

**AGREEMENT BETWEEN
THE CITY OF BILLINGS
AND
THE CONTINUUM OF CARE**

I. Parties and Authorities

The Continuum of Care (CoC) is a coalition of public agencies and private, nonprofit organizations whose mission is to create sustainable pathways to safe and stable housing for people who are at risk of or actually experiencing homelessness in Yellowstone County. The CoC operates “Off The Streets” shelter utilizing a Memorandum of Agreement between United Way of Yellowstone County, HAB Development, Riverstone Health, HRDC District 7 and other local partners.

The Yellowstone County Unified Health Command (UHC) is an alliance in Yellowstone County, Montana comprised of command staff from RiverStone Health, Billings Clinic, St. Vincent Healthcare, and Yellowstone County Disaster and Emergency Services. The UHC is a part of the coordinated emergency response for COVID-19 and is a subcommittee of the Local Emergency Preparedness Committee. In this capacity, the UHC participates in the County’s Unified Command during activation of the county’s Emergency Operations Center (EOC), which, by federal mandate, operates under the National Incident Management System (NIMS). The UHC also uses NIMS for processes, procedures, and systems. All core members of the UHC are NIMS compliant, as is Yellowstone County’s Emergency Operations Plan (EOP), which directs the UHC operations in an emergency. The Unified Health Command coordinates plans to address the region’s immediate and ongoing health problems.

Yellowstone County UHC has worked to identify, contact, and as appropriate quarantine, monitor, and/or test individuals in Yellowstone County who have been potentially exposed to COVID-19, in coordination with the State of Montana Department of Public Health and Human Services (DPHHS) and the U.S. Centers for Disease Control and Prevention (CDC). The UHC has identified that high-risk individuals who test positive for COVID-19, but do not require hospitalization, still require the need for isolation; and high-risk individuals who have been exposed to COVID-19, as documented by a state or local public health official or medical professional, but do not require hospitalization, still require the need for quarantine. Pursuant to Section 50-2-118 of the Montana Code Annotated (MCA), a Local Public Health Officer in carrying out the purpose of the public health system shall take steps to limit contact between people in order to protect the public health from imminent threats.

Steps to mitigate the spread of COVID-19 in Yellowstone County, based on the significant increase of cases reaching over 50/100,000/day for a single Morbidity and Mortality Weekly Report (MMWR) for the week ending October 10, 2020, were taken under City-County Health Officer’s Order issued on October 26, 2020, which also outlines standards for Emergency Non-Congregate Sheltering (NCS). In response, Local Government Agencies are directed by the non-congregate sheltering order to take all necessary actions to identify both public and private

facilities, secure available space, and enter into any contracts or mutual aid agreements that may be necessary to procure, equip, or operate non-congregate shelters throughout the state.

II. Purpose and Background

COVID-19 is a respiratory disease that can result in serious illness or death, and is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans and can easily spread from person to person. The virus is spread between individuals who are in close contact with each other (within about six feet) through respiratory droplets produced when an infected person coughs or sneezes. It may be possible that individuals can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose or eyes.

On March 1, 2020, Donald J. Trump, President of the United States, by the authority vested by the Constitution and the laws of the United States of America, including sections 201 and 301 of the National Emergencies Act and consistent with section 1135 of the Social Security Act (SSA), as amended, do hereby find and proclaim that the COVID-19 outbreak in the United States constitutes a national emergency;

On March 11, 2020, the World Health Organization announced that the COVID-19 outbreak can be characterized as a pandemic, as the rates of infection continue to rise in many locations around the world and across the United States;

On March 12, 2020, Governor Steve Bullock declared a state of emergency to exist in Montana related to the communicable spread of COVID-19 (Executive Order 2-2020);

On March 13, 2020, President Trump declared a national state of emergency due to a nationwide outbreak of COVID-19;

On March 13, 2020, Montana renewed its commitment to a unified, coordinated response to stem the spread of COVID-19. Under MCA § 10-3-302(3), a declaration of emergency by the President of the United States establishes continuing conditions of emergency. Governor Bullock, pursuant to authority as Governor under the Montana Constitution and MCA § 10-3-103, and under other applicable statutes, amended Executive Order 2-2020 to run concurrent to the emergency declaration of the President of the United States, establishing continuing conditions of the state of emergency, as defined in MCA § 10-3-103 and 10-3-302(3);

On March 15, 2020, Governor Bullock, under the Constitution, Article VI, Sections 4 and 13, and MCA § 10-3 and MCA § 50-1, and other applicable provisions of the Constitution and Montana Law, directed the following measures be enacted statewide effective immediately:

- School Closure
- Nursing Home Visitation Suspended
- Public Guidance Regarding Social Distancing
- Transportation – limited waivers on motor carriers
- National Guard Resources

Expiration of this directive was set to run concurrent to the end of the declared state of emergency in Executive Orders 2-2020 and 3-2020;

On March 16, 2020, Yellowstone County's Health Officer determined that the potential spread of COVID-19 constituted a public health emergency and actions must be taken to avert and minimize the outbreak of this communicable disease. Pursuant to MCA § 50-2-118, a local health officer in carrying out the purpose of the public health system shall take steps to limit contact between people in order to protect the public health from imminent threats, including but not limited to ordering the closure of buildings or facilities where people congregate and cancelling events;

On March 28, 2020, in consultation with public health experts, health care providers, and emergency management professionals, Governor Bullock determined that to protect public health and human safety, it is essential, to the maximum extent possible, individuals stay at home or at their place of residence;

On March 31, 2020, the President declared a major disaster for the State of Montana (DR-4508-MT);

On March 31, 2020, the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) recognized that non-congregate sheltering may be necessary in this Public Health Emergency to protect public health and save lives;

On June 17, 2020, FEMA Policy 104-009-18 provided flexibility to applicants to take measures to safely conduct noncongregate sheltering activities through December 31, 2020, in the event of a Stafford Act declaration;

On January 29, 2021, FEMA provided flexibility to applicants to take measures to safely conduct noncongregate sheltering activities, issuing a Stafford Act declaration on or after June 1, 2020 through June 30, 2021;

On August 17, 2021, Joe Biden, President of the United States, announced continued support for COVID-19 response and recovery assistance by extending 100% federal funding to state, local, tribal and territorial governments and certain private nonprofits, for eligible emergency actions through Dec. 31, 2021. This policy continues 100% reimbursement for costs associated with deployment of National Guard personnel under Title 32 Orders for COVID-19 missions.

Yellowstone County, the most populous county in Montana, is home to 184,000 residents. Billings, the county seat, is the state's largest city with more than 117,000 citizens. Billings serves as a regional medical hub for a 600-mile radius, spanning eastern Montana, along with portions of the Dakotas and Wyoming. The region's major health care providers include Billings Clinic and St. Vincent Healthcare. The pandemic has affected not only the healthcare system, but local citizens that are experiencing homelessness in the most compromising of times. Signs of inflation in Billings are appearing and the cost of housing has taken a steep jump, in many cases pricing out those who might otherwise be able to afford a home. Year to date, the average home price in Billings is up 22 percent. Rental properties, if you can find them, are up 8 percent.

In Yellowstone County, people experiencing homelessness are an extremely vulnerable population. During the pandemic, their exposure is magnified. Across the nation, COVID-19 hit homeless populations hard with high infection and mortality rates.

The purpose of this Agreement is to set forth the Parties mutual agreement and goal that Montana residents in Yellowstone County who are experiencing homelessness have access to non-congregate shelter during the COVID-19 pandemic, and to address the Parties responsibilities related to ensuring compliance with the Yellowstone County's Health Officer non-congregate sheltering order, which are necessary to protect immediate public health and safety for individuals who do not have a suitable place of isolation and quarantine.

III. Responsibilities

QUARANTINE AND ISOLATION (Q&I) SITE AT OFF THE STREETS SHELTER, OPERATED BY THE CONTINUUM OF CARE

A. The Continuum of Care (CoC) shall:

1. Establish a Facility intended to be used as a temporary housing location for such individuals. The Facility is not intended to be used for the provision of medical care. In the event an individual housed at the Facility is in need of medical or health care, other than emergency response services, the CoC shall direct those individuals to seek health care services from a licensed health care facility.

2. The CoC intends to use the former Western Inn Motel, recently purchased by HAB Development, for the purpose of operating a non-congregate sheltering location for local residents ordered to isolate and/or quarantine by the Yellowstone County Health Officer, but who do not have a home or other suitable place of isolation or quarantine.

3. CoC partners developed a collaboration to operate a non-congregate shelter in accordance with direction and guidance of health officials by the appropriate state or local entities, and in accordance with the criteria of non-congregate sheltering for the COVID-19 emergency. In no event shall the operation of the Facility be intended to include the provision of medical or health care services.

4. HAB Development will provide the Facility to the CoC in good working order. CoC partners will provide for cleaning, security enhancements, and routine maintenance and repairs needed for operations or as a result of operations.

5. The CoC will be responsible for making physical security improvements to the Facility as deemed necessary in working directly with HAB Development.

6. HAB Development will leave all furnishings and mattresses in the Facility.

7. HAB Development will not be responsible for damage done to furnishings and mattresses based on normal wear and tear or anticipated usages associated with operation of the Facility for the purposes set forth herein.

8. CoC partners will be responsible for actual costs and seek reimbursement of said expenses through available and appropriate funding sources.

9. The CoC will coordinate contracted staffing, cleaning and meals.

10. In order to apply for funding and reimbursement, the CoC will obtain detailed,

itemized invoices from its purchases to verify eligible costs pursuant to this Agreement, and shall retain all copies of all cost-supporting records and documentation in compliance with section VI. (6) of this Agreement.

11. The CoC will submit through the local Disaster and Emergency Services Coordinator the application for FEMA eligibility for non-congregate care and adhere to the requests of DES for a census tracker to document admissions for unsheltered quarantine and isolation.

B. City of Billings

The City of Billings shall submit an application to FEMA for reimbursement through the FEMA Public Assistance Program for eligible expenses incurred under this Agreement and reimburse the Continuum of Care with all FEMA Public Assistance dollars received.

IV. Costs

1. The Continuum of Care shall not seek reimbursement of any cost where duplicate funding is available from another state or federal program.
2. The Continuum of Care will submit invoices and any other documentation that the City of Billings may require.
3. Costs incurred by the Continuum of Care shall be reasonable pursuant to applicable federal regulations and federal costs principles. A cost is considered reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

V. Points of Contact

City of Billings
Chris Kukulski, City Administrator
kukulskic@billingsmt.gov

Continuum of Care
Kari Boiter, Director
kboiter@hrdc7.org

VI. General Provisions

1. **Notice of Federal Requirements** - The Continuum of Care understands and acknowledges that the State is relying in part on available Federal funds to meet its obligations under this Agreement. As such the Continuum of Care agrees to comply with

all applicable federal, state, and local laws, regulations, policies, directives, procedures and requirements in the conduct of the Work.

The Continuum of Care shall comply with the provisions of the Uniform Administrative Requirements, Cost Principles and audit Requirements, found at Title 2 CFR Part 200. Further, the Continuum of Care understands and agrees that 2 CFR 200.326 and Appendix II to Part 200 require all contracts funded in a whole or in part with federal monies to include the provisions set forth in Attachment A, hereinafter incorporated into this Agreement, and will abide by these terms as applicable in performing the services under this Agreement.

2. **Liability Requirements** – Each party to this Agreement shall be responsible for its own acts and omissions and those of its officers, employees and agents. In no event shall either party be liable to the other party for indirect, consequential, incidental, special, or punitive damages, or lost profits. In the event that an agency is subject to liability, suits, losses, judgments, damages or other demands which are due to the acts or omissions of the other agency, the other agency will not be held harmless. This Agreement and the legal relations between the parties will be governed by and construed in accordance with the laws of the State of Montana Thirteenth Judicial District Court, Yellowstone County, applicable to contracts made and performed in Montana and without regard to conflicts of law doctrines unless certain matters are preempted by federal law.
3. **Remedies** – In the event Continuum of Care violates any term of this agreement or does not properly procure and document costs, the City of Billings may recoup any state or federal funds spent under this Agreement. In the event a state or federal audit concludes that state or federal monies were spent in violation of state or federal law and regulation. Continuum of Care will be responsible for paying back any amounts of money the audit determines were not spent properly.
4. **Confidentiality** – The parties agree that they shall not use any information, systems, or records made available to either party for any purpose other than to fulfill the obligation specified herein. The parties agree to be bound by the same standards of confidentiality that apply to the employees of either agency and to the State of Montana. Each partner specifically agrees to comply with state and federal confidentiality laws and regulations applicable to the programs under which this Agreement is funded.
5. **Compliance with Federal and State Laws, Rules and Regulations** – each partner agrees to comply with all federal and state laws, rules, regulations and auditing standards which are applicable to the performance of this Agreement.
6. **Records Retention and Audits** – All records relating to costs, work performed and supporting documentation for expenditure of the funds transferred by the City of Billings to Continuum of Care, along with copies of all deliverables submitted to the City of Billings pursuant to this Agreement, shall be retained and made available by the Continuum of Care for audit by the State of Montana (including but not limited to City of Billings, the Auditor of the State of Montana, Inspector General or duly authorized law

enforcement officials) and agencies of the United States government for a minimum of three (3) years from the date that the State submits to FEMA the final expenditure report for this project. . If any litigation, claim, negotiation, audit, request for information, or other action involving this Agreement is initiated during this time period, the Continuum of Care shall retain such records until the audit is concluded and all issues are resolved.

7. Audit Exceptions

- a. Continuum of Care shall be responsible for receiving, replying to and arranging compliance with any audit exception by any state or federal audit of this Agreement as it pertains to Continuum of Care performance of the Agreement.
- b. The City of Billings shall be liable for any audit exception that results solely from its acts or omissions in the performance of this Agreement. The Continuum of Care shall be liable for any audit exception that results solely from its acts or omissions in the performance of this Agreement. In the event that the audit exception results from the acts or omissions of both Continuum of Care and City of Billings, then financial liability for the audit exception shall be shared by the parties in proportion to relative fault. In the event of a dispute concerning the allocation of financial liability for audit exceptions, the parties agree that the dispute shall be referred to the Office of the Governor for a final, binding determination which allocates financial liability.
- c. For purposes of this Agreement, the term “audit exception” shall include federal disallowances and deferrals.

8. Drug-Free Workplace – Continuum of Care and the City of Billings shall comply with all applicable state and federal rules, regulations and statutes pertaining to a drug-free workplace. The Continuum of Care and the City of Billings shall make a good faith effort to ensure that all employees do not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way while working on state, county or municipal property.

9. Anti-Discrimination – Pursuant to MCA Section 49-2-303 and MCA Section 49-3-207,, no part of this contract shall be performed in a manner which discriminates against any person on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disabilities, sexual orientation, gender expression, gender identity, or national origin by the persons performing the contract. Any hiring shall be on the basis of merit and qualifications directly related to the requirements of the particular position being filled.

10. Governing Laws – This Agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suite between the parties arising out of this Agreement shall be the State of Montana Thirteenth Judicial District Court, Yellowstone County.

11. Waiver – The waiver by the City of Billings of any occurrence of breach or default is not a waiver of such subsequent occurrences of breach and default, and the City of Billings retains the right to exercise all remedies mentioned in this Agreement.

VII. Effective date and Termination

This Agreement shall be effective on upon full execution of all parties and shall terminate the sooner of 12/01/2021, or when an additional source of funding becomes of available to Continuum of Care. Should another source of funding not become available to Continuum of Care on or before 12/01/2021, the parties through mutual written agreement may extend this Agreement until 12/31/2021.

VIII. Amendment, Dispute Resolution, Cancellation or Termination

This Agreement constitutes the entire agreement between the parties. This Agreement may be amended at any time in writing and by mutual consent of both parties. The Administrator of the City of Billings and the Director of the Continuum of Care shall resolve any disputes between themselves concerning responsibilities under, or performance of, any of the terms of this Agreement.

The Agreement may be cancelled by either party upon sixty (60) days written notice *except*, where the cancellation is for cause (i.e., a material or significant breach of any of the provisions of this Agreement), then it may be canceled immediately upon delivery of written notice to the other party.

This Agreement may be terminated immediately in the event there is a loss of funding. A notice specifying the reasons for termination shall be sent as soon as possible after the termination, in accordance with the procedures set forth herein. The City of Billings will be released from its obligations on the date funding expires.

IX. Signature Page

By signing this Agreement, all parties have reviewed the Agreement and find it accurately reflects a general understanding of the respected responsibilities to establish this collaboration.

Chris Kukulski
City Administrator
City of Billings

Kari Boiter
Director
Continuum of Care

ATTACHMENT A

2 CFR 200.326 and Appendix II to Part 200 require all contracts funded in a whole or in part with federal monies to include the following provisions where applicable. For purposes of this Attachment the term “contractor” refers to the Continuum of Care.

A. **Construction Work:** Should any “construction work” as that term is defined in 41 C.F.R. 60-1.3 then following provisions shall apply:

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

B. Contract Work Hours and Safety Standard Act

Should costs under this Agreement exceed \$100,000 for the cost employment of mechanics or labors, excluding the purchase of supplies or materials or article ordinarily available on the open market, or contracts for transportation or transmission of intelligence the following provisions shall apply:

1. *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to

work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

3. *Withholding for unpaid wages and liquidated damages.* The the City of Billings shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
4. *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

C. Clean Air Act

1. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. Contractor agrees to report each violation to the the City of Billings and understands and agrees that the the City of Billings will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

D. The Federal Water Pollution Control Act

1. Contractor agrees agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. Contractor agrees to report each violation to the the City of Billings and understands and agrees that the the City of Billings will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

E. Suspension and Debarment

1. Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Contractor is required to verify that none of Contractor's principals (defined at 2

C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

2. Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
3. This certification is a material representation of fact relied upon by the City of Billings. If it is later determined that Continuum of Care did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City of Billings, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

F. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification (see Attachment 1). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

G. Procurement of Recovered Materials

- 1) In the performance of this contract, Continuum of Care shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 - Competitively within a timeframe providing for compliance with the contract performance schedule;
 - Meeting contract performance requirements; or
 - At a reasonable price.
- 2) Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- 3) Continuum of Care also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.
 - a. Access to Records
 - i. Continuum of Care agrees to provide the City of Billings, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and

records of Continuum of Care which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

- ii. Continuum of Care agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- iii. Continuum of Care agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- iv. In compliance with the Disaster Recovery Act of 2018, the the City of Billings and Continuum of Care acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Continuum of Care, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Continuum of Care understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature

Kari Boiter, Continuum of Care Director

Date