

**SUBRECIPIENT AND PASS-THROUGH AGREEMENT BETWEEN GALLATIN
COUNTY AND THE CITY OF THREE FORKS REGARDING USE OF AMERICAN
RESCUE PLAN ACT OF 2021 (ARPA) FUNDS FOR THE THREE FORKS WATER
SUPPLY AND DISTRIBUTION IMPROVEMENTS PROJECT
ASSISTANCE LISTING (CFDA) #21.027**

This Subrecipient and Pass-Through Agreement (“Agreement”) is entered between **Gallatin County, Montana**, with its principal offices located at 311 West Main Street, Room 306, Bozeman, Montana 59715 (“County”) and The City of Three Forks, located at PO Box 187, Three Forks, Montana, 59752, collectively referred to herein as the “Parties”.

WHEREAS, on March 11, 2021, the American Rescue Plan Act (“ARPA”) was signed into law and established the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Funds, which comprise the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) program;

WHEREAS, the SLFRF program is intended to provide support to state, territorial, local, and tribal governments in responding to the economic and public health impacts of COVID-19 and state and local governments’ efforts to contain impacts on their communities, residents, and businesses;

WHEREAS, one of the four statutory eligible uses of a SLFRF award is to make necessary investments in water, sewer, or broadband infrastructure;

WHEREAS, the State of Montana received an SLFRF award, and the 67th State Legislature adopted House Bill 632 to provide for the appropriations and allocations of such funds for state and local water and sewer infrastructure grants, referred to as “Minimum Allocation Grants”;

WHEREAS, the County is the direct recipient of a SLFRF award from the federal government and the pass-through subrecipient of a Minimum Allocation Grant from the State and, consequently, the County is responsible for administering the funds according to federal ARPA directives and House Bill 632;

WHEREAS, The City of Three Forks has applied to the County for a subaward and pass-through subaward for the Three Forks Water Supply and Distribution Improvements Project, as further described below (the “Project”), which will assist the County by improving the access to and reliability of clean drinking water for the residents of Three Forks.

WHEREAS, this Agreement will enable the Parties to cooperatively implement and distribute the County’s SLFRF funding through the subaward and to pass-through the Minimum Allocation Grant subaward to The City of Three Forks;

WHEREAS, the County, as the direct federal grantee of appropriated funds by the U.S. Department of Treasury (“Treasury”), and as a subrecipient of appropriated funds by the Montana Legislature, has determined that the subaward and pass-through subaward to The City of Three Forks for the Project is in the best interest of the County and its recovery from the pandemic; and

WHEREAS, through this Agreement, the Parties have certified their compliance with applicable federal and state laws and regulations, as required by the Treasury and the State of Montana.

NOW, THEREFORE, in consideration of the mutual promises and conditions contained herein, the Parties agree as follows:

1. EFFECTIVE DATE AND TERM. This Agreement is effective from the date of execution and shall remain in effect until no later than December 15, 2023, by which date the payment of all expenses must be final. The Parties expressly intend that any verified and appropriate monies offered under this Agreement and expended by The City of Three Forks for the Project prior to the execution of this Agreement are to be compensated under the terms of this Agreement.

DESCRIPTION OF PROJECT- SCOPE OF WORK. The Project complies with restrictions set forth in House Bill 632, 67th Leg., and the use of SLFRF awarded funds in that it is for the purpose of making necessary investments in water and sewer infrastructure. A complete description of the Project, including detailed budget information and a schedule of work is included in Agreement AM-22-0083, between Montana DNRC and Gallatin County. Section 4 (“Project Scope”), Attachment A (“Scope of Work”), Section 5 (“Project Budget”), and Attachment B (“Budget”) thereof are incorporated herein by reference.

Subrecipient shall cause the plans and specifications for the Project to be prepared by a registered professional engineer licensed to practice in his or her areas of competence in the State of Montana. Subrecipient also shall submit or cause to be submitted the plans and specifications to the Montana Department of Environmental Quality (DEQ) for review and approval prior to construction. Subrecipient agrees that all construction will be in strict accordance with DEQ approved plans and specifications.

A final Montana Environmental Policy Act (MEPA) (§ 75-1-101 et seq., MCA; 36.2.503 ARM) decision notice must be approved by the Montana Department of Natural Resources and Conservation (DNRC) before going to bid or proceeding with activities that have environmental impacts. Reimbursement will be declined for activities not approved under the MEPA decision notice. It is The City of Three Forks’ responsibility to comply with MEPA and to provide all required information requested by DNRC and the County related to any required MEPA decision.

The Project is committed to the defined project outcomes, defined actions to achieve those outcomes, and defined measurements of the effectiveness of those outcomes, as set forth above and as required by House Bill 632, Section 27.

Any transfer of funds between budget categories as identified herein requires written notification and approval by the County and the DNRC liaison.

2. SLFRF SUBAWARD; MINIMUM ALLOCATION GRANT PASS-THROUGH SUBAWARD. The County agrees to pass-through the State Minimum Allocation Grant funding in the amount of \$500,000 to The City of Three Forks to complete the Project. The County also agrees to subaward \$59,000 to The City of Three Forks of direct SLFRF funding received by the County as matching funds. The SLFRF Subaward and Minimum Allocation Grant Pass-Through Subaward are hereafter collectively referred to as the “Subawards”.

3. USE OF FUNDS. The City of Three Forks may use the Subaward to fund eligible costs obligated beginning March 3, 2021 and up to September 30, 2023; provided, however, that all such costs must be paid by no later than December 15, 2023. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from the subaward.

The City of Three Forks may use the SLFRF Subaward to cover direct costs only. The City of Three Forks may use the Minimum Allocation Grant Pass-Through Subaward to cover direct administrative costs, but not indirect administrative costs. Direct costs are those that are identified specifically as costs of implementing the SLFRF program objectives, such as contract support, materials, and supplies for the Project. Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the subaward, such as the cost of facilities or administrative functions like a director’s office.

The City of Three Forks shall use the Subawards in compliance with the SLFRF Award Terms and Conditions (attached hereto and incorporated herein by reference), the Treasury’s Final Rule, House Bill 632, the terms and conditions of Grant Agreement No. AM-22-0083 between the DNRC and the County, and all other applicable state and federal laws and regulations, now in effect or that hereafter become effective. In addition, The City of Three Forks shall provide to the County proper documentation supporting determinations of costs and applicable compliance requirements and identifying how the requirements have been satisfied, as well as all other documentation necessary for the County’s completion of quarterly and annual Project and Expenditure reports, including but not limited to subaward reporting.

The City of Three Forks understands and agrees that the funds disbursed under this Agreement may be used only in compliance with Section 603(c) of the Social Security Act, the Treasury’s regulations implementing that section, and the guidance issued by the Treasury regarding the foregoing. The City of Three Forks shall determine, prior to engaging in any project using this assistance, that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project. The City of Three Forks agrees that the funds shall be used only in accordance with and in furtherance of the Project.

The Subawards may be subject to recoupment as required by applicable laws or if any of the expenses incurred through this Agreement are found to be ineligible.

4. QUARTERLY INVOICE AND PROGRAM REPORTS. The City of Three Forks agrees to comply with all reporting obligations established by the Treasury or the State of Montana, or required by the County, as they relate to the Subawards. The City of Three Forks agrees to provide to the County detailed quarterly invoices and proof of payment of all expenditures in statements accurately reflecting the costs, payments, and status of the Project, including but not limited to bills submitted to The City of Three Forks for payment relating to the Project, receipts or ledger with check/voucher number and date showing The City of Three Forks has paid the bills, and the estimated final costs of completing the Project. Templates for quarterly invoicing and quarterly program reports are incorporated herein as Exhibits A and B and shall be submitted by The City of Three Forks on the following schedule:

Report	Year	Quarter	Period Covered	Due Date
1	2022	2	Apr 1 – Jun 30	Jul 10 th , 2022
2	2022	3	Jul 1 – Sep 30	Oct 10 th , 2022
3	2022	4	Oct 1 – Dec 31	Jan 10 th , 2023
4	2023	1	Jan 1 – Mar 31	Apr 10 th , 2023
5	2023	2	Apr 1 – Jun 30	Jul 10 th , 2023
6	2023	3	Jul 1 – Sep 30	Oct 10 th , 2023
7	2023	Final	Apr 1, 2022 – Sep 30, 2023	Dec 15 th , 2023

5. PAYMENTS. Upon receipt of The City of Three Forks’ quarterly invoice and quarterly program report, the County will issue a reimbursement for the documented expenditures or will deny the requested reimbursement, in whole or in part, with a written statement detailing items not approved for reimbursement and the reason(s) for disapproval. The County may disapprove a requested reimbursement or a portion thereof based upon The City of Three Forks’ failure to comply with any material provision of this Agreement, including strict compliance with all reporting obligations.

The County has applied to the State of Montana on behalf of The City of Three Forks to receive Minimum Allocation Grant funding for the Project. The County has also applied for \$22 million in SLFRF from the U.S. Department of Treasury and the County has received \$11 million, representing half of those funds. The County anticipates that it will receive the other half of the funding before June 30, 2022. **If the County does not receive all of its anticipated SLFRF funding or all of the requested Minimum Allocation Grant, the County may unilaterally terminate this Agreement or amend this Agreement and the Subawards to The City of Three Forks as needed to allocate the SLFRF funding proportionally among all existing subrecipient agreements and to account for the reduced Minimum Allocation Grant funding available for the Project.** The County shall not be liable to The City of Three Forks for any payment that would have been payable had the Agreement not been terminated under amended under this provision. The County shall be liable to the City of Three Forks only for the payment, or prorated portion of that payment, owed to The City of Three Forks up to the date the amendment

or termination takes effect. This is The City of Three Forks' sole remedy. The County shall not be liable to The City of Three Forks for any other payments or damages arising from termination under this provision, including but not limited to general, special, or consequential damages such as loss profits or revenues.

6. MAINTENANCE OF AND ACCESS TO RECORDS. The City of Three Forks shall maintain records and financial documents sufficient to evidence compliance with Section 603(c) of the Social Security Act, the Treasury's regulations implementing that section, and guidance issued by the Treasury regarding the foregoing. The Treasury Office of Inspector General, the Government Accountability Office, the DNRC, the Montana legislative auditor, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of The City of Three Forks in order to conduct audits or other investigations. Records including but not limited to all invoices, bills, and other relevant documentation of SLFRF expenditures shall be maintained by The City of Three Forks for a period of five (5) years after all funds related to the Project have been expended or returned to the County, whichever is later. The City of Three Forks shall cause proper and adequate books of records and accounting to be kept showing complete and correct entries of all receipts, disbursements, and other transactions relating to the Project. The City of Three Forks agrees that the County and its agents may, at any reasonable time, inspect or audit all records that The City of Three Forks maintains pertaining to the Project to verify compliance with this Agreement. In addition, the County may require with reasonable cause and notice the City of Three Forks to submit to an audit by a Certified Public Accountant or other person acceptable to the County, paid for by the City of Three Forks. The County may terminate this Agreement upon any refusal of The City of Three Forks to allow access to records necessary for the County, its agent, or any auditor to conduct any audit or inspection.

The City of Three Forks further agrees that, if it is receiving \$750,000 or more in federal funds within a fiscal year, it shall maintain complete, accurate, documented, and current accounting of all program funds received and expended in accordance with OMB Uniform Guidance rules and shall file and provide the County with a copy of a "Uniform Guidance Audit" (formally called a single audit or federal audit) in accordance with the OMB Uniform Guidance rules.

The City of Three Forks shall maintain for the purposes of this Agreement an accounting system of procedures and practices that conforms to Generally Accepted Accounting Principles (GAAP). As defined by 2 CFR § 200.49, GAAP "has the meaning specified in accounting standards issued by the Government Accounting Standards Board and the Financial Accounting Standards Board."

7. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS. The City of Three Forks shall conform with all applicable state and federal laws, regulations and statues including but not limited to those set forth in SLFRF, the American Rescue Plan Act of 2021, PUB L. No 117-2, the Compliance and Reporting Guidance SLFRF Version 3.0 (February 28, 2022), and as such Guidance may be amended, the Treasury's Final Rule, 31 CFR Part 35, House Bill 632, and the Montana Infrastructure Advisory Commission Application Guidelines. In addition,

the Parties shall conform with the requirements set forth in the Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards.

Further, The City of Three Forks agrees to comply with the requirements of Section 603 of the Social Security Act, regulations adopted by the Treasury pursuant to section 603(f) of the Act, and guidance issued by the Treasury regarding the foregoing. The City of Three Forks also agrees to comply with all other applicable federal and state statutes, regulations, and executive orders, and The City of Three Forks shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

Federal regulations applicable to this award include, without limitation, the following:

- A. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by the Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award;
- B. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference;
- C. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference;
- D. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury’s implementing regulation at 31 C.F.R. Part 19;
- E. Sub-recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference;
- F. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- G. New Restrictions on Lobbying, 31 C.F.R. Part 21;
- H. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations; and
- I. Generally applicable federal environmental laws and regulations.

Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
- B. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

- C. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
- D. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance;
- E. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto; and
- F. The Montana Governmental Code of Fair Practices (Title 49, Chapter 3, Montana Code Annotated), which prohibits discrimination in the performance of this Agreement against any person on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability or national origin. Further, pursuant to § 49-3-207, MCA, all hiring for the purposes of this Agreement must be on the basis of merit and qualifications only.

As a condition of receiving the Subawards, The City of Three Forks agrees to abide by the assurances stated in the “Assurances of Compliance with Civil Rights Requirements” attached hereto and incorporated herein by this reference. Further, The City of Three Forks shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Treasury’s Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also includes protection to persons with “Limited English Proficiency” in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the U.S. Department of the Treasury’s Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or Agreement.

The City of Three Forks also agrees to adhere to Montana statutes and regulations applicable to counties, such as, but not limited to, public procurement and solicitation requirements, environmental laws, safety laws, and labor laws. These laws include, without limitation:

- A. Montana Labor Preference (§ 18-2-403, MCA) for work defined as “public works” per § 18-2-401, MCA;
- B. Prevailing Wage Rates (§ 18-2-403, MCA, et seq.);
- C. Montana Safety Culture Act (Title 39, Chapter 71, Part 15, MCA);
- D. Professional Licensure requirements (Title 37, MCA);
- E. Registration and Withholding (Title 39, Chapter 9 and Title 15, Chapter 50, MCA)
- F. Subcontractor Payments (Title 18, Chapter 2, Part 21, MCA);
- G. Occupational Health and Safety (Title 50, Chapter 71, MCA);
- H. Montana Worker’s Compensation Act (Title 39, Chapter 71, MCA);
- I. Public Contracting and Procurement (Title 18, MCA); and
- J. Montana Environmental Protection Act (Title 75, MCA; 36.2.503, ARM).

It shall be The City of Three Forks' responsibility to obtain all permits, licenses, and authorizations required from government authorities prior to initiation of the Project or required to be obtained by the time of completion of the Project to be eligible for reimbursement under this Agreement. Permits or authorizations may include, but are not limited to: Beneficial Water Use Permits (§ 85-2-302(1), MCA); Change in Appropriation Right Authorization (§ 85-2-402(1)(a), MCA), and other requirements under the Montana Water Use Act that may apply; Sage Grouse Habitat (Executive Order 21-2015), 310 permitting requirements, or other permits or authorizations that may be required by state, local, or federal agencies prior to beginning work on the Project or prior to completion of the Project.

Procurement of labor, services, supplies, materials, and equipment shall be conducted according to applicable federal, state, and local law and regulation. The County and DNRC may review any procurement solicitations that The City of Three Forks issues. Neither the County's nor DNRC's review or comments constitute an approval of the solicitation. The City of Three Forks remains bound by all applicable laws, regulations, and terms and conditions of the Agreement.

The City of Three Forks shall require its contractors and subcontractors to comply with all terms and conditions of this Agreement, as well as all applicable federal, state, and local laws and regulations.

8. PROJECT FUNDING RECIPIENT RESPONSIBILITIES: The City of Three Forks has the primary responsibility for directing, supervising, monitoring, and coordinating the performance of all Project activities carried out under the terms of this Agreement. The City of Three Forks has not been hired by the County to perform any work for or on behalf of the County. The City of Three Forks shall remain responsible for all work performed and for the completion of the Project. In performing the Project, The City of Three Forks is not an agent, employee, or independent contractor of the County. The agents, employees, and independent contractors associated with or hired by The City of Three Forks relating to the Project are not agents, employees, or independent contractors of the County. This Agreement does not create a partnership, joint venture, joint enterprise or joint undertaking of any sort between The City of Three Forks, its agents, employees, or independent contractors, and the County for the Project or otherwise.

9. CONFLICTS OF INTEREST: The City of Three Forks understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under the Subawards. The City of Three Forks must disclose in writing to the County and the Treasury any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

10. REMEDIAL ACTIONS: In the event of the City of Three Forks' noncompliance with Section 603 of the Social Security Act, other applicable laws or regulations, the Treasury's or State of Montana's implementing regulations or guidance, House Bill 632, or any reporting or other

program requirements, the County may impose additional conditions on the receipt of a subsequent tranche of subaward funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of Section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.

11. HATCH ACT: The City of Three Forks agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. FALSE STATEMENTS: The City of Three Forks understands that making false statements or claims in connection with the Subawards is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and any other remedy available by law.

13. PUBLICATIONS: Any publications produced with funds from the Subawards must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number SLRFP0471 awarded to Gallatin County and by federal award number SLFRP1747 awarded to State of Montana by the U.S. Department of the Treasury.”

14. DEBTS OWED: Any funds paid to The City of Three Forks: (1) in excess of the amount to which The City of Three Forks is finally determined to be authorized to retain under the terms of this Agreement; (2) that are determined by the Treasury Office of Inspector General, the State of Montana, or the County to have been misused; or (3) that are determined by the Treasury, the State of Montana, or the County to be subject to a repayment obligation pursuant to Section 603(e) of the Social Security Act or other applicable law and have not been repaid by the City of Three Forks shall constitute a debt to the County. Any debts determined to be owed must be paid promptly to the County by The City of Three Forks. A debt is delinquent if it has not been paid by the date specified in the Treasury’s, State’s, or County’s initial written demand for payment, unless other satisfactory arrangements have been made or if The City of Three Forks knowingly or improperly retains funds that are a debt as defined in the first sentence of this paragraph. County will take any actions available to it to collect such a debt.

15. DISCLAIMER: The County expressly disclaims any and all responsibility or liability to The City of Three Forks or third persons for the actions of The City of Three Forks or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this Agreement or any other losses resulting in any way from the Subawards, the Project, or any contractor or subcontract under this Agreement. The acceptance of the Subawards by The City of Three Forks does not in any way establish an agency relationship between the United States and the County, the County and the State of Montana, or the County and The City of Three Forks.

16. PROTECTIONS FOR WHISTLEBLOWERS: In accordance with 41 U.S.C. § 4712, The City of Three Forks shall not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

The list of persons and entities referenced in the paragraph above includes the following:

- A. A member of Congress or a representative of a committee of Congress;
- B. An Inspector General;
- C. The Government Accountability Office;
- D. A Treasury employee responsible for contract or grant oversight or management;
- E. An authorized official of the Department of Justice or other law enforcement agency;
- F. A court or grand jury; or
- G. A management official or other employee of The City of Three Forks, or of its contractor or subcontractor who has the responsibility to investigate, discover, or address misconduct.

The City of Three Forks shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. INCREASING SEAT BELT USE IN THE UNITED STATES: Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), The City of Three Forks shall encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. REDUCING TEXT MESSAGING WHILE DRIVING: Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), the City of Three Forks shall encourage its employees, sub-recipients, and contractors to adopt and enforce policies that ban text messaging while driving, and The City of Three Forks shall establish workplace safety policies to decrease accidents caused by distracted drivers.

19. PURCHASE AND MANAGEMENT OF REAL PROPERTY OR EQUIPMENT. Any purchase of real property or equipment by The City of Three Forks with the Subawards must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment or real property acquired for the Project must be used for the originally authorized purpose and maintained subject to all applicable laws and regulations. Equipment and real property will vest in The City of Three Forks and may only be disposed of in compliance with 2 CFR 200.311 and 2 CFR 200.313.

20. INDEMNIFICATION. The City of Three Forks shall protect, indemnify, defend, and save the County and its officers, employees, and agents harmless from and against any and all claims, liabilities, demands, causes of actions, judgements, and settlements, including costs and

reasonable attorney fees, arising in favor of or asserted by any person or entity which are, or are alleged to be the result of, in whole or in part, any acts, errors, or omissions of The City of Three Forks, its employees, agents, or independent contractors, in connection with the Project or The City of Three Forks' failure to comply with the terms of this Agreement. The duty of The City of Three Forks to defend is not contingent upon an admission or jury determination that The City of Three Forks committed any negligent acts or engaged in any willful misconduct. The City of Three Forks shall pay the reasonable costs and attorney fees incurred by the County in establishing its right to defense or indemnification provided herein.

21. ASSIGNMENTS. The Parties mutually agree that there will be no assignments, transfer, or other delegation of this Agreement, nor any interest in this Agreement, without the express prior written consent of the Parties.

22. MODIFICATIONS. This Agreement contains the entire agreement between the Parties, and no statements, promises, or inducements made by either party or agents of either party, which are not contained in this writing shall be valid or binding. This Agreement shall not be modified or otherwise altered without written agreement of the Parties.

23. SEVERABILITY. It is agreed by the Parties that if any term or provision of this Agreement is held to be illegal or in conflict with any federal or Montana law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

24. TERMINATION. The County may suspend or terminate this Agreement if The City of Three Forks fails to comply with any term herein, with applicable rules and regulations established for use of the Subawards by the Treasury or the State of Montana, or with any reasonable directives or orders from DNRC. The County also may terminate this Agreement if The City of Three Forks makes an intentionally untrue statement or materially misleading certification in this Agreement or its application for the Subawards.

Upon the occurrence of a breach, the County shall provide The City of Three Forks thirty (30) days written notice by registered mail or personal delivery. The written notice must demand performance of the stated failure within a specified time period of not less than thirty (30) days. If the demanded performance is not completed within the specified time period, the termination is effective at the end of that specified time period. However, if the County determines that a public safety issue or an immediate public crisis exists, it is not required to provide advance written notice or a cure period and may immediately terminate this Agreement in whole or in part if the County, in its sole discretion reasonably exercised, determines that it is reasonably necessary to preserve public safety or prevent an immediate public crisis.

Upon such termination and, at the County's option, The City of Three Forks shall return to the County all Subaward funds previously issued to The City of Three Forks together with all interest

earned on the monies provided or herein remaining unexpended at such time. In addition, the County may bring such legal action as may be necessary to enforce this Agreement.

25. MONTANA'S LAW AND VENUE. The Parties agree that any action or judicial proceeding for the enforcement of this Agreement shall be instituted only in the courts of the State of Montana, and it is mutually agreed that this Agreement shall be governed by the laws of the State of Montana, both as to interpretation and performance. In the event of litigation concerning the terms of this Agreement, venue shall be in the 18th Judicial District in and for the County of Gallatin, Montana.

26. PUBLIC ACCESS TO INFORMATION. The City of Three Forks acknowledges the County is a local government unit and its records are public and subject to disclosure under Montana law. Certain information may be protected from disclosure. Protected information includes information concerning an individual privacy interest, protected health information, legitimate trade secrets, constitutionally protected proprietary information, and certain information related to individual or public safety. The Parties agree to confer prior to disclosure of information relating to this Agreement that may include protected information.

27. NON-WAIVER. No delay or failure by either party to enforce or assert any right, claim, defense, remedy, or provision of this Agreement shall operate as any waiver of any such right, claim, defense, or remedy.

28. REMEDIES CUMULATIVE. The remedies given in this Agreement to either party shall be cumulative, and the exercise of any one remedy by either party shall not be to the exclusion of any other remedy.

29. EFFECT OF DUPLICATE; AUTHORITY TO SIGN; COUNTERPARTS. This Agreement will be filed with the Gallatin County Clerk and Recorder. A copy of the original signed Agreement has the same force and effect as the original. Each individual signing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement. This Agreement may be executed in counterparts and an electronic or facsimile signature shall have full force and effect, binding the party to its execution.

30. PROJECT MONITORING & ACCESS FOR INSPECTION AND MONITORING. The DNRC, the County, or their agents may monitor and inspect all phases and aspects of The City of Three Forks' performance to determine compliance with this Agreement, including the adequacy of records and accounts. The Subawards are publicly funded and require The City of Three Forks to accommodate all requests for public access to the site and project records with due consideration for safety, private property rights, and convenience of all parties.

THE CITY OF THREE FORKS

BY: _____
Randy Johnston
Mayor

DATE: _____

GALLATIN COUNTY, MONTANA

BY: _____
Joe P. Skinner
Chair, County Commission

DATE: _____