



**STATE OF VERMONT**  
JOINT FISCAL OFFICE

**MEMORANDUM**

To: Joint Fiscal Committee members  
From: Sorsha Anderson, Senior Staff Associate  
Date: June 29, 2022  
Subject: Grant Request – JFO #3099

Enclosed please find one (1) item, which the Joint Fiscal Office has received from the Administration. This request is being held for the Joint Fiscal Committee meeting planned for July 28, 2022.

**JFO #3099** – \$105,228 to the Agency of Natural Resources, Department of Environmental Conservation from the National Fish and Wildlife Foundation to create water resource maps and provide education about the mapping tool in the Connecticut River Basin, Vermont.

*[Received June 23, 2022]*

Please review the enclosed materials and notify the Joint Fiscal Office (Sorsha Anderson: sanderson@leg.state.vt.us) if you have questions prior to the upcoming JFC meeting.

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**MEMORANDUM**

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**TO:** KRISTIN CLOUSER, SECRETARY, AGENCY OF ADMINISTRATION

**THROUGH:** NICOLAS KRAMER, BUDGET AND MANAGEMENT ANALYST,  
AGENCY OF ADMINISTRATION

**THROUGH:** TRACY LAFRANCE, FINANCE DIRECTOR, DEC FINANCIAL OPERATIONS

**FROM:** JOHN BELING, INTERIM COMMISSIONER, DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

**SUBJECT:** AA-1 STATE OF VERMONT REQUEST FOR GRANT ACCEPTANCE

**DATE:** MARCH 16, 2022; UPDATED MAY 9, 2022

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Please see attached AA-1 Request for Grant Acceptance Form for the Long Island Sound Futures Project (LISF) Grant. This form requests authorization for the Agency of Natural Resources, Department of Environmental Conservation (VTDEC) to expend recently awarded grant funds. The funds were granted to create water resource maps and provide education about the mapping tool in the Connecticut River Basin, Vermont. The project will inform development of targeted local nitrogen pollution prevention projects in wetlands at watershed and site-scale that benefit the Connecticut River and Long Island Sound.

If you have any questions regarding this request, please do not hesitate to contact Tracy LaFrance at 802-498-7074.

Thank you in advance for your time.

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## STATE OF VERMONT REQUEST FOR GRANT (\*) ACCEPTANCE (Form AA-1)

BASIC GRANT INFORMATION				
1. Agency:	Agency of Natural Resources			
2. Department:	Department of Environmental Conservation			
3. Program:	Watershed Mangement Divison, Wetlands Program			
4. Legal Title of Grant:	Long Island Sound Program			
5. Federal Catalog #:	66.437			
6. Grant/Donor Name and Address:	National Fish and Wildlife Foundation 1133 15 <sup>th</sup> Street, NW Suite 1000 Washington, DC 20005			
7. Grant Period:	From:	10/1/2021	To:	11/1/2023
8. Purpose of Grant:	The purpose of this project is to create water resouce maps and provide education about the mapping tool in the Connecticut River Basin, Vermont. Project will inform development of targeted local nitrogen pollution prevention projects in wetlands at a watershed and site-scale that benefit the Connecticut River and Long Island Sound.			
9. Impact on existing program if grant is not Accepted:	If the monies are not accepted, we will not have sufficient funds to complete wetland mapping statewide and another funding source would need to be sought. This would delay full coverage of updated wetland mapping by a few years. Delayed wetland mapping means less clairty for the regulated public for siting projects, and reduces the effectiveness of water quality improvement projects.			
10. BUDGET INFORMATION				
	SFY 1	SFY 2	SFY 3	Comments
Expenditures:	FY 22	FY 23	FY	
Personal Services	\$173,710	\$173,710	\$	
Operating Expenses	\$1,588	\$1,599	\$	
Grants	\$0	\$	\$	
<b>Total</b>	<b>\$175,309</b>	<b>\$175,309</b>	<b>\$</b>	
Revenues:				
State Funds:	\$70,081	\$70,081	\$	
Cash	\$70,081	\$70,081	\$	
In-Kind	\$0	\$0	\$	
Federal Funds:	\$105,228	\$105,228	\$	
(Direct Costs)	\$105,228	\$105,228	\$	
(Statewide Indirect)	\$0	\$	\$	
(Departmental Indirect)	\$814	\$814	\$	
Other Funds:	\$0	\$	\$	
Grant (source )	\$0	\$0	\$	
<b>Total</b>	<b>\$175,309</b>	<b>\$175,309</b>	<b>\$</b>	
Appropriation No:	6140040000	Amount:	\$105,228	
			\$	

**STATE OF VERMONT REQUEST FOR GRANT (\*) ACCEPTANCE (Form AA-1)**

			\$
			\$
			\$
			\$
			\$
		<b>Total</b>	<b>\$105,228</b>

**PERSONAL SERVICE INFORMATION**

**11. Will monies from this grant be used to fund one or more Personal Service Contracts?**  Yes  No  
 If "Yes", appointing authority must initial here to indicate intent to follow current competitive bidding process/policy.

Appointing Authority Name: John Beling Agreed by: JB (initial)

12. Limited Service Position Information:	# Positions	Title
<b>Total Positions</b>		

**12a. Equipment and space for these positions:**  Is presently available.  Can be obtained with available funds.

**13. AUTHORIZATION AGENCY/DEPARTMENT**

I/we certify that no funds beyond basic application preparation and filing costs have been expended or committed in anticipation of Joint Fiscal Committee approval of this grant, unless previous notification was made on Form AA-1PN (if applicable):	Signature: <i>John Beling</i>	5/9/2022	Date: 3/7/2022
	Title: John Beling, DEC Interim Commissioner		
	Signature:	Date:	
	Title:		

**14. SECRETARY OF ADMINISTRATION**

<input type="checkbox"/> Approved:	(Secretary or designee signature)	Date:
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**15. ACTION BY GOVERNOR**

<input checked="" type="checkbox"/>	Check One Box: Accepted		Date:
<input type="checkbox"/>	Rejected		6/20/22

**16. DOCUMENTATION REQUIRED**

**Required GRANT Documentation**

<input checked="" type="checkbox"/> Request Memo <input type="checkbox"/> Dept. project approval (if applicable) <input checked="" type="checkbox"/> Notice of Award <input checked="" type="checkbox"/> Grant Agreement <input checked="" type="checkbox"/> Grant Budget	<input type="checkbox"/> Notice of Donation (if any) <input type="checkbox"/> Grant (Project) Timeline (if applicable) <input type="checkbox"/> Request for Extension (if applicable) <input type="checkbox"/> Form AA-1PN attached (if applicable)
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**End Form AA-1**

**STATE OF VERMONT REQUEST FOR GRANT (\*) ACCEPTANCE (Form AA-1)**

(\*) The term "grant" refers to any grant, gift, loan, or any sum of money or thing of value to be accepted by any agency, department, commission, board, or other part of state government (see 32 V.S.A. §5).

	<b>NATIONAL FISH AND WILDLIFE FOUNDATION GRANT AGREEMENT</b>	<b>1. NFWF PROPOSAL ID:</b> 73367	<b>2. NFWF GRANT ID:</b> 1401.22.073367	
		<b>3. UNIQUE ENTITY IDENTIFIER (DUNS #)</b> 809800303	<b>4. INDIRECT COST RATE (REFERENCE LINE 17 for RATE TERMS)</b> 21.63%	
<b>5. SUBRECIPIENT TYPE</b> State or Local Government		<b>6. NFWF SUBRECIPIENT</b> Environmental Conservation, Vermont Department of		
<b>7. NFWF SUBRECIPIENT CONTACT</b>		<b>8. NFWF GRANTS ADMINISTRATOR/NFWF CONTACT INFORMATION</b>		
Peter Walke 1 National Life Drive Montpelier, VT 05620-0001 Tel: 802-828-1294 tracy.lafrance@vermont.gov		Victoria Moreno National Fish and Wildlife Foundation 1133 15 <sup>th</sup> Street, N.W. Suite 1000 Washington, D.C. 20005 Tel:202-857-0166 Fax: 202-857-0162 Victoria.Moreno@nfwf.org		
<b>9. PROJECT TITLE</b> Wetland Mapping to Prevent Nitrogen Pollution from the Connecticut River to Long Island Sound (VT)				
<b>10. PROJECT DESCRIPTION</b> Create water resource maps and provide education about the mapping tool in the Connecticut River Basin, Vermont. Project will inform development of targeted local nitrogen pollution prevention projects in wetlands at a watershed and site-scale that benefit the Connecticut River and Long Island Sound.				
<b>11. PERIOD OF PERFORMANCE</b> October 1, 2021 to November 1, 2023		<b>12. TOTAL AWARD TO SUBRECIPIENT</b> \$210,456	<b>13. TOTAL FED. FUNDS</b> \$210,456	<b>14. TOTAL NON-FED. FUNDS</b> N/A
<b>15. FEDERAL MATCH REQUIREMENT</b> N/A		<b>16. NON-FEDERAL MATCH REQUIREMENT</b> \$140,163.70		
<b>17. SUBRECIPIENT INDIRECT COST RATE TERMS</b>  The rate specified in Line 4 reflects either, the indirect cost rate negotiated between the Subrecipient and their cognizant federal agency as stated in the Subrecipient's valid Negotiated Indirect Cost Rate Agreement (NICRA), or, the indirect cost rate that the Subrecipient applied to the project budget (but not in excess of the rate stated in the Subrecipient's valid NICRA).				
<b>18. TABLE OF CONTENTS</b>				
<b>SEC.</b>	<b>DESCRIPTION</b>			
<b>1</b>	<b>NFWF Agreement Administration</b>			
<b>2</b>	<b>NFWF Agreement Clauses</b>			
<b>3</b>	<b>Representations, Certifications, Obligations, and Other Statements – General</b>			
<b>4</b>	<b>Representations, Certifications, and Other Statements Relating to Federal Funds- General</b>			
<b>5</b>	<b>Representations, Certifications, and Other Statements Relating to Federal Funds – Funding Source Specific</b>			
<b>6</b>	<b>Other Representations, Certifications, Statements and Clauses</b>			

19. FUNDING SOURCE INFORMATION/FEDERAL AND NON-FEDERAL							
A. FUNDING SOURCE (FS)	B. NFWF FS ID	C. FS AWARD DATE TO NFWF	D. FAIN	E. TOT FED. AWARD TO NFWF	F. TOT OBLG. TO SUBRECIPIENT	G. FS END DATE	H. CFDA
U.S. Environmental Protection Agency	FC.R496	8/11/2021	LI00A01075	\$6,880,000	\$210,456	9/30/2026	66.437

**20. NOTICE OF AWARD**

The National Fish and Wildlife Foundation (NFWF) agrees to provide the NFWF Award to the NFWF Subrecipient for the purpose of satisfactorily performing the Project described in a full proposal as identified on line 1 and incorporated into this Agreement by reference. The NFWF Award is provided on the condition that the NFWF Subrecipient agrees that it will raise and spend at least the amount listed on lines 15 and 16 in matching contributions on the Project, as applicable. The Project must be completed, with all NFWF funds and matching contributions spent, during the Period of Performance as set forth above. All items designated on the Cover Page and the Table of Contents are incorporated into this Agreement by reference herein. NFWF Subrecipient agrees to abide by all statutory or regulatory requirements, or obligations otherwise required by law. Subrecipient is obligated to notify NFWF if any of the information on the Cover Page changes in any way, whether material or immaterial.

<b>A. NAME AND TITLE OF AUTHORIZED SUBRECIPIENT SIGNER (Type or Print)</b>		<b>D. NAME AND TITLE OF NFWF AWARDING OFFICIAL</b> Holly A. Bamford, Chief Conservation Officer	
<b>B. SUBRECIPIENT BY</b>	<b>C. DATE</b>	<b>E. NATIONAL FISH AND WILDLIFE FOUNDATION BY</b>	<b>F. DATE</b>

*NFWF prohibits discrimination in all its programs and activities on the basis of race, color, religion, age, sex, national origin, ancestry, marital status, personal appearance, citizen status, disability, sexual orientation, gender identity or expression, pregnancy, child birth or related medical conditions, family responsibilities, matriculation, genetic information, political or union affiliation, veteran status or any other status protected by applicable law ("Protected Categories"). In addition, NFWF prohibits retaliation against an individual who opposes an unlawful educational practice or policy or files a charge, testifies or participates in any complaint under Title VI. NFWF complies with all applicable federal, state and local laws in its commitment to being an equal opportunity provider and employer; accordingly, it is NFWF's policy to administer all employment actions, including but not limited to, recruiting, hiring, training, promoting, and payment of wages, without regard to any Protected Category(ies).*

See Reporting Schedule on the following page.

**21. REPORTING DUE DATES/SUBRECIPIENT REPORTING SCHEDULE**

<b>Reporting Task</b>	<b>Task Due Date</b>
Annual Financial Report	October 1, 2022
Interim Programmatic Report	October 1, 2022
Annual Financial Report	October 1, 2023
Interim Programmatic Report	October 1, 2023
Final Financial Report	February 1, 2024
Final Programmatic Report	February 1, 2024





## **SECTION 1 NFWF AGREEMENT ADMINISTRATION**

### **1.1. Amendments.**

During the life of the Project, the NFWF Subrecipient is required to immediately inform in writing the NFWF Grants Administrator of any changes in contact information, Key Personnel, scope of work, indirect cost rate, as well as any difficulties in completing the performance goals articulated in the Project description. NFWF Subrecipients must request an amendment from NFWF upon determination of a deviation from the original Grant Agreement as soon as such deviation is detected. NFWF reserves the right to approve, deny and/or negotiate any such request. Alternatively, NFWF may initiate an amendment if NFWF determines an amendment is necessary at any time. Amendment requests are to be submitted via NFWF's grants management system.

#### **1.1.1. Budget Amendment Request.**

If the NFWF Subrecipient determines that: 1) the amount of the budget is going to change in any one direct cost category by an amount that exceeds 10% of the Award, or 2) there is a need to increase indirect costs, the NFWF Subrecipient must seek prior written approval via an amendment request in NFWF's grants management system.

#### **1.1.2. Extension of Performance Period.**

If additional time is needed to complete the approved Project, the NFWF Subrecipient should contact the NFWF Grants Administrator at least 45 calendar days prior to the project period expiration date to initiate the no-cost extension request process in NFWF's grants management system. In addition, if there are overdue reports required, the NFWF Subrecipient must ensure that they are submitted along with or prior to submitting the no-cost extension request.

### **1.2. Matching Contributions.**

Matching Contributions consist of cash, contributed goods and services, volunteer hours, and/or property raised and spent for the Project. Matching Contributions for the purposes of this Project must meet the following criteria: (1) Are verifiable from the NFWF Subrecipient's records; (2) Are not included as contributions for any other federal award; (3) Are necessary and reasonable for the accomplishment of project or program objectives; (4) Are allowable under OMB Cost Principles; (5) Are not paid by the U.S. Government under another federal award except where the federal statute authorizing a program specifically provides that federal funds made available for such program can be applied to matching or cost sharing requirements of other federal programs when authorized by federal statute; (6) Are provided for in the approved budget when required by the federal awarding agency; (7) Are committed directly to the project and must be used within the period of performance as identified in this Agreement; (8) Otherwise conform to the law; and, (9) Are in compliance with the requirements of Section 3.3 of this Agreement concerning Compliance with Laws.

### **1.2.1. Documentation and Reporting of Matching Contributions.**

The NFWF Subrecipient must retain supporting documentation, including detailed time records for contributed services, original receipts, appraisals of real property, and comparable rentals for other contributed property, at its place of business in the event of an audit of the NFWF Subrecipient as required by applicable federal regulations. The NFWF Subrecipient must report match progress in Payment Requests and Financial Reports.

### **1.2.2. Assessing Fair Market Value.**

Fair market value of donated goods, services and property, including volunteer hours, shall be computed as outlined in §200.306 of 2 CFR Subtitle A, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, (hereinafter "OMB Uniform Guidance"), regardless of whether this Agreement is federally funded.

## **1.3. Payment of Funds.**

To be eligible to receive funds, NFWF Subrecipient must submit to NFWF (1) an original executed copy of this Agreement for the Project; (2) any due financial and programmatic reports; and (3) a complete and accurate Payment Request via NFWF's grants management system. At any time, NFWF reserves the right to require submission of source documentation, including but not limited to timesheets, cash receipts, contracts or subaward agreements, for any costs where the NFWF Subrecipient is seeking reimbursement by NFWF. NFWF reserves the right to retain up to ten percent (10%) of funds until submission and acceptance of final reports.

### **1.3.1. Reimbursements.**

NFWF Subrecipient may request funds on a reimbursable basis. Reimbursement requests must include expenditures to date and an explanation of any variance from the approved budget.

### **1.3.2. Advances.**

NFWF Subrecipient may request advance payment of funds prior to expenditure provided that the NFWF Subrecipient: (1) demonstrates an immediate need for advance payment; (2) documents expenditure of advanced funds; 3) maintains written procedures that minimize the time elapsing between the transfer of funds and disbursement; and (4) has established appropriate financial management systems that meet the needs and standards for fund control and accountability. Approval of any advance payment of funds is made at the sole discretion of NFWF, based on an assessment of the NFWF Subrecipient's needs.

### **1.3.3. Interest.**

Any interest earned in any one year on funds advanced to the NFWF Subrecipient that exceeds \$500 must be reported to NFWF, and the disposition of those funds negotiated with NFWF. Interest amounts up to \$500 per year may be retained by the NFWF Subrecipient for administrative expense.

## **1.4. Reports.**

### **1.4.1. Interim Programmatic Reports.**

The NFWF Subrecipient will submit interim programmatic reports to NFWF based on the reporting schedule in Line 21 of the Cover Sheet to this Agreement, as may be amended at NFWF's sole discretion. The interim programmatic report shall consist of written statements of Project accomplishments and updated metric values since Project initiation, or since the last reporting period, and shall be submitted via NFWF's grants management system. NFWF may require specific formatting and/or additional information as appropriate.

### **1.4.2. Interim Financial Reports.**

The NFWF Subrecipient will submit interim financial reports to NFWF based on the reporting schedule in Line 21 of the Cover Sheet to this Agreement, as may be amended at NFWF's sole discretion. The interim financial report shall consist of financial information detailing cumulative expenditures made under this Project since Project initiation and shall be uploaded via NFWF's grants management system. NFWF may require specific formatting and/or additional information as appropriate.

### **1.4.3. Annual Financial Report.**

The NFWF Subrecipient will submit annual financial reports to NFWF based on the reporting schedule in Line 21 of the Cover Sheet to this Agreement, as may be amended at NFWF's sole discretion. The NFWF Subrecipient must enter a justification when there is a difference between the amount disbursed by NFWF and the amount expended by the grantee. Failure to submit an annual financial report in a timely manner will delay payment of submitted payment requests.

### **1.4.4. Final Reports.**

Based on the reporting schedule in Line 21 of the Cover Sheet to this Agreement, the NFWF Subrecipient will submit (1) a Final Financial Report accounting for all Project funds received, Project expenditures, and budget variances (if any) compared to the approved budget; (2) a Final Programmatic Report summarizing and documenting the accomplishments and metric values achieved during the Period of Performance; (3) copies of any publications, press releases and other appropriate products resulting from the Project; and (4) photographs as described in Section 1.4.4.1 below. The final reports and digital photo files should be uploaded via NFWF's grants management system. Any requests for extensions of final report submission dates must be made in writing to the NFWF Grants Administrator and approved by NFWF in advance. NFWF may require specific formatting and/or additional information as appropriate.

#### **1.4.4.1. Photographs.**

NFWF requests, as appropriate for the Project, a representative number of high-resolution (minimum 300 dpi) photographs depicting the Project (before-and-after images, images of species impacted, and/or images of staff/volunteers working on the Project). Photographs should be uploaded with the Final Programmatic Report via NFWF's grants management system as individual .jpg files. The Final Programmatic Report narrative should list each photograph, the date the

photograph was taken, the location of the photographed image, caption, photocredit, and any other pertinent information (e.g., species, activity conducted) describing what the photograph is depicting. By uploading photographs to NFWF's grants management system the NFWF Subrecipient certifies that the photographs are unencumbered and that NFWF and Project Funders have a fully paid up non-exclusive, royalty-free, irrevocable, perpetual, worldwide license for posting of Final Reports and for any other purposes that NFWF or the Project Funder determines appropriate.

#### **1.4.5. Significant Developments.**

The NFWF Subrecipient shall report on events that may occur between the scheduled performance reporting dates that have a significant impact on the Project. Such reporting shall be made as soon as the following conditions become known:

**1.4.5.1.** Problems, delays, or adverse conditions which will materially impair the ability to meet the Project objective, including but not limited to the objective itself, its schedule and/or the budget. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the matter; and/or,

**1.4.5.2.** Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or produce more or different beneficial results than originally planned.

#### **1.5. Reports and Payment Requests.**

All reports, financial, programmatic, or otherwise, or payment requests under a federal award must be submitted by a representative of the NFWF Subrecipient who has the NFWF Subrecipient's full authority to render such reports and requests for payment and to provide required certifications as set forth in 2 CFR 200.415, as applicable.

#### **1.6. Record Retention and Access.**

##### **1.6.1. Retention Requirements for Records.**

NFWF Subrecipient shall maintain all records connected with this Agreement for a period of at least three (3) years following the latest end date of the funding source(s) referenced above in line 19. FUNDING SOURCE INFORMATION/FEDERAL AND NON-FEDERAL or the close-out of all pending matters or audits related to this Agreement, whichever is later. As funding source end dates may be extended over time, the NFWF Subrecipient will be notified of the most up-to-date record retention requirements upon closure of this Award. If any litigation, claim, or audit is started (irrespective of the NFWF Subrecipient's involvement in such matter) before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings or pending matters involving the records have been resolved and final action taken. NFWF shall notify NFWF Subrecipient if any such litigation, claim or audit takes place or if funding source end date(s) is extended so as to extend the retention period. Records for real property and equipment acquired with federal funds must be retained for at least three (3) years following disposition of such real property. For awards solely funded with funding sources with "N/A" listed as

the end date, NFWF Subrecipient shall maintain all records connected with this Agreement for a period of at least three (3) years following the date of final payment or the Period of Performance end date, whichever is later.

**1.6.2. Access to Records.**

NFWF or any of its authorized representatives shall have access to such records and financial statements upon request, as shall Inspectors General, the Comptroller General of the United States or any of their authorized representatives if the Funding Source or any funding entity (*i.e.*, a secondary funding source) is a federal agency and/or any portion of the Project provided herein is paid with federal funds. The rights of access in this section are not limited to the required retention period but last as long as the records are retained.

## **SECTION 2 NFWF AGREEMENT CLAUSES**

### **2.1. Restrictions on Use of Funds.**

The NFWF Subrecipient agrees that any funds provided by NFWF and all Matching Contributions will be expended only for the purposes and programs described in this Agreement. No funds provided by NFWF pursuant to this Agreement or Matching Contributions may be used to support litigation expenses, lobbying activities, or any other activities not authorized under this Agreement or otherwise unallowable under the Federal Cost Principles set forth in the OMB Uniform Guidance.

### **2.2. Assignment.**

The NFWF Subrecipient may not assign this Agreement, in whole or in part, to any other individual or other legal entity without the prior written approval of NFWF.

### **2.3. Subawards and Contracts.**

When making subawards or contracting, NFWF Subrecipient shall:(1) abide by all applicable granting and contracting procedures, including but not limited to those requirements of the OMB Uniform Guidance (2 C.F.R. Part 200); (2) ensure that all applicable federal, state and local requirements are properly flowed down to the subawardee or contractor, including but not limited to the applicable provisions of the OMB Uniform Guidance (2 C.F.R. Part 200); and (3) ensure that such subaward or contracting complies with the requirements in Section 3.3 of this Agreement concerning Compliance with Laws. NFWF Subrecipient shall also include in any subaward or contract a similar provision to this, requiring the use of proper grant and contracting procedures and subsequent flow down of federal, state, and local requirements to lower-tiered subawardees and contractors.

### **2.4. Unexpended Funds.**

Any funds provided by NFWF and held by the NFWF Subrecipient and not expended at the end of the Period of Performance will be returned to NFWF within ninety (90) days after the end of the Period of Performance.

### **2.5. Publicity, Acknowledgment of Support, and Disclaimers.**

#### **2.5.1. Publicity.**

The NFWF Subrecipient gives NFWF the right and authority to publicize NFWF's financial support for this Agreement and the Project in press releases, publications, and other public communications.

#### **2.5.2. Acknowledgment of Support.**

The NFWF Subrecipient agrees to: (1) give appropriate credit to NFWF and any Funding Sources identified in this Agreement for their financial support in any and all press releases, publications, annual reports, signage, video credits, dedications, and other public communications regarding this Agreement or any of the project deliverables associated with this Agreement, subject to any terms and conditions as may be stated in Section 5 and Section 6 of this Agreement; and (2) include the disclaimer provided at Section 2.5.4.

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### **2.5.3. Logo Use.**

The NFWF Subrecipient must obtain prior NFWF approval for the use relating to this Award of the NFWF logo or the logo or marks of any Funding Source.

### **2.5.4. Disclaimers.**

Payments made to the NFWF Subrecipient under this Agreement do not by direct reference or by implication convey NFWF's endorsement nor the endorsement by any other entity that provides funds to the NFWF Subrecipient through this Agreement, including the U.S. Government, as applicable, for the Project. All information submitted for publication or other public releases of information regarding this Agreement shall carry the following disclaimer, which NFWF may revise at any time at its sole discretion:

**For Projects funded in whole or part with federal funds:** "The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions or policies of the U.S. Government or the National Fish and Wildlife Foundation and its funding sources. Mention of trade names or commercial products does not constitute their endorsement by the U.S. Government, or the National Fish and Wildlife Foundation or its funding sources."

**For Projects not funded with federal funds:** "The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions of the National Fish and Wildlife Foundation or its funding sources. Mention of trade names or commercial products does not constitute their endorsement by the National Fish and Wildlife Foundation or its funding sources."

### **2.6. Posting of Final Reports.**

The NFWF Subrecipient hereby acknowledges and consents for NFWF and any Funding Source identified in this Agreement to post its final programmatic reports and deliverables on their respective websites. In the event that the NFWF Subrecipient intends to claim that its final report contains material that does not have to be posted on such websites because it is protected from disclosure by statutory or regulatory provisions, the NFWF Subrecipient shall so notify NFWF and any Funding Source identified in this Agreement and clearly mark all such potentially protected materials as "PROTECTED," providing an accurate and complete citation to the statutory or regulatory source for such protection.

### **2.7. Website Links.**

The NFWF Subrecipient agrees to permit NFWF to post a link on any or all NFWF websites to any websites created by the NFWF Subrecipient in connection with the Project.

### **2.8. Evaluation.**

Throughout a program or business plan, NFWF engages in monitoring and evaluation to assess progress toward conservation goals and inform future decision-making. These efforts use both data collected by grantees as part of their NFWF grant as well as post-award project data collected by third-party entities commissioned to conduct a program evaluation. The NFWF Subrecipient agrees to cooperate with NFWF by providing timely responses to all reasonable requests for information

to assist in evaluating the accomplishments of the Project period of five (5) years after the project end date.

## **2.9. Intellectual Property.**

Reports, materials, books, databases, monitoring data, maps and spatial data, audio/video, and other forms of intellectual property created using this grant may be copyrighted or otherwise legally protected by the NFWF Subrecipient or by the author. The NFWF Subrecipient agrees to provide to NFWF and any Funding Source identified in this Agreement a non-exclusive, royalty-free, irrevocable, perpetual, worldwide license to use, publish, copy and alter the NFWF Subrecipient's intellectual property created using this award for non-commercial purposes in any media – whether now known or later devised – including posting such intellectual property on NFWF's or Funding Source websites and featuring in publications.

## **2.10. System for Award Management (SAM) Registration.**

The NFWF Subrecipient must maintain an active SAM registration at [www.SAM.gov](http://www.SAM.gov) until the final financial report is submitted or final payment is received, whichever is later. If the NFWF Subrecipient's SAM registration expires during the required period, NFWF will suspend payment to the NFWF Subrecipient until the SAM registration is updated.

## **2.11. Arbitration.**

All claims, disputes, and other matters in question arising out of, or relating to this Agreement, its interpretation or breach, shall be decided through arbitration by a person or persons mutually acceptable to both NFWF and the NFWF Subrecipient. Notice of the demand for arbitration shall be made within a reasonable time, not to exceed three years, after the claim, dispute, or other matter in question has arisen. The award rendered by the arbitrator or arbitrators shall be final. The terms of this provision will survive termination of this Agreement.

## **2.12. Indemnity.**

The NFWF Subrecipient shall indemnify and hold harmless NFWF, any Funding Source identified in this Grant Agreement, their respective officers, directors, agents, and employees in respect of any and all claims, injuries, losses, diminution in value, damages, liabilities, whether or not currently due, and expenses including without limitation, settlement costs and any legal or other expenses for investigating or defending any actions or threatened actions or liabilities arising from or in connection with the Project. The terms of this provision will survive termination of this Agreement.

## **2.13. Insurance.**

The NFWF Subrecipient agrees to obtain and maintain all appropriate and/or required insurance coverages against liability for injury to persons or property from any and all activities undertaken by the NFWF Subrecipient and associated with this Agreement in any way. NFWF reserves the right to require additional insurance limits and policies based on specific activities under this Agreement, that NFWF be named insured on all applicable insurance policies, and that the NFWF Subrecipient provide a certificate of insurance and/or copies of applicable insurance policies as requested by NFWF. The terms of this provision will survive termination of this Agreement.

## **2.14. Choice of Law/Jurisdiction.**

This Agreement shall be subject to and interpreted by the laws of the District of Columbia, without regard to choice of law principles. By entering into this Agreement, the NFWF Subrecipient agrees



to submit to the exclusive jurisdiction of the courts of the District of Columbia. The terms of this provision will survive termination of this Agreement.

### **2.15. Stop Work.**

NFWF may, at any time, by written order to the NFWF Subrecipient, require the NFWF Subrecipient to stop all, or any part, of the work called for by this Agreement for a period of 90 days after the order is delivered to the NFWF Subrecipient. The order shall be specifically identified as a stop-work order issued under this section. Upon receipt of the order, the NFWF Subrecipient shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to this Agreement covered by the order during the period of work stoppage. Within a period of 90 calendar days after a stop-work order is delivered to the NFWF Subrecipient, or within any extension of that period to which the parties shall have agreed, NFWF shall either cancel the stop-work order or terminate the Agreement under section 2.16.

### **2.16. Termination.**

**2.16.1.** Upon the occurrence of any of the following enumerated circumstances, NFWF may terminate this Agreement, or any portion thereunder, upon receipt by the NFWF Subrecipient of NFWF's written notice of termination, or as otherwise specified in the notice of termination:

**2.16.1.1.** the NFWF Subrecipient is adjudged or becomes bankrupt or insolvent, is unable to pay its debts as they become due, or makes an assignment for the benefit of its creditors; or,

**2.16.1.2.** the NFWF Subrecipient voluntarily or involuntarily undertakes to dissolve or wind up its affairs; or,

**2.16.1.3.** suspension or debarment by the Government of the NFWF Subrecipient; or,

**2.16.1.4.** any breach of the requirements set forth in Section 3.3 of this Agreement concerning Compliance with Laws; or,

**2.16.1.5.** NFWF learns that NFWF Subrecipient has an organizational conflict of interest, or any other conflict of interest, as determined in the sole discretion of NFWF, that NFWF believes, in its sole discretion, cannot be mitigated; or,

**2.16.1.6.** after written notice and a reasonable opportunity, the NFWF Subrecipient is unable to cure a perceived non-compliance with any material term (other than those enumerated at 2.16.1.1 – 2.16.1.5) of this Agreement. The cure period shall be considered the timeframe specified by the Funding Source(s), if any, minus one (1) to five (5) days or as agreed upon by the Parties in writing, or if no time is specified by the Funding Source(s), ten (10) days or as otherwise agreed upon by the Parties. Within this time period the NFWF Subrecipient shall, as determined by NFWF, (a) satisfactorily demonstrate its compliance with the term(s) originally believed to be in non-compliance; or (b) NFWF, at its sole

discretion, may determine that NFWF Subrecipient has satisfactorily demonstrated that reasonable progress has been made so as not to endanger performance under this Agreement; or,

**2.16.1.7.** if the Funding Source issues an early termination under the funding agreement(s) covering all or part of the Project at issue hereunder.

**2.16.2.** Either Party may terminate this Agreement by written notice to the other Party for any reason by providing thirty (30) days' prior written notice to the other Party.

**2.16.3.** In the event of termination of this Agreement prior to Project completion, the NFWF Subrecipient shall immediately (unless otherwise directed by NFWF in its notice if NFWF initiated the termination) undertake all reasonable steps to wind down the Project cooperatively with NFWF, including but not limited to the following:

**2.16.3.1.** Stop any portion of the Project's work that is incomplete (unless work to be completed and a different date for termination of work are specified in NFWF's notice).

**2.16.3.2.** Place no further work orders or enter into any further subawards or contracts for materials, services, or facilities, except as necessary to complete work as specified in NFWF's notice.

**2.16.3.3.** Terminate all pending Project work orders, subawards, and contracts for work that has not yet commenced.

**2.16.3.4.** With the prior written consent of NFWF, promptly take all other reasonable and feasible steps to minimize and/or mitigate any damages that may be caused by the failure to complete the Project, including but not limited to reasonable settlements of any outstanding claims arising out of termination of Project work orders, subawards, and contracts. NFWF will reimburse the NFWF Subrecipient for non-cancelable allowable costs incurred by the NFWF Subrecipient prior to termination that cannot be mitigated. However, the foregoing is subject to the complete reimbursement of such costs by the Funding Source; accordingly, any amounts ultimately not paid, or which are recouped by the Funding Source, are subject to recoupment by NFWF.

**2.16.3.5.** Deliver or make available to NFWF all data, drawings, specifications, reports, estimates, summaries, and such other information and material as may have been accumulated by the NFWF Subrecipient under this Agreement, whether completed or in progress.

**2.16.3.6.** Return to NFWF any unobligated portion of the Award.

**2.17. Entire Agreement.**

These terms and conditions, including the Attachments hereto, constitute the entire agreement between the Parties relating to the Project described herein and supersede all previous communications, representations, or agreements, either oral or written, with respect to the subject matter hereof. No representations or statements of any kind made by any representative of a Party, which are not stated herein, shall be binding on said Party.

**2.18. Severability.**

Each provision of this Agreement is distinct and severable from the others. If one or more provisions is or becomes invalid, unlawful, or unenforceable in whole or in part, the validity, lawfulness and enforceability of the remaining provisions (and of the same provision to the extent enforceable) will not be impaired, and the Parties agree to substitute a provision as similar to the offending provision as possible without its being invalid, unlawful or unenforceable.

**2.19. Interpretation and Construction.**

**2.19.1.** This Agreement shall be interpreted as a unified contractual document with the Sections and the Attachments having equal effect, except in the event of any inconsistency between them. In the event of a conflict between any portion of this Agreement and another portion of this Grant Agreement, first the Sections will apply in the following order of precedence: 5, 4, 3, 1, 2 and 6, and then any supplemental attachments.

**2.19.2.** The title designations of the provisions to this Agreement are for convenience only and shall not affect the interpretation or construction of this Agreement.

**2.19.3.** Every right or remedy conferred by this Agreement upon or reserved to the Parties shall be cumulative and shall be in addition to every right or remedy now or hereafter existing at law or in equity, and the pursuit of any right or remedy shall not be construed a selection.

**2.19.4.** The failure of NFWF to exercise any right or privilege granted hereunder or to insist upon the performance and/or compliance of any provision of this Agreement, a referenced contractual, statutory or regulatory term, or an Attachment hereto, shall not be construed as waiving any such right, privilege, or performance/compliance issue, and the same shall continue in full force and effect.

**2.19.5.** Notwithstanding any express statements regarding the continuation of an obligation beyond the expiration or termination of this Agreement, the rights and obligations of this Agreement, which by their nature extend beyond its expiration or termination, shall remain in full force and effect and shall bind the Parties and their legal representatives, successors, heirs, and assigns.

## **SECTION 3 REPRESENTATIONS, CERTIFICATIONS, OBLIGATIONS AND OTHER STATEMENTS – GENERAL**

### **3.1. Binding Obligation.**

By execution of this Agreement, NFWF Subrecipient represents and certifies that this Agreement has been duly executed by a representative of the NFWF Subrecipient with full authority to execute this Agreement and binds the NFWF Subrecipient to the terms hereof. After execution by the representative of the NFWF Subrecipient named on the signature page hereto, this Agreement represents the legal, valid, and binding obligation of the NFWF Subrecipient, enforceable against the NFWF Subrecipient in accordance with its terms.

### **3.2. Additional Support.**

In making this Award, NFWF assumes no obligation to provide further funding or support to the NFWF Subrecipient beyond the terms stated in this Agreement.

### **3.3. Compliance with Laws.**

#### **3.3.1. In General.**

By execution of this Agreement and through its continued performance hereunder, the NFWF Subrecipient represents, certifies and agrees that it is and shall continue to conduct all such activities in compliance with all applicable federal, state, and local laws, regulations, and ordinances and to secure all appropriate necessary public or private permits and consents. The terms of this provision will survive termination of this Agreement and must be flowed down to any and all contractors, subcontractors or subrecipients entered into by NFWF Subrecipient in the performance of this Agreement.

#### **3.3.2. Compliance with Anti-Corruption Laws.**

The NFWF Subrecipient represents, certifies and agrees to ensure that no payments have been or will be made or received by the NFWF Subrecipient in connection with this Agreement in violation of the U.S. Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. §dd-1 *et seq.*), or any other applicable anti-corruption laws or regulations (e.g., UK Bribery Act 2010) in the countries in which the NFWF Subrecipient performs under this Agreement.

#### **3.3.3. Compliance with Anti-Terrorism Laws.**

The NFWF Subrecipient represents, certifies and agrees not to provide material support or resources directly or indirectly to, or knowingly permit any funds provided by NFWF pursuant to this Agreement or Matching Contributions to be transferred to, any individual, corporation or other entity that the NFWF Subrecipient knows, or has reason to know, commits, attempts to commit, advocates, facilitates, or participates in any terrorist activity, or has committed, attempted to commit, advocated, facilitated or participated in any terrorist activity, including, but not limited to, the individuals and entities (1) on the master list of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury's Office of Foreign Assets Control, which list is available at [www.treas.gov/offices/enforcement/ofac](http://www.treas.gov/offices/enforcement/ofac); (2) on the consolidated list of individuals and entities maintained by the "1267 Committee" of the United Nations Security Council at

[http://www.un.org/sc/committees/1267/qa\\_sanctions\\_list.shtml](http://www.un.org/sc/committees/1267/qa_sanctions_list.shtml); (3) on the consolidated list maintained by the U.S. Department of Commerce at [http://export.gov/ecr/eg\\_main\\_023148.asp](http://export.gov/ecr/eg_main_023148.asp), or (4) on such other list as NFWF may identify from time to time.

### **3.3.4. Compliance with Additional Laws and Restrictions.**

The NFWF Subrecipient represents, certifies and agrees to ensure that its activities under this Agreement comply with all applicable U.S. laws, regulations and executive orders regarding money laundering, terrorist financing, U.S. sanctions laws, U.S. export controls, restrictive trade practices, boycotts, and all other economic sanctions or trade restrictions promulgated from time to time by means of statute, executive order, regulation or as administered by the U.S. Department of State, the Office of Foreign Assets Control, U.S. Department of the Treasury, or the Bureau of Industry and Security, U.S. Department of Commerce.

### **3.4. Subrecipient Debarment and Suspensions.**

By and through NFWF Subrecipient's execution of this Agreement, NFWF Subrecipient warrants and represents its initial and continued compliance that it is not listed on the General Services Administration's, government-wide System for Award Management Exclusions (SAM Exclusions), in accordance with the OMB guidelines at 2 C.F.R Part 180 that implement E.O.s 12549 (3 C.F.R., 1986 Comp., p. 189) and 12689 (3 C.F.R., 1989 Comp., p. 235), "Debarment and Suspension." The NFWF Subrecipient further provides that it shall not enter into any subaward, contract or other agreement using funds provided by NFWF with any party listed on the SAM Exclusions in accordance with Executive Orders 12549 and 12689. The SAM Exclusions can be found at <https://www.sam.gov/portal/public/SAM/>.

### **3.5. Conflicts of Interest.**

By execution of this Agreement, NFWF Subrecipient acknowledges that it is prohibited from using any Project funds received under this Agreement in a manner which may give rise to an apparent or actual conflict of interest, including organizational conflicts of interest, on the part of the NFWF Subrecipient. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of NFWF Subrecipient may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. An organizational conflict of interest is defined as a relationship that because of relationships with a parent company, affiliate, or subsidiary organization, the non-federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. The NFWF Subrecipient represents and certifies that it has adopted a conflict of interest policy that, at a minimum, complies with the requirements of the OMB Uniform Guidance, and will comply with such policy in the use of any Project funds received under this Agreement. NFWF Subrecipient may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of NFWF Subrecipient. If NFWF Subrecipient becomes aware of any actual or potential conflict of interest or organizational conflict of interest, during the course of performance of this Agreement, NFWF Subrecipient will immediately notify NFWF in writing of such actual or potential conflict of interest, whether organizational or otherwise.

## **SECTION 4 REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS RELATING TO FEDERAL FUNDS – GENERAL**

**4.1.** If the Funding Source or any funding entity (*i.e.*, a secondary funding source) is a federal agency and/or any portion of the Project provided herein is paid with federal funds, the NFWF Subrecipient must read and understand certain applicable federal regulations, including but not limited to, the following in Sections 4 and 5 of this Agreement as set forth herein.

The NFWF Subrecipient will need to understand and comply with the OMB Uniform Guidance (including related Supplements as may be applicable to a specific federal funding source(s), and Appendices as may be applicable), in addition to other applicable federal regulations. This includes, but is not limited to, the provisions of the Federal Funding Accountability and Transparency Act (FFATA), which includes requirements on executive compensation, and also requirements implementing the Act for the non-federal entity at 2 CFR part 25 Financial Assistance Use of Universal Identifier and System for Award Management and 2 CFR part 170 Reporting Subaward and Executive Compensation Information. The most recent version of the Electronic Code of Federal Regulations can be found at <https://www.ecfr.gov/>.

### **4.2. 2 CFR § 200 Subpart F Audits.**

It is the responsibility of the NFWF Subrecipient to arrange for audits as required by 2 CFR Part 200, Subpart F – Audit Requirements. The NFWF Subrecipient shall notify NFWF in writing about 2 CFR Subpart F audit findings related to projects funded by NFWF pass-through funds. The NFWF Subrecipient understands that NFWF may require the NFWF Subrecipient to take corrective action measures in response to a deficiency identified during an audit.

### **4.3. Real and Personal Property.**

In accordance with 2 C.F.R. § 200.316 (Property trust relationship), real property, equipment, and intangible property acquired or improved with federal funds must be held in trust by the NFWF Subrecipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. This trust relationship exists throughout the duration of the property's estimated useful life during which time the Federal Government retains an undivided, equitable reversionary interest in the property (Federal Interest). During the duration of the Federal Interest, the NFWF Subrecipient must comply with all use, reporting, and disposition requirements and restrictions as set forth in 2 C.F.R. §§ 200.310 (Insurance coverage) through 200.316 (Property trust relationship) and 200.329 (Reporting on real property), as applicable.

### **4.4. Mandatory Disclosure.**

NFWF Subrecipient must disclose, in a timely manner, in writing to NFWF all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Failure to make required disclosures can result in any of the remedies described in this Agreement, including termination, and any remedies provided under law, including suspension or debarment by cognizant federal authorities.

### **4.5. Trafficking in Persons.**

Pursuant to section 106(a) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104(g)) (codified at 2 C.F.R. Part 175), NFWF Subrecipient shall comply with the below provisions. Further, NFWF Subrecipient shall flow down these provisions in all subawards and contracts,

including a requirement that Subrecipients similarly flow down these provisions in all lower-tiered subawards and subcontracts. The provision is cited herein:

- I. Trafficking in persons.
  - a. *Provisions applicable to a recipient that is a private entity.*
    1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
      - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
      - ii. Procure a commercial sex act during the period of time that the award is in effect; or
      - iii. Use forced labor in the performance of the award or subawards under the award.
    2. We as the federal awarding agency's pass-through entity may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
      - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
      - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
        - A. Associated with performance under this award; or
        - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),".
  - b. *Provision applicable to a recipient other than a private entity.* We as the federal awarding agency's pass-through entity may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity-
    1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
    2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
      - i. Associated with performance under this award; or
      - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),".
  - c. *Provisions applicable to any recipient.*
    1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
    2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
      - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

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

**4.6. 41 United States Code (U.S.C.) 4712, Enhancement of Recipient and Subrecipient Employee Whistleblower Protection:**

(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 established at 41 U.S.C. 4712.

(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 contracts over the simplified acquisition threshold related to this award.



**4.7. 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. NFWF Subrecipient shall flow down this provision in all subawards and contracts, including a requirement that subrecipients similarly flow down this provision in all lower-tiered subawards and subcontracts.

**4.8. Executive Order 13513, Federal Leadership on Reducing Text Messaging while Driving.**

(Sub)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. NFWF Subrecipient shall flow down this provision in all subawards and contracts, including a requirement that subrecipients similarly flow down this provision in all lower-tiered subawards and subcontracts.

**4.9. 43 CFR §18 New Restrictions on Lobbying.**

By execution of this Agreement, the NFWF Subrecipient agrees to comply with 43 CFR 18, New Restrictions on Lobbying, and certifies to the following statements:

(a) No federal appropriated funds have been paid or will be paid, by or on behalf of the NFWF Subrecipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

(c) The NFWF Subrecipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification, as represented by execution of this Agreement, is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. All liability arising from an erroneous representation shall be borne solely by the entity filing that representation and shall not be shared by any entity to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or

disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31 of the U.S. Code.

**4.10. Prohibition on Issuing Financial Assistance Awards to Entities that Require Certain Internal Confidentiality Agreements.**

The NFWF Subrecipient must not require their employees, subrecipients, or contractors seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees, subrecipients, or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information. The NFWF Subrecipient must notify their employees, subrecipients, or contractors that existing internal confidentiality agreements covered by this condition are no longer in effect.

**4.11. Drug-Free Workplace.**

The NFWF Subrecipient must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 41 USC Chapter 81 Drug-Free Workplace.

**4.12. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. (Effective 8/13/2020)**

As required by 2 CFR 200.216, the NFWF Subrecipient is prohibited from obligating or expending funds awarded under this Agreement to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, and Dahua Technology Company, or any other company, including affiliates and subsidiaries, owned or controlled by the People's Republic of China, which are a substantial or essential component of any system, or as critical technology as part of any system. By and through the NFWF Subrecipient's execution of this Agreement, the NFWF Subrecipient warrants and represents that the NFWF Subrecipient will not obligate or expend funds awarded under this Agreement for "covered telecommunications equipment or services" (as this term is defined and this restriction is imposed under 2 CFR 200.216).

**4.13. Domestic Preference for Procurements.**

- a) Under this Agreement and in accordance with 2 C.F.R. § 200.322, the NFWF Subrecipient shall to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
- b) For purposes of this agreement, the following definitions apply:
  - i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; and
  - ii. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

## **SECTION 5 REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS RELATING TO FEDERAL FUNDS – FUNDING SOURCE SPECIFIC**

NFWF Subrecipient acknowledges that when all or part of this Agreement is funded by a federal award that certain representations, certifications, and other statements relating to the use of such funds or performance of the Project may be necessary. These representations, certifications and other statements are set forth below. Unless otherwise stated in this Agreement, the execution and submission of this Agreement serves as affirmative acknowledgement of and agreement with the below representations, certifications, and other statements. Further, should circumstances of the NFWF Subrecipient change during the performance of this Agreement that would render one of these representations, certifications and/or other statements inaccurate, invalid or incorrect, the NFWF Subrecipient shall promptly notify NFWF of such change in circumstance. Finally, NFWF reserves the right to update and require subsequent acknowledgement of and agreement with new or revised representations, certifications, and other statements at no additional cost under this Agreement.

### **EPA General Administrative Terms and Conditions.**

The NFWF Subrecipient must comply with the EPA general terms and conditions available at: <https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-november-12-2020-or-later>.

### **Public information.**

In accordance with 40 CFR 30.36, EPA as the right to reproduce, publish, use and authorize others to use copyrighted works developed under this assistance agreement for federal purposes.

### **Report Acknowledgement.**

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

"This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement LI-00A01075 to National Fish and Wildlife Foundation. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the EPA endorse trade names or recommend the use of commercial products mentioned in this document."

### **Information Collection.**

The NFWF Subrecipient agrees to comply with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). When a grant's scope of work includes the survey or collection of identical information from 10 or more persons and EPA wants to influence, design or develop the activities of the survey then the requirements of the ICR pertain.

The NFWF Subrecipient will contact NFWF prior to the design of any surveys to ensure the Paperwork Reduction Act is met. Recipient shall provide the following information before any survey is designed or pursued: (1) description of the information to be collected; (2) explanation of the need for the information; and (3) to whom the survey is being directed.

**GIS Data.**

All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at [www.fgdc.gov](http://www.fgdc.gov).

Data produced under this project will adhere to the requirements of EPA's National Geospatial Data Policy (NGDP) (see [http://www.epa.gov/esd/gqc/pdf/epa\\_natl\\_geo\\_data\\_policy.pdf](http://www.epa.gov/esd/gqc/pdf/epa_natl_geo_data_policy.pdf)). This Policy applies to all EPA organizations, grantees, agents working on behalf of EPA, and partner states of EPA who design, develop directly or indirectly, compile, operate, or maintain EPA information collections developed for environmental program support. Refer to this policy for details on requirements for quality assurance project plans (QAPPs), geospatial data accuracy and geospatial metadata. Specifically, the NFWF Subrecipient must provide documentation for all produced data, including source information for each digital data layer (i.e., scale and accuracy, map projection, coordinate system, etc.), and specific information about the data layer itself (i.e., method used, geographic extent of data layer, file format, date of creation, staff contact, description and definition of data fields and their contents, related files, if any, and description of data quality and quality assurance methods used). The EPA Metadata Editor (EME) was developed to simplify and standardize metadata development and is a recommended tool for streamlining production of the required metadata. The EME and related training materials can be downloaded from <http://www.epa.gov/geospatial/eme.html>. Specific technical guidance on geospatial deliverables and acceptable formats can be found at <http://www.epa.gov/region02/gis/r2gisdeliverables.html>.

Data produced under this project will be submitted to EPA no later than 30 days after completion of the project. Delivery can be in the form of physical media or as downloadable data.

**Competency of Organizations Generating Environmental Measurement Data.**

In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, the NFWF Subrecipient agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternately, where a pre-award demonstration of competency is not practicable, the NFWF Subrecipient agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. Recipient shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at [http://www.epa.gov/fem/lab\\_comp.htm](http://www.epa.gov/fem/lab_comp.htm).

**Light Refreshments and/or Meals – EPA.**

The NFWF Subrecipient will obtain prior approval for the use of EPA grant funds for light refreshments and/or meals served at meetings, conferences, training workshops and outreach activities (events). Requests for approval will include: 1) an estimated budget and description for the light refreshments, meals, and/or beverages; 2) a description of the purpose, agenda, location, length and timing for the event; and, 3) an estimated number of participants in the event and a description of their roles. EPA policy prohibits the use of EPA funds for receptions, banquets and similar activities that take place after normal business hours unless the NFWF Subrecipient has provided a justification that has been expressly approved by EPA's Award Official or Grants Management Officer.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. (41 CFR 301-74.11)

**Utilization of Disadvantaged Business Enterprises.**

**GENERAL COMPLIANCE, 40 CFR, Part 33**

The NFWF Subrecipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33. The following text either provides updates to 40 CFR, Part 33 based upon the associated class exception or highlights a requirement.

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

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

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

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

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

**3. CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302**

The NFWF Subrecipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302 (a)-(d) and (i).

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

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

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

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

**6. MBE/WBE REPORTING – SPECIFIC CHANGES PURSUANT TO CLASS DEVIATION, 40 CFR, Part 33, Subpart E**

When required, the NFWF Subrecipient agrees to complete and submit a “MBE/WBE Utilization Under Federal Grants and Cooperative Agreements” report (EPA Form 5700-52A) on an annual basis. The current EPA Form 5700-52A can be found at the EPA Grantee Forms Page at [https://www.epa.gov/sites/production/files/2020-06/documents/epa\\_form\\_5700\\_52a\\_fill-sign.pdf](https://www.epa.gov/sites/production/files/2020-06/documents/epa_form_5700_52a_fill-sign.pdf).

Reporting is required for assistance agreements where funds are budgeted for procuring construction, equipment, services and supplies (including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the “Other” category) with a cumulative total that exceed the Simplified Acquisition Threshold (SAT) (currently, \$250,000 however the threshold will be automatically revised whenever the SAT is adjusted; See 2 CFR Section 200.1), including amendments and/or modifications. When reporting is required, all procurement actions are reportable, not just the portion which exceeds the SAT.

Annual reports are due by October 30th of each year. Final reports are due 120 days after the end of the project period.

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR Section 33.502.

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

The NFWF Subrecipient agrees to comply with all recordkeeping requirements as stipulated in 40 CFR, part 33, Subpart E including creating and maintaining a bidders list, when required. Any

document created as a record to demonstrate compliance with any requirement of 40 CFR, Part 33 must be maintained pursuant to the requirements stated in this Subpart.

**QUALITY ASSURANCE STATEMENT – ENVIRONMENTAL ENGINEERING:**

The NFWF Subrecipient shall incorporate good engineering principles/practices – a broad set of quality assurance, conservation and safety activities, as well as techniques and approaches that are commonly accepted throughout the engineering profession – into all engineering activities. Engineering work products produced under this Agreement shall bear the appropriate engineering stamp, seal, or other standardized approval.

**QUALITY ASSURANCE STATEMENT – SECONDARY DATA USE:**

The NFWF Subrecipient shall ensure that all secondary data is obtained from known and trusted sources and is accompanied by metadata that lists the reason(s) for the data collection, the methodology employed, and lists the Quality Assurance/Quality Control (QA/QC) standard(s) under which the data collection was completed. The Recipient shall assess such data's "fitness for use" according to the general data quality assessment factors defined by the EPA Science Policy Council (<http://www.epa.gov/osa/spc/pdfs/assess2.pdf>). Data assessment and evaluation activities must be documented. Any assumptions, troubleshooting, communications, and other relevant documents and records must be maintained with the Recipient's project files. These records must be organized to allow reconstruction of the process and results, also known as "data mapping". The identity of the individual(s) and organization that performed the "fitness for use" assessment must be clearly noted on the documents.

**QUALITY ASSURANCE PROJECT PLAN:**

In accordance with 40 CFR 30.54 and 31.45, the NFWF Subrecipient must develop and implement quality assurance and quality control procedures, specification and documentation that are sufficient to produce data of adequate quality to meet project objectives. The Quality Assurance Project Plan (QAPP) is the document that provides comprehensive details about the quality/control requirements and technical activities that must be implemented to ensure that project objectives are met. The

QAPP should be prepared in accordance with EPA QA/R-5: EPA Requirements for Quality Assurance Project Plans (<http://www.epa.gov/quality>). The QAPP must be submitted to the EPA Project Officer at least 60 days prior to the initiation of data collection and/or data generation activities. The QAPP shall be completed and approved by NFWF prior to any data collection or data compilation.

**QUALITY ASSURANCE STATEMENT – GIS ACTIVITIES:**

The NFWF Subrecipient shall incorporate the practices and principles EPA's geographical information systems quality assurance. These quality assurance activities include the following requirements; to, "describe the methods of acquiring, assessing, managing, and processing data from existing sources" (EPA QA/G-5G, p. 22) and, to, "describe the quality assurance and quality control of the instruments, procedures, and methods used to create new geospatial data" (EPA

QA/G-5G, p. 21). This includes the completion of FGDC metadata as a required component of all datasets. State and Federal agencies are considered trusted agencies when acquiring datasets, in compliance with EPA's geospatial guidance document. For additional information, please reference the full text of EPA's geographical information systems QA document ([www.epa.gov/quality/qs-docs/g5g-final.pdf](http://www.epa.gov/quality/qs-docs/g5g-final.pdf)).



## **SECTION 6 OTHER REPRESENTATIONS, CERTIFICATIONS, STATEMENTS AND CLAUSES**

NFWF Subrecipient acknowledges that all or part of this Agreement may be funded by a non-federal source that requires certain representations, certifications, and other statements relating to the use of such funds or performance of the Project. These representations, certifications and other statements are set forth below. Unless otherwise stated in this Agreement, the execution and submission of this Agreement serves as affirmative acknowledgement of and agreement with the below representations, certifications, and other statements. Further, should circumstances of the NFWF Subrecipient change during the performance of this Agreement that would render one of these representations, certifications and/or other statements inaccurate, invalid or incorrect, the NFWF Subrecipient shall promptly notify NFWF of such change in circumstance. Finally, NFWF reserves the right to update and require subsequent acknowledgement of and agreement with new or revised representations, certifications, and other statements at no additional cost under this Agreement.

None.