

Appendix B

Sample

Land Control Agreement

MARYLAND DEPARTMENT OF NATURAL RESOURCES

INTERAGENCY CONTRACT

THIS INTERAGENCY CONTRACT (the "Contract"), entered into on this _____ day
of _____, 20____, by and between the

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
BOATING SERVICES UNIT
TAWES STATE OFFICE BUILDING, E-4
580 TAYLOR AVENUE
ANNAPOLIS, MARYLAND 21401
Hereinafter ("Department")

and

XXXXXXXX CITY, TOWN OR COUNTY
XXXXX ADDRESS
Hereinafter ("CITY, TOWN OR COUNTY")

WHEREAS, the Department has chosen the CITY, TOWN OR COUNTY, and the City, TOWN OR COUNTY has agreed to perform the work herein and be bound by the terms of this Contract;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained be it agreed by and between the parties hereto as follows:

BACKGROUND: The Boating Infrastructure Grant [hereinafter "BIG"] Program is a federal program administered by the United States Department of the Interior's Fish and Wildlife Service (USFWS) to provide funds to States to install or up-grade tie-up facilities for "eligible vessels" as defined in 50 CFR Subpart A § 86.3, which are transient recreational vessels at least 26 feet long that are owned, loaned, rented, or chartered.

PURPOSE: The Contract sets forth the entire agreement among the parties hereto pertaining to the approved BIG Program project described herein.

The City, Town or County agrees to carry out the work described in the attached Scope of Work (**Addendum A**), which is expressly incorporated into and made a part of the Contract herein.

ARTICLE I. - SCOPE OF WORK

The general objective of the Contract is that the City, Town or County shall aid the Department by providing access to the City, Town or County for non-trailerable vessels 26' or larger as described in Scope of Work (Addendum A). The City, Town or County shall be responsible for a) providing all labor, materials, equipment, machinery, tools, supplies and supervision necessary to perform all work described in the Scope of Work and related facility and/or structure for the useful life of said facility and/or structure, said useful life to be of significant longevity of not less than **XXXX years** except for destruction thereof caused by an Act of God; b) fully complying with all the terms of the Contract, including but not limited to all requirements of the federal BIG Program as set forth in 16 U.S.C. 777g and 50 CFR Part 86, as amended if amended and; c) maintaining and repairing any tie-up facility and/or structure for the useful life of said facility and/or structure, said useful life to be of significant longevity of not less than **XXXX years** except for destruction thereof caused by an Act of God.

CHANGES TO SCOPE OF WORK: Any requested change to the design and/or scope of work of an approved project and/or any proposal for additional funds for the approved project even if paid for by the City, Town or County must be submitted to the Department for review. If the Department determines that the requested change is a substantial change to the approved scope of work of the project and needs USFWS involvement or attention, the Department shall submit requested changes to USFWS for review and approval. If deemed necessary by USFWS, an approved change to the project will be documented in an amendment to the Contract.

WARRANTY OF MATERIALS AND WORKMANSHIP: Unless otherwise specified in writing, the City, Town or County agrees and warrants that: a) all materials and equipment incorporated in the work under the Contract shall be in first-class condition and in accordance with the terms and provisions of said Contract; b) all workmanship shall be of the highest quality, in accordance with the terms and provisions of the above Contract, and performed by persons qualified at their respective trades; c) all tie-up facilities shall be designed and built to last at least **XXXX years** with periodic maintenance, with heavy-duty materials and overbuilt construction encouraged to maximize the lifetime durability of the facility and to minimize the cost of long-term maintenance thereof.

The City, Town or County is encouraged to require the architects, engineers, and other contractors working on the approved project to submit to the City, Town or County written certifications that the project has been constructed in compliance with the approved project design and construction standards.

ARTICLE II. - CONSIDERATION AND METHOD OF PAYMENT

The work set forth above shall be performed during the term of the Contract as stated herein for a total amount not to exceed **XXXXXXXX** dollars (\$?????). The federal share will be **??%** of the actual construction contract amount, as determined through the competitive bid

process, not to exceed \$?????. The match (????%) will be provided by City/Town/County funds.

The City, Town or County shall submit monthly billings for all costs expended in the performance of the Contract. After an amount has been paid to the City, Town or County, which is equal to eighty percent (80%) of the funds initially allocated and approved for this Contract, the Department may withhold from payment an amount of not more than twenty percent (20%) of the total contract price, until satisfactory completion by the City, Town or County of performance of all tasks described under the Contract. A standard billing format shall be followed including, but not limited to, any Contract Identifying Number. Billings shall be due and payable within thirty (30) days of receipt by the Department. The payment of any invoice for costs incurred or progress claimed shall not be deemed to convey the Department's acceptance of the legitimacy or accuracy of the costs or progress represented by that invoice.

Should the Department determine that a cost, even if paid, should be disallowed, and should the City, Town or County not timely tender full payment or satisfaction, this determination of disallowance shall be considered a "claim" for purposes of the Article entitled disputes. The City, Town or County agrees to follow a cost accounting practice which is in accordance with the standards, principles and procedures in COMAR 21.09 and the uniform practices of the profession as acceptable to the Department. For Contracts which provide for reimbursement for allowable costs, positive time records shall be kept and summaries shall be provided at least quarterly.

ARTICLE III. – CONTRACT REPRESENTATIVES (See Addendum to Article III.)

The following individuals shall have authority to act under this Contract for their respective parties:

Department: XXXXXX, Director

Chesapeake & Coastal Services

Maryland Department of Natural Resources

(Or such other person as may be formally designated to act)

City: XXXXXXXXXX

Department of Public Works

City/Town/County

(Or such other person as may be formally designated to act)

ARTICLE III. – KEY PERSONNEL - ADDENDUM

The Department and the City, Town or County agree that the following named individuals are considered to be essential to the work being performed hereunder and are designated as key personnel who shall be made available to the full extent required to carry out the work under the Contract:

Department:

- Carla Fleming, Director, Waterway Improvement & Infrastructure, Phone 410.260.8447; Fax 410.260.8453; email carla.fleming@maryland.gov
- Li Lan Carson, Federal Project Lead, Phone 410.260.8452; Fax 410.260.8453; email lilan.carson@maryland.gov
- Donald O’Neill, Agency Grants Specialist, Phone 410.260.8435; Fax 410.260.8453; email don.o’neill@maryland.gov

City/Town/County:

- XXXXXXXXXXXX
Phone; Fax; email
- XXXXXXXXXXXX
Phone; Fax; email

Should any of these individuals become unavailable during the period of performance, personnel of equivalent capability shall be assigned to the project. Any such substitutions shall require prior written approval by the Department, which approval shall not be unreasonably denied. Should the City, Town or County be unable to provide substitutes acceptable to the Department within a reasonable time to do so, the Department may terminate the Contract, or, at its option, negotiate with the City, Town or County for an acceptable modification in the work and /or payment under the Contract relative to the loss of such key personnel.

ARTICLE IV – GENERAL CONDITIONS

A. Term

The Term of the Contract is XXXX (??) years beginning on XXXXXXXX or the date the last party signs whichever is later and ending on XXXXXXXX.

TERM: The terms and provisions set forth in the Contract shall survive and be in full force and effect from the date hereof for the useful life of the facility and/or structure which is the purpose for the Contract, said useful life of said facility and/or structure to be not less than **XXXX** years except for destruction thereof caused by an Act of God, unless a lesser time period is expressly agreed to in writing by the parties hereto. The terms and provisions hereof shall survive the termination of the Boating Infrastructure Program grant providing federal funds for this project.

B. Obligations of the City, Town or County

1. In addition to any other obligations which are imposed upon the City, Town or County under the provisions of the Contract, within thirty (30) days after completion of the project, as certified by the Department, the City, Town or County agrees to assume, at its sole cost and expense, responsibility for the operation, management and maintenance of the project facilities and premises in accordance with these terms and conditions for the specified term no less than **XXXX (??) years**.

2. The City, Town or County, at its sole cost and expense, will carry out in a timely manner and assume full responsibility for any periodic maintenance and repair work on the project area that may be necessary, in particular, any work that would affect the integrity of the bulkhead, boardwalk, dock hardware, and utilities. This maintenance shall include, but not be limited to, inspection of the bulkhead, boardwalk, dock hardware, and utilities, and repair as needed.

3. Upon completion of the project, the City, Town or County shall assume full responsibility for its supervision which shall consist of surveillance and law enforcement as may be necessary for the suppression of vandalism and the protection of persons and property.

MAINTENANCE OF PROJECT FACILITIES: The City, Town or County shall be responsible for all repairs, replacement, and reconstruction of project facilities necessary because of the normal effects of weather, age, and all uses of the project facilities, including but not limited to public use. All tie-up facilities and structures must be designed and maintained for the useful life of said facility and/or structure, said useful life to be not less than **XXXX years** except destruction thereof by an Act of God. With the exception of the immediate area of the dinghy dock, the City, Town or County shall maintain the depth of water at mean low tide minimum of six feet.

OPERATION AND USE OF PROJECT FACILITIES: The City, Town or County shall be responsible for the operation of the project facilities, including all costs associated with said operation, for the useful life of the facility as described above. Said responsibilities include trash and litter removal, cleaning of the facility, and law enforcement patrol of the facility.

All tie-up facilities must be operated, maintained and used for the purpose(s) stated in the Contract for the useful life of the facility. Transient vessels may use a designated BIG funded slip 10 days or less. All slips receiving BIG funds must at all times display signage denoting this purpose. Said project facilities cannot be converted to another use without the express written consent of the USFWS.

The City, Town or County assumes full responsibility for all wear-and-tear and damages to the facility resulting from non-Project BIG use and hereby agrees to pay all costs of maintenance and repair to the facility during the useful life of said facility regardless of whether said wear-and-tear or damages were caused by Project BIG use or non-Project BIG use. The City, Town or County also understands and agrees that the project facility must be used primarily for Project BIG use, that Project BIG use is the highest priority use of said facility, and that any non-Project BIG use must not interfere with or in any way hinder Project BIG use.

PUBLIC ACCESS TO FACILITIES: The City, Town or County must allow reasonable public access to all recreational vessels for the useful life of tie-up facilities. Reasonable public access means access a) at locations where the public can reasonably reach the facility, b) where all recreational vessels typical to that facility can easily use that facility, c) open for reasonable periods, and d) charging equitable fees. Public access must also be allowed to the shore and to basic features such as fuel, water, electricity, restrooms, and pumpouts at facilities that have these services. If overnight dockage is provided, the City, Town or County hereby agrees to either provide pumpout service to transient boaters during reasonable times or ensure that a pumpout facility is located within two miles that is both operable and available to transient boaters during reasonable times. Public access to the remainder of the park or marina where the facility is found is neither required nor discouraged.

FEES FOR USE OF FACILITIES: The City, Town or County **must** charge the public a reasonable fee for use of the facility **based on prevailing rates at other publicly and privately owned local facilities offering a similar service or amenity. If other publicly and privately owned local facilities offer BIG-funded services or amenities free of charge, then a fee is not required.** Fees must neither discriminate against nor discourage anyone from using the facility.

In accordance with the requirements of the BIG Program, 50 CFR Part 86, and Executive Order 12866, all revenues from such user fees must be applied to the cost of operating and maintaining the facility for the useful life thereof. If the City, Town or County charges a user fee, the City, Town or County shall establish a separate account for all such user fee funds received and expended in connection with said facility. The City, Town or County shall preserve the records of said account and permit the Department to inspect and audit these records upon request but not more frequently than twice each fiscal year. The City, Town or County shall upon request provide to the Department a list of all such user fees along with all documentation demonstrating how the value of such fees was determined.

All user fees must be reviewed and approved in writing by the Department prior to the implementation of said fees. No such fees can be charged until the City, Town or County has received such written approval from the Department. User fees cannot be subsequently increased or modified without the written approval of the Department.

C. Use of the Premises.

1. The City, Town or County and the Department agree that the premises shall be used and occupied for the sole purpose of renovating/constructing the bulkhead, boardwalk, dock hardware, and utilities and constructing, managing and maintaining the project including the bulkhead, boardwalk, dock hardware, utilities, and access to the facility. If the City, Town or County ceases to maintain this location as a public facility or changes the use integrity of the facility, all monies paid by USFWS through the Department will be reimbursed to the Department by the City, Town or County.

2. The City, Town or County may, at no cost or expense to the Department, develop and construct additional facilities on the premises as may be appropriate to more fully utilize the recreational potential of the site. However, the Department reserves the right to timely review and approve the plans of such additional facilities. The Department shall not unreasonably deny approval. The City, Town or County shall cause plans and specifications to be prepared for the construction of such additional facilities and will make such plans and specifications available to the Department for their review and approval prior to the commencement of construction. The City, Town or County shall be responsible for obtaining all necessary Federal, State and Local permits for any additional facilities, including any approvals needed to insure compliance with the Chesapeake Bay Critical Area law, prior to implementing such projects. Any additional facilities constructed by the City, Town or County at the public boating access facility area are subject to the terms of the Contract.

3. Access for inspection of maintenance and repair of the facilities by Department personnel, etc., shall not be impeded or hampered in any way by the City, Town or County agents, assigns, employees or patrons.

4. Attached hereto and expressly incorporated and made a part of this Contract are the following documents:

1. Addendum A – Scope of Work,
2. Addendum B – Additional Terms and Conditions,
3. Addendum C – The Department of Natural Resources, General Conditions For Memoranda of Understanding (Rev. 5/2012), and
4. Addendum D – U.S. Fish and Wildlife Service Division of Federal Aid Assurances
5. Addendum E - U.S. Fish and Wildlife Service Financial Assistance Award Terms and Conditions, effective date: December 26, 2014.

ARTICLE V. - MERGER

The Contract embodies the whole agreement of the parties. There are no promises, terms, conditions or obligations referring to the subject matter, other than those contained herein or incorporated herein by reference.

COMPLIANCE WITH FEDERAL LAWS, REGULATIONS AND POLICIES:

The City, Town or County hereby acknowledges and agrees that BIG regulations [50 CFR Part 86] require that the City, Town or County must agree to and certify compliance with all applicable Federal laws, regulations and policies and that the City, Town or County must submit to the Department the Assurance Statement attached to the Contract (Addendum D), as described in 43 CFR Part 12.51(c).

The City, Town or County further acknowledges and agrees that pursuant to 50 CFR Part 86 the City, Town or County may be required to provide additional documentation to comply with environmental and other laws as defined in Fish and Wildlife Service Manual Part 523 FW 1.

SAMPLE

IN WITNESS WHEREOF, the parties have executed this Contract by causing the same to be signed on the day and year first above written.

CITY , TOWN OR COUNTY

By: _____

WITNESS:
Date: _____

Name: XXXXX
Title: XXXXX
Date: _____

**STATE OF MARYLAND
DEPT. OF NATURAL RESOURCES**

By: _____

WITNESS:
Date: _____

Name: XXX
Title: Director, Chesapeake &
Coastal Services Department of Natural Resources
Date: _____

By: _____

WITNESS:
Date: _____

Name: XXXXXXXXXXXX
Title: Assistant Secretary, Aquatic Resources
Date: _____

Approved as to legal form and sufficiency this _____ day of _____ 20XX

Department of Natural Resources
Assistant Attorney General

ADDENDUM A: SCOPE OF WORK

Maryland BIG Project

The purpose of this project is to replace 700' of existing deteriorated bulkhead at the XXXXXXXX which will provide dock space equivalent to XXX non-trailerable transient boat slips, XXX feet of dinghy dock (to continue to service boats on XXX existing moorings), and associated utilities. With a useful life of **XXXX years**, this project will provide improved non-trailerable transient recreational vessel access to the historical and cultural opportunities that make XXXXX a world-class boating destination.

A Federal Aid for the BIG Program sign (provided by DNR) will be properly displayed at the transient pier. Note: the work will be bid and performed under contract. On-site supervision of the project will be done by a qualified engineer(s) of the City, Town or County's Department of Public Works and/or by a qualified engineer(s) under contract. The work site will be inspected periodically during the course of the construction and after the project is completed. Following construction of the project, the transient slips will be managed and maintained by the City, Town or County of Annapolis.

Project Cost Summary

Mobilization/Demobilization	\$1,286,539	
Demolition (storm drains, sidewalk, asphalt, boardwalk)	\$ 137,684	
Stormwater Management	\$ 95,361	
Bulkhead (700 LF Steel Sheet Pile)	\$1,898,397	
Boardwalk (Brick pavers with concrete bed)	\$ 285,157	
Dock Hardware (Fenders, Pile caps, Safety Equipment)	\$ 12,486	
Utilities (electric, water, pedestals, communications)	<u>\$1,061,056</u>	
Construction Costs for Eligible Boating Infrastructure	\$4,776,680	
Cost Eligible for BIG Select – BIG Funding	\$4,203,478	88% Pro Rata
Actual BIG Select – BIG federal share	\$1,500,000	35.684% of Eligible
XXXX – Local Share	\$2,703,478	64.316% of Eligible

The work site will be inspected by the Department periodically during the course of the construction and after the project is completed. All plans and specifications shall be stamped by a Maryland Registered Engineer.

ADDENDUM B
Additional Terms & Conditions

I. Obligations of the City, Town or County

1. The City, Town or County will not discriminate against any person based on race, color, creed or national origin, in the use of any property or facility acquired or developed pursuant to this project.
2. The design and construction of the project will be by or under the supervision of the City, Town or County. Prior to the start of construction the City, Town or County must secure all necessary permits. The City, Town or County will bid the project, and the selected contractor will abide by the ASSURANCES --CONSTRUCTION PROGRAMS attached to these Terms and Conditions and made a part of this contract as Addendum D.
3. The City, Town or County must submit the project plans and specifications, including all contract documents and any subsequent changes, to the Department for timely review and approval, which shall not be unreasonably denied.
4. The project must be in compliance with the Forest Conservation Act of 1991 and the Maryland Economic Growth, Resource Protection, and Planning Act of 1992 prior to the reimbursement of any State (Department) funds.
5. The Department reserves the right to revert any unexpended federal or state funding or unencumbered balance from this contract during the duration of the project.
6. The City, Town or County will publicly advertise the project for bids. Bids will then be received, reviewed, and compiled by the City, Town or County. The Department reserves the right to have a representative present at the bid opening.
7. The City, Town or County will prepare a tabulation of bids and submit it to the Department with comments and recommendations **prior to the award of any contract.**
8. The City, Town or County must submit project invoices illustrating percentage of project completed, percentage of project spending by task category and a copy of paid canceled check(s) or certification that payment has been made for reimbursement to the Department until completion of the project.
9. The project shall be completed in accordance with the terms and conditions of any Maryland Department of Natural Resources Waterway Improvement Grant Applications related to this project.
10. The project and facilities and all records, books, papers or documents pertaining thereto shall at all reasonable times be open and available for inspection by the Department, its agents and designees.

11. The Department shall provide signs indicating the use of Federal Assistance funds and, if applicable, State Waterway Improvement funds, which the City, Town or County will post at the site.
12. The City, Town or County agrees to manage and operate the proposed project in reference to litter, refuse and provide necessary supervision assuring facility improvements will be high in quality.
13. The City, Town or County shall provide and maintain adequate sanitation and sanitary facilities and shall keep them safe for public use and in good, operable condition.
14. The City, Town or County will provide all necessary lands, easements, rights-of-way and dredge disposal site (s) required for the project, without cost to the Department.
15. The City, Town or County will assure that the facility will be designed and constructed for handicapped persons pursuant to the Sec. 51 Article 78A of the Annotated Code of Maryland and the Americans with Disabilities Act (ADA).

II. Additional Obligations of the City, Town or County after Completion.

1. In addition to any other obligations which are imposed upon the City, Town or County under the provisions of this Contract, within thirty (30) days after completion of the project, as certified by the Department, the City, Town or County agrees to assume, at its sole cost and expense, responsibility for the operation, management and maintenance of the project facilities and premises in accordance with these terms and conditions for the specified term of ~~XXXX~~(?) years.
2. The City, Town or County, at its sole cost and expense, will carry out in a timely manner and assume full responsibility for any periodic maintenance and repair work on the project area that may be necessary, in particular, any work that would effect the integrity of the bulkhead, boardwalk, dock hardware, and utilities.
3. Upon completion of the project, the City, Town or County shall assume full responsibility for its supervision which shall consist of surveillance and law enforcement as may be necessary for the suppression of vandalism and the protection of persons and property.

III. Use of the Premises.

1. The City, Town or County and the Department agree that the premises shall be used and occupied for the sole purpose of constructing, managing and maintaining a public boat access facility to include the bulkhead, boardwalk, dock hardware, and utilities. If the City, Town or County ceases to maintain the facility and associated federally funded improvements as a public facility or if the intended use of the facility is changed during the term of this Contract,

all Federal and State funds provided by the Department toward the facility will be reimbursed to the Department by the City, Town or County. Activities that interfere with the purpose of the public boat access facility are prohibited.

2. The City, Town or County may, at no cost or expense to the Department, develop and construct additional facilities on the premises as may be appropriate to more fully utilize the recreational potential of the site. However, the Department reserves the right to timely review and approve the plans and specifications to assure that such additional facilities are appropriate and would not interfere with the purpose of the public boat launching facility. The City, Town or County shall cause plans and specifications to be prepared for the construction of such additional facilities and will make such plans and specifications available to the Department for their review and approval prior to the commencement of construction. The City, Town or County shall be responsible for obtaining all necessary Federal, State and Local permits for any additional facilities, including any approvals needed to insure compliance with the Chesapeake Bay Critical Area law, prior to implementing such projects. Any additional facilities constructed by the City, Town or County at this site are subject to the terms of the Contract.

3. Access for inspection of maintenance and repair of the facilities by Department personnel, etc., shall not be impeded or hampered in any way by the City, Town or County, its agents, assigns, employees or patrons.

4. The City, Town or County shall be permitted to charge reasonable user fees for the boat launching facility, provided such fees are consistent, comparable to and at the same rate as fees charged by other agencies for similar use at equivalent facilities. Fees must neither discriminate nor discourage anyone from using the facilities. Revenues from user fees must be utilized to offset the cost of operating and maintaining the facilities. In the event that a user fee is charged, the City, Town or County shall establish a separate account for all funds received and expended in connection with this public boat launching facility. The City, Town or County shall preserve such records and permit the Department to inspect and audit these records upon request, but no more frequently than a semi-annual basis. The City, Town or County shall provide documentation to the Department of all fees to be charged for use of the facility and shall provide any additional information upon the request of the Department as to how the value of such fees is determined. No fees may be charged until the City, Town or County receives approval, in writing, from the Department or designee, and fees may not be increased or modified without the written consent of the Department or designee.

ADDENDUM C

**DEPARTMENT OF NATURAL RESOURCES
GENERAL CONDITIONS FOR
MEMORANDA OF UNDERSTANDING
REV. 5/12
[For Contracts Exempt from Procurement]**

ARTICLE I - TERMS AND APPLICABILITY

These General Conditions apply to contracts exempt from the requirements of State Finance and Procurement Article, §11-101 et seq. of the Annotated Code of Maryland. The General Conditions do not constitute a complete agreement but are part of a Memorandum of Understanding (“Memorandum” or “MOU”) executed by all parties, which identifies the specific work to be performed, compensation, term, and special conditions, if any. The General Conditions and the MOU are intended to be complementary and shall be construed together. In the event of a direct conflict between them, the terms of the Memorandum shall govern and control.

Specific terms used in this document have the following meaning:

- A. “Contract” means the agreement between the Department and the Contractor for performance of services, including the MOU, Scope of Work and these General Conditions.
- B. "Scope of Work" or "Work" refers to the specific contractual obligation of the Contractor as identified in the MOU or other work statement incorporated into the Contract.
- C. "Contractor" means the State agency, political subdivision or government obligated to perform services for the Department under this Contract.
- D. "Department" means the Maryland Department of Natural Resources.

ARTICLE II - THE PARTIES

A. Independent Contractor - The Contractor is not an employee of the Department but is an independent contractor. The Contractor shall be responsible for providing all supplies and materials necessary for performance of all work under the Contract, and for withholding any taxes and social security payments due in relation to the Contract. The Contractor is not an agent of the Department and cannot commit the Department to any expenditure of funds or enter into any contractual obligation on behalf of the Department.

B. Notices - Service of any notice required by the Contract shall be complete upon mailing of such notice, postage prepaid, to the appropriate contract representative at the address indicated in the MOU. If no contract representative is named, then the person executing the MOU for a party shall be the contract representative for purposes of notice.

ARTICLE III - PERFORMANCE

A. Standard of Performance - The Contractor is responsible for the supervision and inspection of, and the technical accuracy and coordination of all data and work pursuant to this Contract, and shall provide services and products meeting professional standards of quality and methodology.

B. Prosecution of the Work - The Contractor agrees to prosecute all work under this Contract continuously and diligently and to meet all milestones contained in the Contract. The Contractor further agrees that no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

C. Subletting or Assignment - The benefits and obligations hereunder shall inure to and be binding upon the parties hereto and their respective successors, provided the personnel of any such successor, whether such successor be an individual, a partnership or a corporation, is acceptable to the Department. The Contractor shall not hire consultants, sublet, sell, transfer, assign or otherwise dispose of this Contract or any portion thereof, or of its right, title or interest therein, without prior written consent of the Department.

In the case of any subcontract, the Contractor agrees to bind the subcontractor and every subcontractor agrees to be bound by all terms of this Contract unless particular provisions are expressly waived in writing by the Department.

D. Changes - The Department, by written direction to the Contractor, may at any time make any change in the work within the general scope of the Contract. Within fifteen (15) days of receipt of a Notice of Change, the Contractor shall advise the Department of the effect, if any, such changes would have on budgeting, cost, delivery schedules, milestones or any other Contract provisions. If such effects are acceptable to the Department, the Department shall issue a Notice to Proceed With Changes, upon receipt of which the Contractor shall immediately institute all such requested changes. Such directed additions or changes to the Scope of Work shall become part of the contractual obligation. Each contract modification or

change order that affects contract price is subject to the prior written approval of the Department.

E. Suspension of Work - The Department unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for a period of time the Department determines to be appropriate.

F. Disputes - If the Contractor intends to assert a claim against the Department, the Contractor shall do so within 30 days of the date the Contractor knows, or should know, of the basis of the claim. Failure to file a claim within the 30-day period is a complete bar to the claim. The claim shall consist of a written statement to the Department setting forth the nature and monetary extent of the claim, and the facts on which the claim is based. Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract.

ARTICLE IV - PROPERTY

The Contractor shall notify the Department in advance of public disclosure of any information related to this Contract, unless such disclosure is compelled by legislative or judicial process. The Contractor shall in all cases submit to the Department three (3) copies of any scientific or technical paper, abstract, report or other vehicle pertaining in whole or in part to this Contract which the Contractor desires to publish, submit for publication, distribute or otherwise publicly disseminate. Such submission shall be made by the Contractor to the Department at least thirty (30) days prior to its planned initial public dissemination, disclosure, or submission for publication. The Contractor shall include in any such documents or vehicles of public disclosure a statement which acknowledges the Department, the specific programs therein, and the financial support provided by this Contract. Furthermore, upon receipt of a written request from the Department, the Contractor shall also provide a disclaimer stating that the contents of the aforesaid document or vehicle of public disclosure do not in any way reflect the views, opinions, or policies of the Department.

B. Patents and Copyrights - The Contractor may retain the entire right, title, and interest throughout the world to each subject invention associated with or reduced to practice in the course of performance under this Contract. With respect to any subject invention in which the Contractor retains title, the Department, and in those cases where federal money is involved, the federal government, shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced the subject invention throughout the world.

The Contractor shall have the duty to disclose to the Department any invention associated with or reduced to practice in the course of performance under this Contract. Furthermore, the Contractor agrees that, if at any time during the course of performance of this Contract, it should become aware of a potential conflict between the rights of the Department under this Contract, and those of any other party or entity, as to ownership of any patent or copyright interests developing in relation to said performance, then the Department shall be immediately notified of such conflict. In such a case, it is agreed and understood that the terms of this Contract may be adjusted to provide for an equitable relationship between monies expended hereunder in pursuit of such patent or copyright interests and benefits to be obtained therefrom by the Department.

The Contractor assumes the risk that any materials, equipment, process, or other items required under the Contract or furnished by the Contractor are subject to any patent, copyright, trademark, trade secret or other property right of another. The Contractor shall pay for all royalties and license fees and shall obtain all necessary licenses or permits to permit use of any such item by the Department. The Contractor shall defend all suits or claims of infringement of any patent, copyright, trademark, trade secret or other property right of another and shall save the Department harmless from loss or expense on account thereof.

C. Equipment - Unless otherwise provided in the MOU, all non-expendable equipment, including major equipment as defined in this Article, procured with funds from this Contract, shall be Department property and shall be used primarily for work under this Contract. Prior written approval of the Department shall be required for use of the equipment, on a non-interference basis, for other work of the Contractor. The Contractor shall use all effort to care for and maintain the equipment. Upon termination of this Contract, the Department shall determine what disposition shall be made of the equipment and shall so notify the Contractor within thirty (30) days. The Contractor shall report its acquisition of non-expendable equipment covered by this Contract to the Department annually. Non-expendable equipment is that which: 1) has a probable useful life in excess of one year beyond the date of acquisition, and 2) costs at least \$500, either as an individual piece or as a group of pieces intended to be used together.

All items of Major Equipment to be procured with funds from this Contract shall be itemized in the budget of this Contract to the extent possible. "Major Equipment" shall be defined as any item of equipment costing Two Thousand Dollars (\$2,000.00) or more. Unless itemized in the budget approved by the Department, purchase of each item of Major Equipment shall require prior written approval of the Department.

ARTICLE V - INDEMNIFICATION

A. Department Saved Harmless - Recognizing that the Contractor is a government agency and, as such, is subject to limitations on the indemnity that it can legally provide, the Contractor agrees, to the fullest extent permitted by law, to indemnify and save harmless and defend the Department and all of its representatives from all suits, actions, or claims of any character, brought on account of any injuries or damage sustained by any person or property in consequence of any work performed under this Contract, either by the Contractor or any subcontractor, or their employees, agents, or representatives. This responsibility is not to be deemed as a waiver of any immunity which may exist in any action against the Department.

B. Insurance - If specified in the MOU, the Contractor shall provide insurance protecting the Department from bodily injury and property damage. Certificates of such insurance acknowledging the foregoing "Department Saved Harmless" clause shall be filed with the Department.

ARTICLE VI - WARRANTIES AND DISCLOSURES

A. Nondiscrimination in Employment - The Contractor agrees: (1) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment; (2) to include a provision similar to that contained in subsection (1), above, in any subcontract except a subcontract for standard commercial supplies or raw materials; and (3) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

B. Compliance with Laws - The Contractor hereby represents and warrants that:

1. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract;
- and
2. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

ARTICLE VII - ACCOUNTING

A. Retention of Records - Audit - The Contractor shall retain and maintain all records and documents relating to this Contract for three years after final payment by the Department hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the Department, including the procurement officer or designee, at all reasonable times. The Department shall have the right, during usual business hours, to examine and audit pertinent records of the Contractor to verify invoices submitted pursuant to this Contract.

B. Payment of State Obligations - Payments to the Contractor shall be made in accordance with the terms of the MOU. Charges for late payment are prohibited.

ARTICLE VIII - DURATION

A. Effective Date - It is understood and agreed by the parties hereto that this Contract and any modification thereof shall not become effective or enforceable until executed by the Department.

B. Termination for Convenience - The performance of work under this contract may be terminated by the Department in accordance with this clause in whole, or from time to time in part, whenever the Department shall determine that such termination is in the best interest of the Department. The Department will pay all reasonable costs associated with this contract that the Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the Contract. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.

C. Termination for Default - If the Contractor fails to fulfill its obligation under this contract properly and on time, or otherwise violates any provision of the Contract, the Department may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the Department's option, become the Department's property. The Department shall pay the contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the Department can affirmatively collect damages.

D. Multi-Year Restriction - If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available. The Contractor may not recover anticipatory profits or costs incurred after termination.

ARTICLE IX - LEGAL

A. Severability - If any of these provisions shall contravene, or be invalid under, the laws of the particular state, county or jurisdiction where used, such contravention or invalidity shall not invalidate the whole agreement, but the Contract shall be construed as if not containing the particular provision or provisions held to be invalid in the particular state, county, or jurisdiction, and the rights and obligations of the parties shall be construed and enforced accordingly.

B. Law Applicable - Unless otherwise authorized by the Board of Public Works, this Contract shall be governed by the laws of the State of Maryland, and the parties hereby expressly agree that the courts of the State of Maryland shall have exclusive jurisdiction to decide any question arising hereunder.

APPROVED as to form and legal sufficiency
Office of the Attorney General
Department of Natural Resources
May 2012

ADDENDUM D



U.S. FISH AND WILDLIFE SERVICE Division of Federal Aid

ASSURANCES

Note: Certain of these assurances may not apply to your project or program. If you have questions, please contact the Regional Director of the U.S. Fish and Wildlife Service. Further, if you are required to certify to additional assurances, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. . . . 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. . . . 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. . . . 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. . . . 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism (g) . . . 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. . . . 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. . . . 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. . . . 276a to 276a-7), the Copeland Act (40 U.S.C. . . . 276c and 18 U.S.C. . . . 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. . . . 327-333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738, (c) protection of wetlands

pursuant to EO 11990; (d) evaluation of flood hazards in flood plains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. . . . 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. . . . 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. . . . 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historical Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. . . . 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

ADDITIONAL ASSURANCES GENERALLY APPLICABLE TO CONSTRUCTION, LAND ACQUISITION, OR LAND DEVELOPMENT:

1. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
2. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications, and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
3. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

U.S. Fish and Wildlife Service Financial Assistance Award Terms and Conditions

Acceptance of a financial assistance award (i.e., grant or cooperative agreement) from the U.S. Fish and Wildlife Service (Service), Department of the Interior (Interior) carries with it the responsibility to be aware of and comply with the terms and conditions of award. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means. Awards are based on the application submitted to and approved by the Service. Awards from the Service are subject to the terms and conditions incorporated into the award either by direct citation or by reference to the following: Federal regulations; program legislation or regulation; and special award terms and conditions. The terms and conditions of Service awards flow down to subrecipients and contractors, unless a particular award term or condition specifically indicates otherwise. The Federal regulations applicable to Service grant and cooperative agreement award recipients, and their subrecipients and contractors, are:

For-Profit Entities

For for-profit entities, the regulations and requirements listed under the “Administrative Requirements”, “Cost Principles”, and “Indirect Costs Identification and Assignment/Rate Determination Procedures” sections below apply only when they are specifically incorporated by reference in the Service award. The regulations and requirements listed under the “Other Requirements” section below always apply.

Administrative Requirements

[2 CFR Part 200, Subparts A through D](#)

Cost Principles

[48 CFR 1, Subpart 31.2—Contracts with Commercial Organizations](#)

Indirect Costs Identification and Assignment/Rate Determination Procedures

Contact the National Interior Business Center (IBC), Indirect Cost Services by telephone at (916) 566-7111 or by e-mail at: ics@ibc.doi.gov. Visit the IBC’s Indirect Cost Services website at http://www.doi.gov/ibc/services/Indirect_Cost_Services/index.cfm for more information.

Other Requirements

[2 CFR Part 25](#), Universal Identifier and Central Contractor Registration

[2 CFR Part 170](#), Reporting Subawards and Executive Compensation

[2 CFR Part 175](#), Award Term for Trafficking in Persons

[2 CFR Part 1400](#), Government-wide Debarment and Suspension (Non-procurement)

[2 CFR Part 1401](#), Requirements for Drug-Free Workplace (Financial Assistance)

[43 CFR 18](#), New Restrictions on Lobbying: Submission of an application also represents the applicant’s certification of the statements in [43 CFR Part 18, Appendix A](#), Certification Regarding Lobbying.

[41 USC §4712](#), Pilot Program for Enhancement of Recipient and Subrecipient Employee Whistleblower Protection: This requirement applies to all awards issued after July 1, 2013 and shall be in effect until January 1, 2017.

- (a) This award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award, related subawards, and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies in the pilot program on award recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (P.L. 112-239).
- (b) Recipients, their subrecipients, and their contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.
- (c) The recipient shall insert this clause, including this paragraph (c), in all subawards and in contracts over the simplified acquisition threshold related to this award.

[41 USC §6306](#), Prohibition on Members of Congress Making Contracts with Federal Government: No member of or delegate to the United States Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit.

[Executive Order 13513](#), Federal Leadership on Reducing Text Messaging while Driving: Recipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the Order.

Foreign Entities

Foreign entities include foreign public entities (see definition in 2 CFR 200.46) and foreign organizations (see definition in 2 CFR 200.47). For foreign entities, the regulations and requirements listed under the "Administrative Requirements", "Cost Principles", and "Indirect Costs Identification and Assignment/Rate Determination Procedures" sections below apply only when they are specifically incorporated by reference in the Service award. The regulations and requirements listed under the "Other Requirements" section below always apply.

Administrative Requirements

Institutions of Higher Education (IHEs): [2 CFR Part 200, Subparts A through D](#), including the requirements specific to IHEs.

Non-profit organizations: [2 CFR Part 200, Subparts A through D](#), including the requirements specific to non-profit organizations.

Public entities: [2 CFR Part 200, Subparts A through D](#), including the requirements specific to states, with the following exceptions:

- The state payment procedures in 200.305(a) do not apply. Foreign public entities must follow the payment procedures in 200.305(b).
- The requirements in 200.321 "Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms" do not apply.
- The requirements in 200.322 "Procurement of recovered materials" do not apply.

All other entities: [2 CFR Part 200, Subparts A through D](#)

Cost Principles

For-profit entities: [48 CFR 1, Subpart 31.2](#)

Hospitals: [45 CFR Part 75, Appendix E](#)

Public entities: [2 CFR Part 200, Subpart E](#), including the requirements specific to states.

All other entities: [2 CFR Part 200, Subpart E](#)

Indirect Costs Identification and Assignment/Rate Determination Procedures

For-profit entities: Contact the National Interior Business Center (IBC), Indirect Cost Services by telephone at (916) 566-7111 or by e-mail at: ics@ibc.doi.gov. Visit the IBC's Indirect Cost Services website at http://www.doi.gov/ibc/services/Indirect_Cost_Services/index.cfm for more information.

Hospitals: [45 CFR Part 75, Appendix E—Principles for Determining Cost Applicable to Research and Development Under Grants and Contracts with Hospitals](#). The U.S. Department of Health and Human Services (HHS) is the cognizant agency for indirect costs for foreign hospitals. Visit HHS' Cost Allocation Services website at <https://rates.psc.gov/> for more information.

IHEs: [Appendix III to Part 200—Indirect \(F&A\) Costs Identification and Assignment, and Rate Determination for IHEs](#). HHS is the cognizant agency for indirect costs for foreign IHEs. Visit HHS' Cost Allocation Services website at <https://rates.psc.gov/> for more information.

Non-profit organizations: [Appendix IV to Part 200—Indirect \(F&A\) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations](#).

Public entities: [Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals](#).

Other Requirements

[2 CFR Part 25](#), Universal Identifier and Central Contractor Registration

[2 CFR Part 170](#), Reporting Subawards and Executive Compensation

[2 CFR Part 175](#), Award Term for Trafficking in Persons (Term is applicable to private entity subrecipients of foreign public entities)

[2 CFR Part 1401](#), Requirements for Drug-Free Workplace (Financial Assistance)

[43 CFR 18](#), New Restrictions on Lobbying: Submission of an application also represents the applicant's certification of the statements in [43 CFR Part 18, Appendix A](#), Certification Regarding Lobbying.

[41 USC §6306](#), Prohibition on Members of Congress Making Contracts with Federal Government: No member of or delegate to the United States Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit.

[Executive Order 13513](#), Federal Leadership on Reducing Text Messaging while Driving: Recipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the Order.

Individuals

An individual is any person applying for or receiving Federal funds under a grant or cooperative agreement award separate from any business or non-profit organization he/she may operate. For individuals, the notice of award document will detail all administrative and cost-related requirements and restrictions.

Other Requirements

[2 CFR Part 175](#), Award Term for Trafficking in Persons

[2 CFR Part 1400](#), Government-wide Debarment and Suspension (Non-procurement)

[2 CFR Part 1401](#), Requirements for Drug-Free Workplace (Financial Assistance)

[43 CFR 18](#), New Restrictions on Lobbying: Submission of an application also represents the applicant's certification of the statements in [43 CFR Part 18, Appendix A](#), Certification Regarding Lobbying.

[41 USC §6306](#), Prohibition on Members of Congress Making Contracts with Federal Government: No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit.

[Executive Order 13513](#), Federal Leadership on Reducing Text Messaging while Driving: Recipients are encouraged to not engage in text messaging when driving a vehicle while conducting activities funded under this award.

Institutions of Higher Education, Hospitals and other Non-Profit Organizations

For domestic Institutions of Higher Education (IHEs), hospitals and non-profit organizations, the below terms and conditions always apply.

Administrative Requirements

[2 CFR Part 200, Subparts A through D](#)

Cost Principles

Hospitals: [45 CFR Part 75, Appendix E](#)

IHEs (see definition in [20 US.C. 1001](#)): [2 CFR Part 200, Subpart E](#)

Non-profit organizations exempted from 2 CFR Part 200, Subpart E (see [Appendix VIII to Part 200](#)): [48 CFR 1, Subpart 31.2—Contracts with Commercial Organizations](#)

All other non-profit organizations: [2 CFR Part 200, Subpart E](#)

Indirect Costs Identification and Assignment/Rate Determination Procedures

Hospitals: [45 CFR Part 75, Appendix E—Principles for Determining Cost Applicable to Research and Development Under Grants and Contracts with Hospitals](#). The U.S. Department of Health and Human Services (HHS) is the cognizant agency for indirect costs for foreign hospitals. Visit HHS' Cost Allocation Services website at <https://rates.psc.gov/> for more information.

IHEs: [Appendix III to Part 200—Indirect \(F&A\) Costs Identification and Assignment, and Rate Determination for IHEs](#). The U.S. Department of Health and Human Services (HHS) is the cognizant agency for indirect costs for foreign IHEs. Visit HHS' Cost Allocation Services website at <https://rates.psc.gov/> for more information.

Non-profit organizations exempted from 2 CFR Part 200, Subpart E: Contact the National Interior Business Center (IBC), Indirect Cost Services by telephone at (916) 566-7111 or by e-mail at: ics@ibc.doi.gov. Visit the IBC's Indirect Cost Services website at http://www.doi.gov/ibc/services/Indirect_Cost_Services/index.cfm for more information.

All other non-profit organizations: [Appendix IV to Part 200—Indirect \(F&A\) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations](#)

Audit Requirements

Non-profit organizations: [2 CFR Part 200, Subpart F](#)

Other Requirements

[2 CFR Part 25](#), Universal Identifier and Central Contractor Registration

[2 CFR Part 170](#), Reporting Subawards and Executive Compensation

[2 CFR Part 175](#), Award Term for Trafficking in Persons

[2 CFR Part 1400](#), Government-wide Debarment and Suspension (Non-procurement)

[2 CFR Part 1401](#), Requirements for Drug-Free Workplace (Financial Assistance)

[43 CFR 18](#), New Restrictions on Lobbying: Submission of an application also represents the applicant's certification of the statements in [43 CFR Part 18, Appendix A](#), Certification Regarding Lobbying.

[41 USC §4712](#), Pilot Program for Enhancement of Recipient and Subrecipient Employee Whistleblower Protection: This requirement applies to all awards issued after July 1, 2013 and shall be in effect until January 1, 2017.

- (a) This award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award, related subawards, and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies in the pilot program on award recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (P.L. 112-239).
- (b) Recipients, their subrecipients, and their contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.
- (c) The recipient shall insert this clause, including this paragraph (c), in all subawards and in contracts over the simplified acquisition threshold related to this award.

[41 USC §6306](#), Prohibition on Members of Congress Making Contracts with Federal Government: No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit.

[Executive Order 13513](#), Federal Leadership on Reducing Text Messaging while Driving: Recipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the Order.

State, Local and Federally-recognized Indian Tribal Governments

For U.S. state, local and federally-recognized Indian tribal governments, the below terms and conditions always apply.

Administrative Requirements

[2 CFR Part 200, Subparts A through D](#)

Cost Principles

[2 CFR Part 200, Subpart E](#)

Central Service Cost Allocation Plans and Indirect Cost Proposals

[Appendix V to Part 200—State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans](#)

[Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals](#)

Audit Requirements

[2 CFR Part 200, Subpart F](#)

Other Requirements

[2 CFR Part 25](#), Universal Identifier and Central Contractor Registration

[2 CFR Part 170](#), Reporting Subawards and Executive Compensation

[2 CFR Part 175](#), Award Term for Trafficking in Persons (Term is applicable to private entity subrecipients)

[2 CFR Part 1400](#), Government-wide Debarment and Suspension (Non-procurement)

[2 CFR Part 1401](#), Requirements for Drug-Free Workplace (Financial Assistance)

[43 CFR 18](#), New Restrictions on Lobbying: Submission of an application also represents the applicant's certification of the statements in [43 CFR Part 18, Appendix A](#), Certification Regarding Lobbying.

[41 USC §4712](#), Pilot Program for Enhancement of Recipient and Subrecipient Employee Whistleblower Protection: This requirement applies to all awards issued after July 1, 2013 and shall be in effect until January 1, 2017.

- (a) This award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award, related subawards, and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies in the pilot program on award recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (P.L. 112-239).
- (b) Recipients, their subrecipients, and their contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.
- (c) The recipient shall insert this clause, including this paragraph (c), in all subawards and in contracts over the simplified acquisition threshold related to this award.

[41 USC §6306](#), Prohibition on Members of Congress Making Contracts with Federal Government: No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit.

[Executive Order 13513](#), Federal Leadership on Reducing Text Messaging while Driving: Recipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the Order.

ADDENDUM F

Notice of Grant Agreement

The XXXX hereby agrees to submit to the Department a recorded and Registry stamped Notice of Grant Agreement (NOGA) that the XXXX has entered into the property's land records. The purpose of the NOGA is to ensure that the present and future use of the facility is and shall remain subject to the terms and conditions described in this agreement. Furthermore:

- The NOGA must be in a format and must contain wording that is acceptable to both the Department and FWS.
- **No federal and/or state funding will be expended on this project, and no reimbursements will be processed by the Department, until this requirement has been met.**