through entity must obtain prior written approval from EPA's Award Official for subawards to these entities unless the EPA-approved budget and work plan for this agreement contain a precise description of such subawards.
- (b) Stipends and travel assistance for trainees (including interns) and similar individuals who are not employees of the pass-through entity must be classified as participant support costs rather than subawards as provided in 2 CFR 200.1 Participant support costs, 2 CFR 200.1 Subaward, and EPA's Guidance on Participant Support Costs.
- (c) Subsidies, rebates and similar payments to participants in EPA funded programs to encourage environmental stewardship are also classified as Participant support costs as provided in 2 CFR 1500.1 and EPA's Guidance on Participant Support Costs.

2) Establish and follow a system that ensures all subaward agreements are in writing and contain all of the elements required by 2 CFR 200.332(a). EPA has developed a template for subaward agreements that is available in Appendix D of the EPA Subaward Policy.

3) Prior to making subawards, ensure that each subrecipient has a "Unique Entity Identifier (UEI)." The UEI is required by 2 CFR Part 25 and 2 CFR 200.332(a)(1). Subrecipients are not required to complete full System for Award Management (SAM) registration to obtain a UEI. Information regarding obtaining a UEI is available at the SAM Internet site: <https://www.sam.gov/SAM/> and in EPA's General Term and Condition "System for Award Management and Universal Identifier Requirements" of the pass-through entity's agreement with the EPA.

4) Ensure that subrecipients are aware that they are subject to the same requirements as those that apply to the pass-through entity's EPA award as required by 2 CFR 200.332(a)(2). These requirements include, among others:

- (a) Title VI of the Civil Rights Act and other Federal statutes and regulations prohibiting discrimination in Federal financial assistance programs, as applicable.
- (b) Reporting Subawards and Executive Compensation under Federal Funding Accountability and Transparency Act (FFATA) set forth in the General Condition pass-through entity's agreement with EPA entitled "Reporting Subawards and Executive Compensation."
- (c) Limitations on individual consultant fees as set forth in 2 CFR 1500.10 and the General Condition of the pass-through entity's agreement with EPA entitled "Consultant Fee Cap."
- (d) EPA's prohibition on paying management fees as set forth in General Condition of the pass-through entity's agreement with EPA entitled "Management Fees."
- (e) The Procurement Standards in 2 CFR Part 200 including those requiring competition when the subrecipient acquires goods and services from contractors (including consultants).

EPA provides general information on other statutes, regulations and Executive Orders on the Grants internet site at www.epa.gov/grants. Many Federal requirements are agreement or program specific and EPA encourages pass-through entities to review the terms of their assistance agreement carefully and consult with their EPA Project Officer for advice if necessary.

5) Ensure, for states and other public recipients, that subawards are not conditioned in a manner that would disadvantage applicants for subawards based on their religious character.

6) Establish and follow a system for evaluating subrecipient risks of noncompliance with Federal statutes,

regulations and the terms and conditions of the subaward as required by 2 CFR 200.332(b) and document the evaluation. Risk factors may include:

- (a) Prior experience with same or similar subawards
- (b) Results of previous audits;
- (c) Whether new or substantially changed personnel or systems, and;
- (d) Extent and results of Federal awarding agency or the pass-through entity's monitoring

7) Establish and follow a process for deciding whether to impose additional requirements on subrecipients based on risk factors as required by 2 CFR 200.332(c). Examples of additional requirements authorized by 2 CFR 200.208 include:

- (a) Requiring payments as reimbursements rather than advance payments;
- (b) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- (c) Requiring additional, more detailed financial reports;
- (d) Requiring additional project monitoring;
- (e) Requiring the non-Federal entity to obtain technical or management assistance, and
- (f) Establishing additional prior approvals

8) Establish and follow a system for monitoring subrecipient performance that includes the elements required by 2 CFR 200.332(d) and report the results of the monitoring in performance reports as provided in the reporting terms and conditions of this agreement.

9) Establish and maintain an accounting system which ensures compliance with the \$25,000 limitation at 2 CFR 200.1, Modified Total Direct Costs, if applicable, on including subaward costs in Modified Total Direct Costs for the purposes of distributing indirect costs. Recipients with Federally approved indirect cost rates that use a different basis for distributing indirect costs to subawards must comply with their Indirect Cost Rate Agreement.

10) Work with EPA's Project Officer to obtain the written consent of EPA's Office of International and Tribal Affairs (OITA), prior to awarding a subaward to a foreign or international organization, or a subaward to be performed in a foreign country even if that subaward is described in a proposed scope of work.

11) Obtain written approval from EPA's Award Official for any subawards that are not described in the approved work plan in accordance with 2 CFR 200.308.

12) Obtain the written approval of EPA's Award Official prior to awarding a subaward to an individual if the EPA-approved scope of work does not include a description of subawards to individuals.

13) Establish and follow written procedures under 2 CFR 200.302(b)(7) for determining that subaward costs are allowable in accordance with 2 CFR Part 200, Subpart E and the terms and conditions of this award. These procedures may provide for allowability determinations on a pre-award basis, through ongoing monitoring of costs that subrecipients incur, or a combination of both approaches provided the pass-through entity documents its determinations.

14) Establish and maintain a system under 2 CFR 200.332(d)(3) and 2 CFR 200.521 for issuing management decisions for audits of subrecipients that relate to Federal awards. However, the recipient remains accountable to EPA for ensuring that unallowable subaward costs initially paid by EPA are reimbursed or mitigated through offset with allowable costs whether the recipient recovers those costs from the subrecipient or not.

15) As provided in 2 CFR 200.333, pass-through entities must obtain EPA approval to make fixed amount subawards. EPA is restricting the use of fixed amount subawards to a limited number of situations that are authorized in official EPA pilot projects. Recipients should consult with their EPA Project Officer regarding the status of these pilot projects.

By accepting this award, the recipient is certifying that it either has systems in place to comply with the requirements described in Items 1 through 14 above or will refrain from making subawards until the systems are designed and implemented.

7. Management Fees

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses; unforeseen liabilities; or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

8. Federal Employee Costs

The recipient understands that none of the funds for this project (including funds contributed by the recipient as cost sharing) may be used to pay for the travel of Federal employees or for other costs associated with Federal participation in this project unless a Federal agency will be providing services to the recipient as authorized by a Federal statute.

9. Foreign Travel

EPA policy requires that all foreign travel must be approved by its Office of International and Tribal Affairs. The recipient agrees to obtain prior EPA approval before using funds available under this agreement for international travel unless the trip(s) are already described in the EPA approved budget for this agreement. Foreign travel includes trips to Mexico and Canada but does not include trips to Puerto Rico, the U.S. Territories or possessions. Recipients that request post-award approval to travel frequently to Mexico and Canada by motor vehicle (e.g. for sampling or meetings) may describe their proposed travel in general terms in their request for EPA approval. Requests for prior approval must be submitted to the Project Officer for this agreement.

10. The Fly America Act and Foreign Travel

The recipient understands that all foreign travel **funded under this assistance agreement** must comply with the Fly America Act. All travel must be on U.S. air carriers certified under 49 U.S.C. Section 40118, to the extent that service by such carriers is available even if foreign air carrier costs are less than the American air carrier.

11. Union Organizing

Grant funds may not be used to support or oppose union organizing, whether directly or as an offset for other funds.

12. Suspension and Debarment

Recipient shall fully comply with Subpart C of 2 C.F.R. Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business With Other Persons," as implemented and supplemented by 2 C.F.R. Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 C.F.R. Part 180, entitled "Covered Transactions," and 2 C.F.R. § 1532.220, includes a term or condition requiring compliance with 2 C.F.R. Part 180, Subpart C. Recipient is responsible for further requiring the inclusion of a similar term and condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information required under 2 C.F.R. § 180.335 to the EPA office that is entering into the transaction with the recipient may result in the delay or negation of this assistance agreement, or pursuance of administrative remedies, including suspension and debarment. Recipients may access the System for Award Management (SAM) exclusion list at <https://sam.gov/SAM/> to determine whether an entity or individual is presently excluded or disqualified.

13. Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.

This award is subject to the provisions contained in an appropriations act(s) which prohibits the Federal Government

from entering into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to any corporation having a delinquent Federal tax liability or a felony conviction under any Federal law, unless the agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government. A “corporation” is a legal entity that is separate and distinct from the entities that own, manage, or control it. It is organized and incorporated under the jurisdictional authority of a governmental body, such as a State or the District of Columbia. A corporation may be a for-profit or non-profit organization.

As required by the appropriations act(s) prohibitions, the Government will not enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee with any corporation that — (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or (2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

By accepting this award, the recipient represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and it is not a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

Alternatively, by accepting this award, the recipient represents that it disclosed unpaid Federal tax liability information and/or Federal felony conviction information to the EPA. The Recipient may accept this award if the EPA Suspension and Debarment Official has considered suspension or debarment of the corporation based on a tax liabilities and/or Federal felony convictions and determined that suspension or debarment is not necessary to protect the Government's interests.

If the recipient fails to comply with this term and condition, EPA will annul this agreement and may recover any funds the recipient has expended in violation of the appropriations act(s) prohibition(s). The EPA may also pursue other administrative remedies as outlined in 2 CFR 200.339 and 2 CFR 200.340, and may also pursue suspension and debarment.

9. Disclosing Conflict of Interest

9.1 For Award to Non-Federal Entities and Individuals (other than states and fellowship recipients under 40 CFR Part 46)

As required by 2 CFR 200.112, EPA has established a policy (COI Policy) for disclosure of conflicts of interest (COI) that may affect EPA financial assistance awards. EPA’s COI Policy is posted at <https://www.epa.gov/grants/epas-financial-assistance-conflict-interest-policy>. The posted version of EPA’s COI Policy is applicable to new funding (initial awards, supplemental and incremental funding) awarded on or after October 1, 2015.

For competitive awards, recipients must disclose any competition related COI described in section 4.0(a) of the COI Policy that are discovered after award to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of discovery of the COI. The Grants Specialist will respond to any such disclosure within 30 calendar days.

EPA’s COI Policy requires that recipients have systems in place to address, resolve and disclose to EPA COIs described in sections 4.0(b), (c) and/or (d) of the COI Policy that affect any contract or subaward regardless of amount funded under this award. The recipient’s COI Point of Contact for the award must disclose any COI to the EPA Grants

Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of the discovery of the potential COI and their approach for resolving the COI.

EPA's COI Policy requires that subrecipients have systems in place to address, resolve and disclose COI's described in section 4.0(b)(c) and (d) of the COI Policy regardless of the amount of the transaction. Recipients who are pass-through entities as defined at 2 CFR 200.1 must require that subrecipients being considered for or receiving subawards disclose COI to the pass-through entities in a manner that, at a minimum, is in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy. Pass-through entities must disclose the subrecipient COI along with the approach for resolving the COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of receiving notification of the COI by the subrecipient.

EPA only requires that recipients and subrecipients disclose COI's that are discovered under their systems for addressing and resolving COI. If recipients or subrecipients do not discover a COI, they do not need to advise EPA or the pass-through entity of the absence of a COI.

Upon notice from the recipient of a potential COI and the approach for resolving it, the Agency will then make a determination regarding the effectiveness of these measures within 30 days of receipt of the recipient's notice unless a longer period is necessary due to the complexity of the matter. Recipients may not request payment from EPA for costs for transactions subject to the COI pending notification of EPA's determination. Failure to disclose a COI may result in cost disallowances.

Disclosure of potential COI will not necessarily result in EPA disallowing costs, with the exception of procurement contracts that the Agency determines violate 2 CFR 200.318(c)(1) or (2), provided the recipient notifies EPA of measures the recipient or subrecipient has taken to eliminate, neutralize or mitigate the conflict of interest when making the disclosure.

14. Utilization of Disadvantaged Business Enterprises

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

The following text either provides updates to 40 CFR, Part 33 based upon the associated class exception or highlights a requirement.

1. EPA MBE/WBE CERTIFICATION, 40 CFR, Part 33, Subpart B

EPA no longer certifies entities as Minority-Owned Business Entities (MBEs) or Women-Owned Business Entities (WBEs) pursuant to a class exception issued in October 2019. The class exception was authorized pursuant to the authority in 2 CFR, Section 1500.3(b).

2. SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR Section 33.301, the recipient agrees to make good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained. The specific six good faith efforts can be found at: [40 CFR Section 33.301 \(a\)-\(f\)](#).

However, in EPA assistance agreements that are for the benefit of Native Americans, the recipient must solicit and recruit Native American organizations and Native American-owned economic enterprises and give them preference in the award process prior to undertaking the six good faith efforts ([40 CFR Section 33.304](#)). If recruiting efforts are unsuccessful, the recipient must follow the six good faith efforts.

3. CONTRACT ADMINISTRATION PROVISIONS, 40 CFR Section 33.302

The recipient agrees to comply with the contract administration provisions of [40 CFR Section 33.302](#) (a)- (d) and (i).

4. BIDDERS LIST, 40 CFR Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR Section 33.501 (b) and (c) for specific requirements and exemptions.

5. FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

In October 2019, a class exception to the entire Subpart D of 40 CFR, Part 33 has been authorized pursuant to the authority in 2 CFR Section 1500.3(b). Notwithstanding Subpart D of 40 CFR, Part 33, recipients are not required to negotiate or apply fair share objectives in procurements under assistance agreements.

6. MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E

When required, the recipient agrees to complete and submit a “Disadvantaged Business Enterprise Subcontractor Effort and Utilization Form”, on an annual basis, by the 7th of October.

Reporting is required for assistance agreements where funds are budgeted for procuring construction, equipment, services and supplies (including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the “Other” category), including amendments and/or modifications. When reporting is required, all procurement actions are reportable.

7. MBE/WBE RECORDKEEPING, 40 CFR, Part 33, Subpart E

The recipient agrees to comply with all recordkeeping requirements as stipulated in 40 CFR, Part 33, Subpart E including creating and maintaining a bidders list, when required. Any document created as a record to demonstrate compliance with any requirement of 40 CFR, Part 33 must be maintained pursuant to the requirements stated in this Subpart.

Programmatic General Terms and Conditions**15. Copyrighted Material and Data**

In accordance with [2 CFR 200.315](#), EPA has the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement for Federal purposes.

Examples of a Federal purpose include but are not limited to: (1) Use by EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for [i.e., authorized by] the Government; (3) Publication in EPA documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as “co-regulators” or act as official partners with EPA to carry out a national environmental program within their jurisdiction and; (6) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of EPA’s authorization to the other grantee to use the copyrighted works or other data.

Under Item 6, the grantee acknowledges that EPA may authorize another grantee(s) to use the copyrighted works or other data developed under this grant as a result of:

- the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data or;

- termination or expiration of this agreement.

In addition, EPA may authorize another grantee to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

16. Patents and Inventions

Rights to inventions made under this assistance agreement are subject to federal patent and licensing regulations, which are codified at Title 37 CFR Part 401 and Title 35 USC Sections 200-212.

Pursuant to the Bayh-Dole Act (set forth in 35 USC 200-212), EPA retains the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the assistance agreement holder, as defined in the Act. To streamline the invention reporting process and to facilitate compliance with the Bayh-Dole Act, the recipient must utilize the Interagency Edison extramural invention reporting system at <https://www.nist.gov/iedison>. Annual utilization reports must be submitted through the system. The recipient is required to notify the Project Officer identified on the award document when an invention report, patent report, or utilization report is filed at <https://www.nist.gov/iedison>. EPA elects not to require the recipient to provide a report prior to the close-out of a funding agreement listing all subject inventions or stating that there were none.

In accordance with Executive Order 12591, as amended, government owned and operated laboratories can enter into cooperative research and development agreements with other federal laboratories, state and local governments, universities, and the private sector, and license, assign, or waive rights to intellectual property “developed by the laboratory either under such cooperative research or development agreements and from within individual laboratories.”

17. Acknowledgement Requirements for Non-ORD Assistance Agreements

The recipient agrees that any reports, documents, publications or other materials developed for public distribution supported by this assistance agreement shall contain the following statement:

"This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient). The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the EPA endorse trade names or recommend the use of commercial products mentioned in this document."

Recipients of EPA Office of Research Development (ORD) research awards must follow the acknowledgement requirements outlined in the research T&Cs available at: <https://www.nsf.gov/awards/managing/rtc.jsp>. A Federal-wide workgroup is currently updating the Federal-Wide Research Terms and Conditions Overlay to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards and when completed recipients of EPA ORD research must abide by the research T&Cs.

18. Electronic and Information Technology Accessibility

Recipients are subject to the program accessibility provisions of Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7, which includes an obligation to provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology (“EIT”). In compliance with Section 504, EIT systems or products funded by this award must be designed to meet the diverse needs of users (e.g., U.S. public, recipient personnel) without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology. At this time, the EPA will consider a recipient’s websites, interactive tools, and other EIT as being in compliance with Section 504 if such technologies meet standards established under Section 508 of the Rehabilitation Act, codified at 36 CFR Part 1194. While Section

508 does not apply directly to grant recipients, we encourage recipients to follow either the 508 guidelines or other comparable guidelines that concern accessibility to EIT for individuals with disabilities. Recipients may wish to consult the latest Section 508 guidelines issued by the U.S. Access Board or W3C's Web Content Accessibility Guidelines (WCAG) 2.0 (see <https://www.access-board.gov/about/policy/accessibility.html>).

19. Human Subjects

Human subjects research is any activity that meets the regulatory definitions of both research AND human subject. *Research* is a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. *Human subject* means a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information. [40 CFR 26.102 (d)(f)]

No research involving human subjects will be conducted under this agreement without prior written approval of the EPA to proceed with that research. If engaged in human subjects research as part of this agreement, the recipient agrees to comply with all applicable provisions of EPA Regulation 40 CFR 26 (Protection of Human Subjects). This includes, at Subpart A, the Basic Federal Policy for the Protection of Human Research Subjects, also known as the Common Rule. It also includes, at Subparts B, C, and D, prohibitions and additional protections for children, nursing women, pregnant women, and fetuses in research conducted or supported by EPA.

The recipient further agrees to comply with EPA's procedures for oversight of the recipient's compliance with 40 CFR 26, as given in EPA Order 1000.17 Change A1 (Policy and Procedures on Protection of Human Research Subjects in EPA Conducted or Supported Research). As per this order, no human subject may be involved in any research conducted under this assistance agreement, including recruitment, until the research has been approved or determined to be exempt by the EPA Human Subjects Research Review Official (HSRRO) after review of the approval or exemption determination of the Institutional Review Board(s) (IRB(s)) with jurisdiction over the research under 40 CFR 26.

For HSRRO approval, the recipient must forward to the Project Officer: (1) copies of all documents upon which the IRB(s) with jurisdiction based their approval(s) or exemption determination(s), (2) copies of the IRB approval or exemption determination letter(s), (3) copy of the IRB-approved consent forms and subject recruitment materials, if applicable, and (4) copies of all supplementary IRB correspondence.

Following the initial approvals indicated above, the recipient must, as part of the annual report(s), provide evidence of continuing review and approval of the research by the IRB(s) with jurisdiction, as required by 40 CFR 26.109(e). Materials submitted to the IRB(s) for their continuing review and approval are to be provided to the Project Officer upon IRB approval. During the course of the research, investigators must promptly report any unanticipated problems involving risk to subjects or others according to requirements set forth by the IRB. In addition, any event that is significant enough to result in the removal of the subject from the study should also be reported to the Project Officer, even if the event is not reportable to the IRB of record.

20. Animal Subjects

The recipient agrees to comply with the Animal Welfare Act of 1966 (P.L. 89-544), as amended, 7 USC 2131- 2156. Recipient also agrees to abide by the "U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training." (Federal Register 50(97): 20864-20865. May 20,1985). The nine principles can be viewed at <https://olaw.nih.gov/policies-laws/phs-policy.htm>. For additional information about the Principles, the recipient should consult the *Guide for the Care and Use of Laboratory Animals*, prepared by the Institute of Laboratory Animal Resources, National Research Council.

21. Light Refreshments and/or Meals

APPLICABLE TO ALL AGREEMENTS EXCEPT STATE CONTINUING ENVIRONMENTAL PROGRAMS (AS DESCRIBED BELOW):

Unless the event(s) and all of its components are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- (1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- (2) A description of the purpose, agenda, location, length and timing for the event; and,
- (3) An estimated number of participants in the event and a description of their roles.

Costs for light refreshments and meals for recipient staff meetings and similar day-to-day activities are not allowable under EPA assistance agreements.

Recipients may address questions about whether costs for light refreshments, and meals for events may be allowable to the recipient's EPA Project Officer; however, the Agency Award Official or Grant Management Officer will make final determinations on allowability. Agency policy prohibits the use of EPA funds for receptions, banquets and similar activities that take place after normal business hours unless the recipient has provided a justification that has been expressly approved by EPA's Award Official or Grants Management Officer.

EPA funding for meals, light refreshments, and space rental may not be used for any portion of an event where alcohol is served, purchased, or otherwise available as part of the event or meeting, even if EPA funds are not used to purchase the alcohol.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. (41 CFR 301-74.7)

Public Policy Requirements

22. Civil Rights Obligations

This term and condition incorporates by reference the signed assurance provided by the recipient's authorized representative on: 1) EPA Form 4700-4, "Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance"; and 2) Certifications and Representations in Sam.gov or Standard Form 424D, as applicable.

These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing federal and EPA regulations.

a. Statutory Requirements

- i. In carrying out this agreement, the recipient must comply with:
 1. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP), by entities receiving Federal financial assistance.
 2. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance; and
 3. The Age Discrimination Act of 1975, which prohibits age discrimination by entities receiving Federal financial assistance.
- ii. If the recipient is an education program or activity (e.g., school, college or university) or if the recipient is conducting an education program or activity under this agreement, it must also comply with:
 1. Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities operated by entities receiving Federal financial assistance. For further information about your compliance obligations regarding Title IX, see 40 CFR Part 5 and <https://www.justice.gov/crt/title-ix>

- iii. If this agreement is funded with financial assistance under the Clean Water Act (CWA), the recipient must also comply with:
 - 1. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex in CWA-funded programs or activities.

b. Regulatory Requirements

- i. The recipient agrees to comply with all applicable EPA civil rights regulations, including:
 - 1. For Title IX obligations, 40 C.F.R. Part 5; and
 - 2. For Title VI, Section 504, Age Discrimination Act, and Section 13 obligations, 40 CFR Part 7.
 - 3. For statutory and national policy requirements, including those prohibiting discrimination and those described in Executive Order 13798 promoting free speech and religious freedom, 2 CFR 200.300.
 - 4. As noted on the EPA Form 4700-4 signed by the recipient's authorized representative, these regulations establish specific requirements including maintaining compliance information, establishing grievance procedures, designating a Civil Rights Coordinator and providing notices of non-discrimination.

c. TITLE VI – LEP, Public Participation and Affirmative Compliance Obligation

- i. As a recipient of EPA financial assistance, you are required by Title VI of the Civil Rights Act to provide meaningful access to LEP individuals. In implementing that requirement, the recipient agrees to use as a guide the Office of Civil Rights (OCR) document entitled "Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." The guidance can be found at: <https://www.federalregister.gov/documents/2004/06/25/04-14464/guidance-to-environmental-protection-agency-financial-assistance-recipients-regarding-title-vi>
- ii. If the recipient is administering permitting programs under this agreement, the recipient agrees to use as a guide OCR's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs. The Guidance can be found at: <https://www.govinfo.gov/content/pkg/FR-2006-03-21/pdf/06-2691.pdf>
- iii. In accepting this assistance agreement, the recipient acknowledges it has an affirmative obligation to implement effective Title VI compliance programs and ensure that its actions do not involve discriminatory treatment and do not have discriminatory effects even when facially neutral. The recipient must be prepared to demonstrate to EPA that such compliance programs exist and are being implemented or to otherwise demonstrate how it is meeting its Title VI obligations.

23. Drug-Free Workplace

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 2 CFR Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 2 CFR Part 1536 Subpart C.

The consequences for violating this condition are detailed under Title [2 CFR Part 1536 Subpart E](#). Recipients can access the Code of Federal Regulations (CFR) Title 2 Part 1536 at www.ecfr.gov/.

24. Hotel-Motel Fire Safety

Pursuant to 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <https://apps.usfa.fema.gov/hotel/> to see if a property is in compliance, or to find other information about the Act.

25. Lobbying Restrictions

a) This assistance agreement is subject to lobbying restrictions as described below. Applicable to all assistance agreements:

- i) The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The recipient shall abide by the Cost Principles available at 2 CFR Part 200 which generally prohibits the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.
- ii) The recipient agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000 and require that subrecipients submit certification and disclosure forms accordingly.
- iii) In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
- iv) Contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.
- v) By accepting this award, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 as required by Section 18 of the Lobbying Disclosure Act; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act. Nonprofit organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are ineligible for EPA subawards.

b) Applicable to assistance agreements when the amount of the award is over \$100,000:

- i) By accepting this award, the recipient certifies, to the best of its knowledge and belief, that:
 - (1) No Federal appropriated funds have been or will be paid, by or on behalf of the recipient, 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, or any employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the recipient shall complete and submit the linked [Standard Form -- LLL, "Disclosure Form to Report Lobbying,"](#) in accordance with its instructions.
 - (3) The recipient shall require that the language of this certification be included in the award documents for all subawards exceeding \$100,000 at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- ii) 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 failure.

26. Recycled Paper

When directed to provide paper documents, the recipient agrees to use recycled paper and double-sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA.

27. Resource Conservation and Recovery Act

Consistent with goals of section 6002 of RCRA (42 U.S.C. 6962), State and local institutions of higher education, hospitals and non-profit organization recipients agree to give preference in procurement programs to the purchase of specific products containing recycled materials, as identified in 40 CFR Part 247.

Consistent with section 6002 of RCRA (42 U.S.C. 6962) and 2 CFR 200.323, State agencies or agencies of a political subdivision of a State and its contractors are required to purchase certain items made from recycled materials, as identified in 40 CFR Part 247, when the purchase price exceeds \$10,000 during the course of a fiscal year or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. Pursuant to 40 CFR 247.2 (d), the recipient may decide not to procure such items if they are not reasonably available in a reasonable period of time; fail to meet reasonable performance standards; or are only available at an unreasonable price.

28. Trafficking in Persons

a. Provisions applicable to a recipient that is a private entity.

- i. The recipient, the recipient's employees, subrecipients under this award, and subrecipients' employees may not—
 1. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 2. Procure a commercial sex act during the period of time that the award is in effect; or
 3. Use forced labor in the performance of the award or subawards under the award.
- ii. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if the recipient or a subrecipient that is a private entity—
 1. Is determined to have violated a prohibition in paragraph a of this award term; or
 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a of this award term through conduct that is either—
 - a. Associated with performance under this award; or
 - b. Imputed to the recipient or subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our Agency at 2 CFR Part 1532.

b. Provision applicable to a recipient other than a private entity. EPA may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

- i. Is determined to have violated an applicable prohibition in paragraph a. of this award term; or
- ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a of this award term through conduct that is either—
 1. Associated with performance under this award; or
 2. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by EPA at 2 CFR Part 1532.

c. Provisions applicable to any recipient.

- i. The recipient must inform the EPA immediately of any information received from any source alleging a violation of a prohibition in paragraph a of this award term.
- ii. Our right to terminate unilaterally that is described in paragraph a and b:
 1. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 2. Is in addition to all other remedies for noncompliance that are available to us under this award.
- iii. The recipient must include the requirements of paragraph a of this award term in any subaward made to a private entity.

d. Definitions. For purposes of this award term:

- i. "Employee" means either:
 1. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 2. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
- ii. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- iii. "Private entity":
 1. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
 2. Includes:
 - a. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - b. A for-profit organization.
- iv. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

29. Build America, Buy America (Effective May 14, 2022 and applicable to all funding that date forward; Clarifications added October 1, 2022)

a. The recipient is subject to the Buy America Sourcing requirements under the Build America, Buy America provisions of the [Infrastructure Investment and Jobs Act](#) (IIJA) (P.L. 117-58, §§70911-70917) for the types of infrastructure projects under the EPA program and activities specified in the [chart, "Environmental Protection Agency's Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America Buy America Provisions of the Infrastructure Investment and Jobs Act."](#) None of the funds provided under this award may be used for a project of infrastructure unless all iron and steel, manufactured products, and construction materials that are consumed in, incorporated into, or affixed to an infrastructure project are produced in the United States. The Buy America preference requirement applies to an entire infrastructure project, even if it is funded by

both Federal and non-Federal funds. The recipient must implement these requirements in its procurements, and these requirements must flow down to all subawards and contracts at any tier. For legal definitions and sourcing requirements, the recipient must consult EPA's [Build America, Buy America website](#) and the Office of Management and Budget's (OMB) [Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure](#).

b. When supported by rationale provided in IIJA §70914, the recipient may submit a waiver request to EPA. Recipients should request guidance on the submission instructions of an EPA waiver request from the EPA Project Officer for this agreement. A list of approved EPA waivers (general applicability and project specific) is available on

the EPA [Build America, Buy America website](#).

c. For questions regarding the applicability of the Build America, Buy America Act requirements to this assistance agreement or if there is an approved waiver in place, please contact the EPA Project Officer for this agreement.

ATTACHMENT E
FEDERAL PROVISIONS
U.S. ENVIRONMENTAL PROTECTION AGENCY
CLIMATE POLLUTION REDUCTION PROGRAM

The Subrecipient agrees to comply with:

1. [Cybersecurity conditions](#)
 - a. The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.
 - b. (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure. For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user controlled connections such as website browsing are excluded from this definition. If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.
(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.332(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.
2. Public Awareness conditions
 - a. [Signage Required Term and Condition](#)
 - b. [EPA Logo and Seal Specifications for Signage](#)
 - c. [Brownfields Public Awareness Terms and Conditions](#)
 - d. [Clean Water Act Section 319 Public Awareness Term and Condition](#)

ATTACHMENT F
COMPLIANCE INFORMATION REGARDING FEDERAL NONDISCRIMINATION
LAWS AND REGULATIONS
(Applicable to all federal and state funded agreements)

Compliance with Federal Nondiscrimination Laws and Regulations. Any individual or entity receiving an ANR contract or grant, regardless of the funding source, for itself, its assignees, subcontractors, and other successors in interest (“hereinafter referred to as “Party”) shall comply with federal nondiscrimination laws and regulations.

Non-Discrimination: Party shall not discriminate, and will prohibit its employees, agents, subcontractors, subgrantees and other service providers from discrimination, on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under Title IX of the Education Amendments of 1972, and on the basis of race, color or national origin under Title VI of the Civil Rights Act of 1964. Party shall not refuse, withhold from or deny to any person the benefit of services, facilities, goods, privileges, advantages, or benefits of public accommodation on the basis of disability, race, creed, color, national origin, marital status, sex, sexual orientation or gender identity as provided by Title 9 V.S.A. Chapter 139.

No person shall on the grounds of religion or on the grounds of sex (including, on the grounds that a woman is pregnant), be excluded from participation in, be denied the benefits of, or be subjected to discrimination, to include sexual harassment, under any program or activity supported by State of Vermont and/or federal funds.

Party further shall comply with the non-discrimination requirements of Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d, et seq., and with the federal guidelines promulgated pursuant to Executive Order 13166 of 2000, requiring that contractors and subcontractors receiving federal funds assure that persons with limited English proficiency can meaningfully access services. To the extent Party provides assistance to individuals with limited English proficiency through the use of oral or written translation or interpretive services, such individuals cannot be required to pay for such services.

Identification of non-compliance with applicable federal nondiscrimination laws and regulations under this award or any subaward will be based on failure to provide assurances, when upon request, that these requirements are being adhered to. ANR will require cooperative resolution of any discovered deficiency throughout the life of this agreement. Failure to reasonably resolve any discovered deficiency relating to these federal nondiscrimination laws and regulations could be grounds for suspension, termination, or cancellation of the award. ([40 CFR 7.130](#)).

**ATTACHMENT G
OTHER AGREEMENT PROVISIONS**

A. The parties agree that ownership of all data, papers, reports, forms, or other material collected or produced by the SUBRECIPIENT, under this contract, (the "work product") shall belong to the SUBRECIPIENT. Upon a request made by the Northwest Regional Planning Commission or State of Vermont, the SUBRECIPIENT shall provide, free of cost, copies of all such work product no later than 30 days from the date of the request. The Northwest Regional Planning Commission and State of Vermont shall have a nonexclusive, nontransferable, irrevocable, royalty free paid-up license to use or have used the work product for or on behalf of the Northwest Regional Planning Commission or State of Vermont during the pendency of the agreement and thereafter.

B. Records Available for Audit: The SUBRECIPIENT shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the SUBRECIPIENT in the performance of this agreement. Records produced or acquired in a machine-readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for two years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. 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 involving the records have been resolved.

C. Independence, Liability, Indemnity:

a. The SUBRECIPIENT will act in an independent capacity and not as officers or employees of the NRPC.

b. This Agreement requires the SUBRECIPIENT to provide professional services in the design and/or engineering of all or a part of the Project to which this Agreement relates. This is not an Agreement for construction services. However, construction administration, observation or certification services may be required on the part of the SUBRECIPIENT if this Agreement so provides. Before commencing work on this Agreement and throughout the term of this Agreement, the SUBRECIPIENT shall procure and maintain liability insurance for all services performed under this Agreement, with minimum coverage as required by the Agency of Administration but not less than \$1,000,000 per claim and \$2,000,000 policy aggregate.

D. The SUBRECIPIENT shall defend the NRPC and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the SUBRECIPIENT or of any agent of the SUBRECIPIENT in providing "non-professional services" under this Agreement. As used herein, "non-professional services" means services provided under this Agreement other than professional services relating to the design and/or engineering of all or part of the project. The NRPC shall notify the SUBRECIPIENT in the event of any such claim or suit covered by the Subsection C, and the SUBRECIPIENT shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit arising out of "non-professional services" provided under this Agreement.

E. Notwithstanding anything to the contrary set forth in Subsection C above, the SUBRECIPIENT shall not be obligated to defend the NRPC and its officers and employees against claims or suits arising

from CONTRACTOR's provision of engineering design services or architectural design services. However, the CONTRACTOR's obligation to defend the NRPC and its officers and employees against all claims or suits arising out of "non-professional services" provided under this Agreement as provided in Subsection C above and the CONTRACTOR's other obligations under Attachment C shall remain in effect.

e. The SUBRECIPIENT agrees to indemnify and hold the NRPC, its officers and employees, harmless from and against monetary damages to third parties, together with reasonable costs, expenses and attorney's fees incurred and paid by the NRPC in defending claims by third parties (collectively "Damages) but only in the event and to the extent such Damages are incurred and paid by the NRPC as the proximate cause of negligent acts, errors or omissions ("Professional Negligence") by the SUBRECIPIENT, its employees, agents, consultants and subcontractors, in providing the professional services required under this Agreement.

f. As used herein "Professional Negligence" or "negligent acts, errors or omissions" means a failure by the SUBRECIPIENT to exercise that degree of skill and care ordinarily possessed by a reasonably prudent design professional practicing in the same or similar locality providing such services under like or similar conditions and circumstances.

g. The SUBRECIPIENT shall indemnify the NRPC and its officers and employees in the event that the NRPC, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the SUBRECIPIENT arising from the provision of "non-professional services" (as defined herein) under this Agreement.

h. The SUBRECIPIENT shall not be obligated to indemnify the NRPC and its officers and employees for any Damages incurred by the NRPC attributable to the NRPC's own negligent acts, errors or omissions or the negligent acts, error or omissions of its officers, agents or employees, or the acts, errors, omissions or breach of Agreement by persons or entities other than the SUBRECIPIENT, its employees, agents, consultants and subcontractors.

i. After a final judgment or settlement the SUBRECIPIENT may request recoupment of specific defense costs and may file suit in Franklin Superior Court requesting recoupment. The SUBRECIPIENT shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the SUBRECIPIENT.