



Hazard Mitigation Grant Program
DR4655

City of Billings
Public Works
2251 Belknap Avenue
Billings, MT 59101

Mrs. Debi Meling,

Congratulations, on behalf of Montana Disaster and Emergency Services (MT DES). Your application for financial assistance submitted under **DR-4655-04** has been approved for in the amount of **\$2,524,401.12**. The federal amount of increment I is **\$749,901.12**. The State of Montana is using Resiliency Funds to cover the City's match for increments I, II, and III in the amount of **\$1,774,500.00**.

Before you request and receive any of the Federal funds awarded, you must establish acceptance of the award. By accepting this award, you acknowledge that the terms of the following documents are incorporated into the terms of your award:

- Agreement Articles (attached to this Award Letter)
- Obligating Document for Award (attached to this Award Letter)

Please make sure you read, understand, and maintain a copy of these documents in your official file for this award. In order to establish acceptance of the award and its terms, please complete, sign and return the Obligating Document for Award to MT DES.

For additional assistance, please contact SHMO Sara Hartley at 406-417-9238 or sara.hartley@mt.gov.

Sincerely,

Jake Ganicany
Recovery/Mitigation Bureau Chief - AGAR
Montana Disaster and Emergency Services



AGREEMENT ARTICLES

SUB-RECIPIENT: City of Billings Public Works
PROGRAM: DR-4655-04
AGREEMENT NUMBER: DR-4655-4R

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ARTICLE DESCRIPTION

- Article 1 Assurances, Administrative Requirements, Cost Principles, Representations, and Certifications. Recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances – Non- Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances as instructed by the federal awarding agency.
- Article 2 General Acknowledgements and Assurances Recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in effect as of the federal award date and located at 2 C.F.R. Part 200 and adopted by DHS at 2 C.F.R. § 3002.10. All recipients and subrecipients must acknowledge and agree to provide DHS access to records, accounts, documents, information, facilities, and staff pursuant to 2 C.F.R. § 200.337. I. Recipients must cooperate with any DHS compliance reviews or compliance investigations. II. Recipients must give DHS access to examine and copy records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities and personnel. III. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports. IV. Recipients must comply with all other special reporting, data collection, and evaluation requirements required by law, federal regulation, Notice of Funding Opportunity, federal award specific terms and conditions, and/or federal awarding agency program guidance. V. Recipients must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receiving the Notice of Award for the first award under which this term applies. Recipients of multiple federal awards from DHS should only submit one completed tool for their organization, not per federal award. After the initial submission, recipients are required to complete the tool once every two (2) years if they have an active federal award, not every time a federal award is made. Recipients must submit the completed tool, including supporting materials, to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in these DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>. DHS Civil Rights Evaluation Tool | Homeland Security. The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension to the 30-day deadline if the recipient identifies steps and a timeline for

completing the tool. Recipients must request extensions by emailing the request to CivilRightsEvaluation@hq.dhs.gov prior to expiration of the 30-day deadline.

- Article 3 Acknowledgement of Federal Funding from DHS Recipients must acknowledge their use of federal award funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal award funds.
- Article 4 Activities Conducted Abroad Recipients must coordinate with appropriate government authorities when performing project activities outside the United States obtain all appropriate licenses, permits, or approvals.
- Article 5 Age Discrimination Act of 1975 Recipients must comply with the requirements of the Age Discrimination Act of 1975, Pub. L. No. 94-135 (codified as amended at 42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.
- Article 6 Americans with Disabilities Act of 1990 Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. §§ 12101– 12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.
- Article 7 Best Practices for Collection and Use of Personally Identifiable Information Recipients who collect personally identifiable information (PII) as part of carrying out the scope of work under a federal award are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.
- Article 8 Civil Rights Act of 1964 – Title VI Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964, Pub. L. No. 88-352 (codified as amended at 42 U.S.C. § 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21. Recipients of an award from the Federal Emergency Management Agency (FEMA) must also comply with FEMA’s implementing regulations at 44 C.F.R. Part 7.
- Article 9 Civil Rights Act of 1968 Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284 (codified as amended at 42 U.S.C. § 3601 et seq.) which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex, as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units— i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)
- Article 10 Copyright Recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 to any work first produced under federal awards and also include an acknowledgement that the work was produced under a federal award (including the federal award number and federal awarding agency). As detailed in 2 C.F.R. § 200.315, a federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes and to authorize

others to do so.

- Article 11 Debarment and Suspension Recipients must comply with the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689 set forth at 2 C.F.R. Part 180 as implemented by DHS at 2 C.F.R. Part 3000. These regulations prohibit recipients from entering into covered transactions (such as subawards and contracts) with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.
- Article 12 Drug-Free Workplace Regulations Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101-8106).
- Article 13 Duplicative Costs Recipients are prohibited from charging any cost to this federal award that will be included as a cost or used to meet cost sharing or matching requirements of another federal award in either the current or a prior budget period. (See 2 C.F.R. §200.403(f)). However, recipients may shift costs that are allowable under two or more federal awards where otherwise permitted by federal statutes, regulations, or the federal financial assistance award terms and conditions.
- Article 14 Education Amendments of 1972 (Equal Opportunity in Education Act) –Title IX Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. No. 92-318 (codified as amended at 20 U.S.C. §1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17. Recipients of an award from the Federal Emergency Management Agency (FEMA) must also comply with FEMA’s implementing regulations at 44 C.F.R. Part 19.
- Article 15 E.O. 14074 – Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety Recipient State, Tribal, local, or territorial law enforcement agencies must comply with the requirements of section 12(c) of E.O. 14074. Recipient State, Tribal, local, or territorial law enforcement agencies are also encouraged to adopt and enforce policies consistent with E.O. 14074 to support safe and effective policing.
- Article 16 Energy Policy and Conservation Act Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. No. 94-163 (1975) (codified as amended at 42 U.S.C. §6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.
- Article 17 False Claims Act and Program Fraud Civil Remedies Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. §§ 3729- 3733, which prohibit the submission of false or fraudulent claims for payment to the Federal Government. (See 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made.)
- Article 18 Federal Debt Status All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)
- Article 19 Federal Leadership on Reducing Text Messaging while Driving Recipients are encouraged to adopt and enforce policies that ban text messaging while driving recipient-owned, recipient-rented, or privately owned vehicles when on official government business or when performing any work for or on behalf of the Federal Government. Recipients are also encouraged to conduct the initiatives of the type described in Section 3(a) of E.O. 13513.
- Article 20 Fly America Act of 1974 Recipients must comply with Preference for U.S. Flag Air Carriers (a list of certified air carriers can be found at: [Certificated Air Carriers List | US Department of Transportation, https://www.transportation.gov/policy/aviation-policy/certificated-air-carriers-list](https://www.transportation.gov/policy/aviation-policy/certificated-air-carriers-list)) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. § 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.
- Article 21 Hotel and Motel Fire Safety Act of 1990 Recipients must ensure that all conference, meeting, convention, or training space funded entirely or in part by federal award funds complies with the fire prevention and control guidelines of Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225a.

- Article 22 John S. McCain National Defense Authorization Act of Fiscal Year 2019 Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 (2018) and 2 C.F.R. §§200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. The statute – as it applies to DHS recipients, subrecipients, and their contractors and subcontractors– prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.
- Article 23 Limited English Proficiency (Civil Rights Act of 1964, Title VI) Recipients must comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.
- Article 24 Lobbying Prohibitions Recipients must comply with 31 U.S.C. § 1352 and 6 C.F.R. Part 9, which provide that none of the funds provided under a federal award may be expended by the recipient to pay any person to influence, or attempt 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 any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification. Per 6 C.F.R. Part 9, recipients must file a lobbying certification form as described in Appendix A to 6 C.F.R. Part 9 or available on Grants.gov as the Grants.gov Lobbying Form and file a lobbying disclosure form as described in Appendix B to 6 C.F.R. Part 9 or available on Grants.gov as the Disclosure of Lobbying Activities (SF-LLL).
- Article 25 National Environmental Policy Act Recipients must comply with the requirements of the National Environmental Policy Act of 1969, Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 et seq.) (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.
- Article 26 Nondiscrimination in Matters Pertaining to Faith-Based Organizations It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.
- Article 27 Non-Supplanting Requirement Recipients of federal awards under programs that prohibit supplanting by law must ensure that federal funds supplement but do not supplant non-federal funds that, in the absence of such federal funds, would otherwise have been made available for the same purpose.
- Article 28 Notice of Funding Opportunity Requirements All the instructions, guidance, limitations, scope of work, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this federal award are incorporated by reference. All recipients must comply with any such requirements set forth in the NOFO. If a condition of the NOFO is inconsistent with these terms and conditions and any such terms of the Award, the condition in the NOFO shall be invalid to the extent of the inconsistency. The remainder of that condition and all other conditions set forth in the NOFO shall remain in effect.
- Article 29 Patents and Intellectual Property Rights Recipients are subject to the Bayh-Dole Act, 35 U.S.C. § 200 et seq. and applicable regulations governing inventions and patents, including the regulations issued by the Department of Commerce at 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Awards, Contracts, and Cooperative Agreements) and the standard patent rights clause set forth at 37 C.F.R. § 401.14.
- Article 30 Procurement of Recovered Materials States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962) and 2 C.F.R. § 200.323. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

- Article 31 Rehabilitation Act of 1973 Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (codified as amended at 29 U.S.C. § 794), which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- Article 32 Reporting of Matters Related to Recipient Integrity and Performance If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of the federal award, then the recipient must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated by reference.
- Article 33 Reporting Subawards and Executive Compensation For federal awards that equal or exceed \$30,000, recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation set forth at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated by reference.
- Article 34 Required Use of American Iron, Steel, Manufactured Products, and Construction Materials Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless: (1) all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; (2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and (3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project. Waivers, when necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements. (a) When the Federal agency has determined that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that: (1) applying the domestic content procurement preference would be inconsistent with the public interest; (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent. A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office. There may be instances where an award qualifies, in whole or in part, for an existing waiver described as “Buy America” Preference in FEMA Financial Assistance Programs for Infrastructure | FEMA.gov. Definitions The definitions applicable to this term are set forth at 2 C.F.R. § 184.3, the full text of which is incorporated by reference.
- Article 35 SAFECO Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications. The SAFECOM Guidance is updated annually and can be found at Funding and Sustainment | CISA.
- Article 36 Terrorist Financing Recipients must comply with E.O. 13224 and applicable statutory prohibitions on transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible for ensuring compliance with the E.O. and

laws.

- Article 37 Trafficking Victims Protection Act of 2000 (TVPA) Recipients must comply with the requirements of the government-wide financial assistance award term which implements Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, § 106 (codified as amended at 22 U.S.C. § 7104). The award term is located at 2 C.F.R. § 175.15, the full text of which is incorporated by reference.
- Article 38 Universal Identifier and System of Award Management Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated reference.
- Article 39 USA PATRIOT Act of 2001 Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), which amends 18 U.S.C. §§175–175c.
- Article 40 Use of DHS Seal, Logo and Flags Recipients must obtain written permission from DHS prior to using the DHS seals, logos, crests, or reproductions of flags, or likenesses of DHS agency officials. This includes use of DHS component (e.g., FEMA, CISA, etc.) seals, logos, crests, or reproductions of flags, or likenesses of component officials.
- Article 41 Whistleblower Protection Act Recipients must comply with the statutory requirements for whistleblower protections at 10 U.S.C § 470141 U.S.C. § 4712.
- Article 42 Environmental Planning and Historic Preservation (EHP) Review DHS/FEMA funded activities that may require an Environmental Planning and Historic Preservation (EHP) review are subject to the FEMA EHP review process. This review does not address all federal, state, and local requirements. Acceptance of federal funding requires the recipient to comply with all federal, state and local laws. DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/FEMA grant funds, through its EHP review process, as mandated by the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and any other applicable laws and executive orders. General guidance for FEMA’s EHP process is available on the DHS/FEMA Website at: <https://www.fema.gov/grants/guidance-tools/environmental-historic>. Specific applicant guidance on how to submit information for EHP review depends on the individual grant program and applicants should contact their grant Program Officer to be put into contact with EHP staff responsible for assisting their specific grant program. The EHP review process must be completed before funds are released to carry out the proposed project; otherwise, DHS/FEMA may not be able to fund the project due to noncompliance with EHP laws, executive orders, regulations, and policies. If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archaeological resources are discovered the applicant will immediately cease work in that area and notify the pass-through entity, if applicable, and DHS/FEMA.
- Article 43 Applicability of DHS Standard Terms and Conditions to Tribes the DHS Standard Terms and Conditions are a restatement of general requirements imposed upon recipients and flow down to sub-recipients as a matter of law, regulation, or executive order. If the requirement does not apply to Indian tribes or there is a federal law or regulation exempting its application to Indian tribes, then the acceptance by Tribes of, or acquiescence to, DHS Standard Terms and Conditions does not change or alter its inapplicability to an Indian tribe. The execution of grant documents is not intended to change, alter, amend, or impose additional liability or responsibility upon the Tribe where it does not already exist.
- Article 44 Acceptance of Post Award Changes In the event FEMA determines that an error in the award package has been made, or if an administrative change must be made to the award package, recipients will be notified of the change in writing. Once the notification has been made, any subsequent requests for funds will indicate recipient acceptance of the changes to the award. Please call FEMA Grant Management Operations at (866) 927-5646 or via e-mail to: ASK-GMD@fema.dhs.gov if you have any questions.
- Article 45 Disposition of Equipment Acquired Under the Federal Award For purposes of original or replacement equipment acquired under this award by anon-state recipient or non-state sub-recipients, when that equipment is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, you must request instructions from FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. section 200.313. State recipients and state sub-recipients must follow the disposition requirements in accordance with state laws and procedures.

- Article 46 Prior Approval for Modification of Approved Budget Before making any change to the FEMA approved budget for this award, you must request prior written approval from FEMA where required by 2 C.F.R. section 200.308. For purposes of non-construction projects, FEMA is utilizing its discretion to impose an additional restriction under 2 C.F.R. section 200.308(f) regarding the transfer of funds among direct cost categories, programs, functions, or activities. Therefore, for awards with an approved budget where the federal share is greater than the simplified acquisition threshold (currently \$250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget FEMA last approved. For purposes of awards that support both construction and non-construction work, FEMA is utilizing its discretion under 2 C.F.R. section 200.308(h)(5) to require the recipient to obtain prior written approval from FEMA before making any fund or budget transfers between the two types of work. You must report any deviations from your FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.
- Article 47 Indirect Cost Rate 2 C.F.R. section 200.211(b)(15) requires the terms of the award to include the indirect cost rate for the federal award. If applicable, the indirect cost rate for this award is stated in the budget documents or other materials approved by FEMA and included in the award file.
- Article 48 Clean Water Act (CWA) The project may require a Section 404 permit from the Corps of Engineers. The City of Billings Public Works shall consult with USACE regulatory office to determine project requirements. The City of Billings Public Works is responsible for obtaining any needed permits and verifying and complying with all permit requirements, including wetland mitigation, any permit conditions, pre-construction notification requirements, and regional conditions as provided by the Army Corps of Engineers. The City of Billings Public Works is responsible for implementing, monitoring, and maintaining all Best Management Practices (BMPs) and Pre-Construction Notification (PCN) conditions of applicable NWP. This is to include any requirements per the Montana Dept of Environmental Quality 401 Water Quality Certification for Clean Water Act permits.
- Article 49 State Hazardous Materials and Solid Waste Laws 1. All waste material associated with the project must be disposed properly and not placed in identified floodplains/floodways or wetland areas. 2. In the unlikely event a spill or leak would occur from the construction equipment within the project area, construction activities must cease, and Montana Department of Environmental Quality (DEQ) must be contacted regarding the appropriate procedure for handling any contaminated soils or water. 3. All solid and hazardous waste materials must be disposed of, managed, and transported in accordance with the guidelines outlined in Montana DEQ regulations.
- Article 50 National Historic Preservation Act (NHPA) 1. The City of Billings Public Works and/or its designated contractor is responsible for complying with the Cultural Resource Guidance for Material Sources stipulated by the Montana Historical Society. Any fill material used for back filling, grading or ground restoration for this project must be obtained on-site from within the project APE, from a permitted MT DEQ Open cut pit, or from previously approved sources (existing commercial sources, existing contractor or County Stockpiles); otherwise, additional coordination with FEMA and the MT SHPO will be required to obtain necessary approvals. Documentation must be supplied to FEMA at project closeout. Failure to comply with this requirement may jeopardize FEMA funding. 2. If discovery of unexpected cultural or historic resources occurs during construction, activities must immediately cease in the area of discovery. The applicant must notify FEMA and take all reasonable measures to avoid or minimize harm to the property until FEMA, in coordination with the SHPO, participating Tribe(s), and any other consulting parties can evaluate the discovery and the effects of the Undertaking on the resources.
- Article 51 State Water and Soil Laws 1. The Applicant is responsible for obtaining any required water quality permits from the Montana Department of Environmental Quality. This is to include, but not limited to, turbidity 318 Authorization permits and MPDES (Montana Pollutant Discharge Elimination System) storm water construction general permits. 2. The Applicant must coordinate with the Montana Dept of Environmental Quality and obtain appropriate Clean Water Act Section 401 Water Quality Certifications, as applicable. 3. The Applicant is responsible for coordinating with the MT DEQ Water Protection Bureau and obtaining a construction dewatering permit, as applicable. 4. Areas of ground disturbance will be re-vegetated with native grasses to minimize and/or control the potential for spreading of noxious weeds. Construction equipment must be decontaminated before and after construction activities to prevent spread of invasive species.
- Article 52 State Fish, Wildlife and Natural Heritage Laws The applicant is responsible for coordinating with Montana Fish, Wildlife and Parks and obtaining any necessary permits (FWP-SPA 124) prior to

construction, as applicable.

- Article 53 Migratory Bird Treaty Act (MBTA) Project activities have the potential to impact migratory birds and raptors. The proposed actions are subject to compliance with the Migratory Bird Treaty Act (MBTA). In accordance with US Fish and Wildlife (USFWS) guidelines, the sub-applicant is responsible for obtaining and complying with any necessary permits from USFWS. To avoid impacts to migratory birds and raptors, the project area must be inspected for nesting activity prior to the start of work. If active nests are discovered, the Montana Ecological Services Field Office must be contacted. Appropriate USFWS buffer zones and/or seasonal restrictions may be required. Alternatively, work can be completed outside of the nesting season (generally April 15 through August 31). For more specific information on nesting season dates, please contact the USFWS Montana Ecological Services Field Office.
- Article 54 Bald and Golden Eagle Protection Act (BGEPA) Project activities have the potential to impact migratory birds and raptors. The proposed actions are subject to compliance with the Bald and Golden Eagle Protection Act (BGEPA). In accordance with US Fish and Wildlife (USFWS) guidelines, the sub-applicant is responsible for obtaining and complying with any necessary permits from USFWS. To avoid impacts to migratory birds and raptors, the project area must be inspected for nesting activity prior to the start of work. If active nests are discovered within action area line of sight, the Montana Ecological Services Field Office and FEMA must be contacted. Appropriate USFWS buffer zones and/or seasonal restrictions may be required. Alternatively, work can be completed outside of the nesting season. For eagles in Montana the nesting season exclusion dates are February 1 - August 15th. If work must occur February 1 - August 15th, the sub-applicant must follow the Montana Bald Eagle Management Guidelines: An Addendum to Montana Bald Eagle Management Plan (1994). The guidelines can be found at: https://fwp.mt.gov/binaries/content/assets/fwp/conservation/wildlife-reports/bald-eagle/bald-eagle-guidelines-final-5_05_10.pdf
- Article 55 Endangered Species Act (ESA) The City of Billings Public Works must implement the following construction best management practices and other minimization measures outlined in Section 1.3 of the Biological Assessment dated August 4, 2023: 1. Minimize disturbance to ground cover and vegetation within known Ute Ladies'-tresses habitats. Where possible use existing roads and trails. 2. Avoid bringing in non-native seed on vehicles and equipment. 3. Minimize temporary ground/vegetation clearing within and outside the construction limits. 4. Disturbed soils and native vegetation should be segregated and salvaged for re-planting and restoration efforts wherever feasible. 5. Clean all machinery and equipment prior to entering the project site. 6. Removal/disturbance of Ute Ladies'-tresses habitat should be avoided during the time of year when they are inflorescence (generally a span of about three to four weeks in mid-August to early-September).
- Article 56 Executive Order 11988 - Floodplains A Floodplain Development Permit must be obtained from the City of Billings Public Works Floodplain Administrator and/or designated County official.
- Article 57 Executive Order 11990 - Wetlands 1. To minimize impacts to wetlands, appropriate erosion and sediment control measures will be installed to control the discharge of pollutants from the construction site. 2. Impacts to jurisdictional wetlands must be addressed in compliance with Section 404 of the Clean Water Act. Wetland impacts will be mitigated through purchase of credits from a wetland mitigation bank or other approved method designated by USACE. 3. Reseeding and replanting of any disturbed areas shall be incorporated into the project design.
- Article 58 NEPA Condition 1. Construction noise levels will be minimized by ensuring that construction equipment is equipped with a recommended muffler in good working order or implementation of other appropriate measures. Impact to noise levels could be minimized by limiting construction activities that occur during early morning or late evening hours. 2. To mitigate for fugitive dust during construction, periodic watering of active construction areas, particularly in areas close to sensitive receptors (e.g., hospitals, senior citizen homes, and schools) will be implemented. 3. To minimize any potential hazards to occupational health and safety, construction workers and equipment operators are required to wear appropriate PPE and to be properly trained for the work being performed.
- Article 59 Standard Condition #1 Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.
- Article 60 Standard Condition #2 This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.

Article 61

Standard Condition #3 If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.

Obligating Document for Award

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| AGREEMENT NUMBER: FM-5324-DR-4655-04 | SUB-RECIPIENT NAME AND ADDRESS: City of Billings Public Works 2251 Belknap Avenue Billings, MT 59101 | ISSUING STATE OFFICE AND ADDRESS: Montana Disaster and Emergency Services P.O. Box 4789 1956 MT Majo Street Fort Harrison, MT 59636-4789 |
| AMENDMENT | | |
| NAME OF SUB-RECIPIENT AUTHORIZED REPRESENTATIVE: Debi Meling Public Works Director | SUB-RECIPIENT AUTHORIZED REPRESENTATIVE CONTACT INFORMATION: 406-657-3097 | MT DES Authorized Organization Representative: SHMO Sara Hartley |
| EFFECTIVE DATE OF THIS ACTION: 05/20/2025 | METHOD OF PAYMENT: EFT | NAME AND CONTACT INFORMATION OF MT DES GRANT COORDINATORS: |
| FEDERAL AWARD AMOUNT: \$749,901.12 (Increment I) LOCAL MATCH AMOUNT: \$0.00 RESILIENCY FUNDING: \$1,774,500.00 (Increments I,II,III) TOTAL PROJECT COST: \$2,524,401.12 | | PERIOD OF PERFORMANCE: From:06/16/2022 To:13/13/2026 Budget Period: From: 06/16/2022 To:12/13/2026 |
| ASSISTANCE ARRANGEMENT: Cost Reimbursement | CFDA #: 97.039 | |
| SUB-RECIPIENT SIGNATORY OFFICIAL (Name and Title) | | DATE |
| SUB-RECIPIENT AUTHORIZED REPRESENTATIVE (Name and Title) | | DATE |
| MT DES SIGNATORY (Name and Title) Jake Ganieany, Recovery/Mitigation Bureau Chief, Authorized Organizational Representative | | DATE |