

OFF-SEASON STOCK WATER MITIGATION GRANT AGREEMENT
WATER RESOURCES DIVISION
MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Recipient: _____

Project Title: _____

Grant Number: _____

Declarations

- Section 1. Purpose
- Section 2. Term
- Section 3. DNRC's Role
- Section 4. Project Scope
- Section 5. Project Budget
- Section 6. Availability of Funds
- Section 7. Disbursements
- Section 8. Reports
- Section 9. Records and Audits
- Section 10. Project Monitoring and Access for Inspection and Monitoring
- Section 11. Employment Status and Workers' Compensation
- Section 12. Equal Employment
- Section 13. Indemnity and Liability
- Section 14. Compliance with Applicable Laws
- Section 15. Copyright - Government Right to Use
- Section 16. Acknowledgement of Support
- Section 17. Failure to Comply
- Section 18. Assignment and Amendment
- Section 19. Montana Law and Venue
- Section 20. Waiver
- Section 21. Entire Agreement
- Attachment A – Scope of Work
- Attachment B – Budget
- Attachment C – Reporting Requirements

FOR DNRC USE ONLY

Maximum Amount under this Grant:

Source of Funds	
Fund Name	Fund No.

Subclass	Org. No.	Amount
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Appropriation Authority:

If a State agency select text

Approved

No. _____

Division _____

Legal _____



GRANT AGREEMENT BETWEEN THE MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND [GRANT RECIPIENT]

THIS GRANT, administered by the Montana Department of Natural Resources and Conservation (DNRC), is consistent with the objectives of the Confederated Salish and Kootenai-Montana Compact (Compact) between the Confederated Salish and Kootenai Tribes of the Flathead Reservation, the State of Montana, and the United States. The Compact Implementation Technical Team (CITT) authorized the Off-Season Stock Water Mitigation Grant Program and its administration by DNRC, on November 13, 2024. This grant is accepted by [NAME OF GRANT RECIPIENT], hereinafter referred to as the Recipient and represented by [AUTHORIZED REPRESENTATIVE], [TITLE OF AUTHORIZED REPRESENTATIVE], (Authorized Recipient) and successors, [AUTHORIZED REPRESENTATIVE ADDRESS, CITY, STATE, ZIP], [TELEPHONE NUMBER, EMAIL ADDRESS]. Both parties agree to the following terms and conditions:

SECTION 1. PURPOSE. The purpose of this Grant Agreement (Agreement) is to establish mutually agreeable terms and conditions, specifications, and requirements to grant funds to the Recipient for [PROJECT TITLE].

SECTION 2. TERM. The effective date of this Agreement is the date of last signing of this Agreement. The Recipient shall have until [DATE] to complete the project and work described in SECTION 4. PROJECT SCOPE. DNRC may grant an extension for completion upon request and showing of good cause by the Recipient. A request for extension must be submitted at least 45 days prior to the termination date of this Agreement. This agreement remains in effect until all reporting requirements as described in SECTION 8. REPORTS have been received by DNRC.

SECTION 3. DNRC's ROLE. DNRC is administering funds allocated by the State of Montana under Article VI of the Compact for mitigating the loss of Stock Water deliveries from the Flathead Indian Irrigation Project (FIIP). DNRC will monitor project expenditures to assure payment eligibility. DNRC assumes no responsibility for the Recipient's obligation to faithfully perform the tasks and activities necessary to implement and complete a project. The DNRC liaison for this Agreement is Samantha Kemp, Grant Administrative Specialist, (406) 444-6790, samantha.kemp@mt.gov. All requests for information and assistance, claims for grant funds, and reports shall be submitted to the DNRC liaison.

SECTION 4. PROJECT SCOPE. The scope of work for this project is described in Attachment A and incorporated herein by this reference. Supporting documents and attachments from the CITT Off-Season Stock Water Mitigation Grant Application submitted on [DATE] are also incorporated herein by this reference. In the event

content in the application differs from or conflicts with terms presented elsewhere in this Agreement, this Agreement text takes precedence.

SECTION 5. PROJECT BUDGET. A project budget showing anticipated expenditures is provided in Attachment B and incorporated herein by this reference. All transfers of funds between budget categories require written notification and approval from the DNRC liaison. A transfer of funds between budget categories exceeding 10% of the total grant will require an amendment of the agreement. Requests to modify the approved budget must be submitted in writing to the DNRC liaison for approval and must be made in advance of reimbursement requests.

SECTION 6. AVAILABILITY OF FUNDS. Funds will be released to the extent they are available. Costs incurred prior to the effective date of this Agreement are not eligible for reimbursement. Grant funds are not available for work performed after the termination date in SECTION 2. TERM.

6.1 N/A

6.2 The DNRC must by law terminate this Agreement if funds are not appropriated or otherwise made available to support the DNRC's continuation of performance of this Agreement in a subsequent fiscal period (§18-4-313(4), MCA). If state government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this Agreement (whether at an initial payment level or any increases to that initial level) in subsequent fiscal periods, the DNRC shall terminate this Agreement as required by law. The DNRC shall provide the Recipient with the date the State's termination shall take effect. The DNRC shall not be liable to Recipient for any payment that would have been payable had the Agreement not been terminated under this provision. The DNRC shall be liable to the Recipient only for the payment, or prorated portion of that payment, owed to Recipient up to the date the DNRC's termination takes effect. This is the Recipient's sole remedy. The DNRC shall not be liable to the Recipient for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

SECTION 7. DISBURSEMENTS.

The Recipient must submit reimbursement claims for funds to DNRC. Funds can only be expended for work described in SECTION 4. SCOPE OF WORK. The Recipient shall submit a complete vendor invoice, signed by the Authorized Recipient, itemizing actual project expenses that can be documented with accounting records. To receive payment, the Recipient shall submit a project progress report described in SECTION 8. REPORTS, and supporting documentation: proof of payment, receipts, vendor invoices, inspection certificates, and other documentation of expenses incurred.

DNRC only reimburses direct costs associated with the project. Direct costs are those which can be identified specifically as costs of implementing the approved project such as staff time directly attributable to the project, contracted expenses, materials and supplies for the project. DNRC cannot reimburse indirect costs, those that are incurred by the recipient in support of general business operations, but which are not attributable to a specific funded project.

DNRC will verify the claims and check them against the reports required in SECTION 8. REPORTS and the budget provided in SECTION 5. PROJECT BUDGET. DNRC will disburse grant funds to the Recipient upon approval and to the extent available. Reimbursement of Recipient expenditures will only be made for expenses included in the budget provided in SECTION 5. PROJECT BUDGET, within the dates identified in SECTION 2. TERM, and that are clearly and accurately supported by the Recipient's reports to DNRC. Total payment for all purposes under this Agreement shall not exceed **[GRANT AMOUNT].**

7.1 Reimbursement requests for work performed during the term of this Agreement must be submitted to the DNRC liaison within 90 calendar days after the expiration of this Agreement to receive payment.

7.2 DNRC will withhold 10 percent of the total authorized grant amount until all the tasks outlined in SECTION 4. PROJECT SCOPE and the final report required by SECTION 8. REPORTS are completed and approved by DNRC.

SECTION 8. REPORTS. The Recipient is responsible for submitting progress reports, a final report, and a signed Certificate of Compliance to DNRC at project completion in accordance with all requirements stated in Attachment C. Pictures of the project site before, during, and after construction will be provided to the DNRC liaison with reports or upon request. Because images may be used for publicity as well as project documentation, the Recipient must acquire any release(s) necessary for the government's right to use as provided in SECTION 15. COPYRIGHT – GOVERNMENT RIGHT TO USE.

8.1 Quarterly progress reports for the periods ending each March, June, September, and December shall be submitted to the DNRC liaison during the term of this Agreement. The Recipient must submit a project progress report with each reimbursement request at a minimum on a quarterly basis. Reports must include the information included in Attachment C. Quarterly reports must be submitted to the DNRC liaison within 15 calendar days following the close of the quarterly period. No claims for disbursements will be honored if the quarterly report has not been approved or if there is a delinquent report.

8.2 The Recipient is required to submit a final report upon project completion. Reports must include the information included in Attachment C. Failure to provide the reports as required is cause for termination of this Agreement or withholding of future grant payments. Final disbursement of grant funds is contingent upon DNRC receipt and approval of a report that meets requirements described in Attachment C.

8.3 N/A

8.4 N/A

SECTION 9. RECORDS AND AUDITS. The Recipient will maintain appropriate and adequate records showing complete entries of all receipts, disbursements, and other transactions relating to the project for a period of eight years after project completion. The DNRC, the Legislative Audit Division, or the Legislative Fiscal Division may, at any reasonable time, audit all records, reports, and other documents that the Recipient maintains under or during this Agreement to ensure compliance with its terms and conditions.

The Recipient is financially responsible for any audit exception or other financial loss to the State of Montana which occurs due to the negligence, intentional acts, or failure by the Recipient and/or its agents, employees, subrecipient, or representative to comply with the terms of this Agreement.

SECTION 10. PROJECT MONITORING AND ACCESS FOR INSPECTION AND MONITORING. DNRC, or its agents, may monitor and inspect all phases and aspects of the Recipient's performance to determine compliance with this Agreement, including the adequacy of records and accounts. This grant is publicly funded and requires the Recipient to accommodate all requests for public access to the site and the project records with due consideration for safety, private property rights, and convenience for all parties.

SECTION 11. EMPLOYMENT STATUS AND WORKER'S COMPENSATION. The project is for the benefit of the Recipient. DNRC is not an owner or general contractor for the project and DNRC does not control the work activities, worksite of the Recipient, or any contractors that might be engaged in the completion of the project.

The Recipient is independent from and is not an employee, officer, or agent of the State of Montana or DNRC. The Recipient, its employees, and contractors are not covered by the Workers' Compensation laws applicable to DNRC as an employer. The Recipient is responsible for providing employees Workers' Compensation Insurance and that its contractors are following the coverage provisions of the Workers' Compensation Act.

SECTION 12. EQUAL EMPLOYMENT. In accordance with §49-3-207, MCA, and Executive Order No. 04-2016, Recipient agrees that the hiring of persons to perform this Agreement will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Agreement.

SECTION 13. DEFENSE, INDEMNITY AND LIABILITY. Recipient shall protect, defend, indemnify, and save harmless the State of Montana, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, from and against all claims, liabilities, demands, causes of action, judgments, penalties, fines, and losses, including all costs of defense and reasonable attorney fees, arising in favor of or asserted by Recipient's employees and agents, its subrecipients, its subrecipient's employees and agents, or third parties on account of property damage, personal injury, bodily injury, death, violation of or non-compliance with any laws, regulations, or rules, or financial or other loss of any kind that in any way, directly or indirectly, arise or allegedly arise out of, in connection with, or on account of this Agreement, any act or omission of Recipient, or any act or omission of Recipient's officers, agents, employees, or subrecipients. The Recipient obligations under this Section 13 survive termination or expiration of this Agreement.

SECTION 14. COMPLIANCE WITH APPLICABLE LAWS. All work must be in accordance with all federal, state, tribal, and local law, statutes, rules and ordinances.

14.1 It shall be the Recipient's responsibility to obtain all permits, licenses, or authorizations required from government authorities prior to initiation of the project or required to be obtained by the time of completion of the project to be eligible for reimbursement funds under this Agreement. Permits or authorizations may include but are not limited to: environmental and well construction permits for Missoula, Sanders, or Lake County; CSKT Aquatic Lands Conservation Ordinance (ALCO) 87-A Permit); CSKT Shoreline Protection 64-A Permit; Natural Streambed and Land Preservation Act 310 Permit; Clean Water Act Section 401 Certification; Clean Water Act Section 404 Permit; NPDES Construction General Permit for discharges from construction activities; water rights requirements under the Unitary Administration and Management Ordinance (§ 85-2-1902, MCA); Sage Grouse Habitat (Executive Order 21-2015); or other permits or authorizations that may be required by state, local, tribal or federal agencies prior to beginning work on the project or prior to completion of the project.

14.2 Procurement of labor, services, supplies, materials, and equipment shall be conducted according to applicable federal, state, tribal and local statutes. The award of an agreement, or by Recipient entering into this Agreement, shall not be taken to imply that any required permits or authorizations issued by DNRC or other state, federal, tribal or local agency will be approved. The DNRC may review any procurement solicitations that Recipient issues. The DNRC's review and comments will not constitute an approval of the solicitation. Regardless of the DNRC's review, the Recipient remains bound by all applicable laws, regulations, and Contract terms. If during its review the DNRC identifies any deficiencies, then the Department shall communicate those deficiencies to the Recipient within seven business days.

Recipient shall comply with applicable state prevailing wage laws (§§ 18-2-401 to -432, MCA).

14.3 *For projects on fee land, it shall be the Recipient's responsibility to comply with MEPA (Title 75, Chapter 1 MCA; 36-2-503 ARM); and provide all required information requested by the DNRC related to any required MEPA decision. For projects on tribal trust or individual tribal trust land, it shall be the Recipient's responsibility to comply with NEPA (42 U.S.C. § 4321 et seq.); and provide all required information requested by the CSKT Tribal Lands Department or the Bureau of Indian Affairs related to any required NEPA decision. Documentation shall be provided to Grant Manager. Projects not meeting environmental regulations may not be approved for funding.*

SECTION 15. COPYRIGHT - GOVERNMENT RIGHT TO USE. Any graphic, photographic, or other material developed under this Agreement may be copyrighted with the proviso that the State of Montana will have a royalty-free, nonexclusive, and irrevocable right to produce, publish or otherwise use, and authorize others to use the work for state government purposes.

SECTION 16. ACKNOWLEDGEMENT OF SUPPORT. The Recipient is responsible for assuring that an acknowledgment of CITT and DNRC support (1) is made in any publication of any material based on or developed under this project, in the following terms: "This project is based upon work supported by the Compact Implementation Technical Team (established by the CSKT-Montana Compact) and the Department of Natural Resources and Conservation under **[GRANT NUMBER]**" and (2) is verbally acknowledged during all news media interviews or public presentations about the project.

SECTION 17. FAILURE TO COMPLY, BREACH, DEFAULT, REMEDIES.

17.1 If the Recipient fails to comply with the terms and conditions of this Agreement or reasonable directives or orders from DNRC, DNRC may terminate this Agreement and refuse disbursement of any additional funds from this grant. Further, in the event of such termination, the Recipient shall immediately pay over to the DNRC all unexpected funds together with all interest earned on the monies provided or herein remaining unexpended at such time. Such termination will become a consideration in any future application for funds from the DNRC Conservation and Resource Development Division.

17.2 The occurrence of any of the following events is a Recipient breach under this Agreement:

- i. Failure of the Recipient or its contractors, subcontractors, or subrecipient entities to follow an Agreement term or condition; or
- ii. the Recipient makes an intentionally untrue statement or materially misleading certification in this Agreement or the Application; or any Recipient breach/default specified in another section of this Agreement.

17.3 Upon the occurrence of a breach, the DNRC shall issue a written notice of breach, identifying the nature of the breach, and providing 30 calendar days (or a lesser or additional time as may be agreed to by the parties) in which the Recipient shall have an opportunity to cure the breach. The parties will attempt in good faith to resolve all disputes, disagreements or claims relating to this Agreement.

However, if the DNRC determines that a public safety issue or an immediate public crisis exists, the DNRC will not be required to provide advance written notice or a cure period and may immediately terminate this Agreement in whole or in part if the DNRC, in its sole discretion reasonably exercised, determines that it is reasonably necessary to preserve public safety or prevent an immediate public crisis. Time allowed for cure does not diminish or eliminate Recipient's liability for damages.

17.4 If Recipient fails to cure the breach within the period specified in the written notice, Subrecipient is in default of its obligations, and the DNRC may exercise any or all the following remedies:

- i. Pursue any remedy provided by law or this Agreement, including requesting repayment of funds; and
- ii. Terminate the Agreement or applicable portions that are the subject of the breach in the Agreement; and
- iii. Suspend Recipient's performance; and
- iv. Withhold applicable payment until the default is remedied.

17.5 If termination occurs under this Section, any costs incurred will be the Recipient's responsibility.

SECTION 18. ASSIGNMENT AND AMENDMENT. This Agreement is not assignable. Amendment may be accomplished only by express written agreement of the parties. Amendments will be attached as an integral component of this Agreement.

SECTION 19. MONTANA LAW AND VENUE.

[FOR NON-TRIBAL ENTITIES: Any action or judicial proceeding for enforcement of the terms of this Agreement shall be instituted only in the courts of Montana and shall be governed by the laws of Montana. Venue shall be in the First Judicial District, Lewis and Clark County, Montana. Each party will bear their own costs and attorney's fees.]

[FOR TRIBAL ENTITIES:

Any action or judicial proceeding for enforcement of the terms of this Agreement shall be instituted only in the courts of Montana and shall be governed by the laws of Montana. Venue shall be in the First Judicial District, Lewis and Clark County, Montana. Each party will bear their own costs and attorney's fees.

A tribal government, by executing this Agreement, hereby waives any right it may have of tribal government immunity from suit on any issue specifically arising from the transaction of this Agreement and the Recipient waives any right to exhaust tribal remedies.]

SECTION 20. WAIVER. A waiver of any particular provision of this Agreement by the DNRC shall not be construed as a waiver of any other provision, nor shall any such waiver otherwise preclude the DNRC from insisting on strict compliance with this Agreement in other circumstances.

SECTION 21. ENTIRE AGREEMENT. These documents are the entire agreement of the parties. They supersede all prior agreements, representations, and understandings.

The Recipient, [RECIPIENT NAME] hereby accepts this grant [AGREEMENT NUMBER] according to the above terms and conditions. I hereby certify that I represent a legal entity with authority to enter into this Agreement.

I further certify that the project or activity complies with all applicable state, tribal, local, and federal laws and regulations.

I further certify that I am authorized to enter into and sign a binding Agreement with the Department of Natural Resources and Conservation.

A facsimile, photocopy or electronic copy of the signature below shall have the same force and effect as an original signature and an electronic signature shall be regarded as an original signature.

Recipient:

By: _____
Recipient Signature

Recipient Print Name and Title

For: [ENTITY NAME] _____
Entity Name

Entity Tax ID #

Date

Department of Natural Resources and Conservation:

By: _____
DNRC Signature

Print Name and Title

For: The Montana Department of Natural Resources and Conservation

Date

Attachment A - Scope of Work
[PROJECT TITLE]

Background:

Scope of Work:

Map of Project:

Schedule:

Attachment B – Budget
[PROJECT TITLE]

Task	DNRC Funds	Total
Permitting	\$	\$
Environmental Review	\$	\$
Materials/Supplies	\$	\$
Construction	\$	\$
Contingency	\$	\$
Total	\$	\$

Attachment C Reporting and Reimbursement Requirements

Progress Reports

The Recipient will provide progress reports to DNRC during the term of this Agreement. Reports will provide status information for each project implementation task and identify the reporting period. Status information will include, at a minimum:

- Project activities during the reporting period;
- Costs incurred;
- Funds remaining;
- Anticipated activities during the next reporting period, and
- Expected changes in scope, schedule, or budget.
- Photos of project activities during the reporting period, if available

The Recipient shall report on total project costs including those funded by the Recipient and other matching funds. Significant problems encountered shall be noted and necessary scope and time-line modifications requested.

The Recipient must submit a project progress report with each reimbursement request at a minimum on a quarterly basis. DNRC will not honor claims for reimbursement if DNRC has not approved the progress report or if there is a delinquent report. Reimbursement requests must:

- Include a State of Montana vendor invoice signed by an authorized agent.
- Be billed by the tasks identified in the project scope of work and budget.
- Be supported by backup documentation of contractor invoices, receipts, cancelled checks, or other documentation of costs.

Recipient invoices need to relate clearly to the scope of work and budget in this Agreement.

Projects with multiple funding sources need to submit a uniform status of funds spreadsheet (provided by DNRC) or other means of tracking and documenting match and the project budget.

Final Report

The Recipient must submit one hard copy and one electronic copy (pdf) of the final report that meets the requirements of this Attachment C to DNRC upon project completion. Final disbursement of funds is contingent upon DNRC receipt and approval of a final report that meets these requirements. Final reports must be submitted to DNRC within 90 days of the Agreement termination date.

Final reports must include a signed Certificate of Compliance (included in this attachment) to DNRC upon project completion.

DNRC may also request as-built drawings for construction projects, IF APPLICABLE TO PROJECT.

The Recipient is not required to use the suggested format in this Attachment but must include the information listed below. At a minimum, the final report must describe the purpose and location of the project, project tasks, changes to the scope, schedule or budget, how the project met stated goals and objectives, how the project benefited resources, and the current project status. Final reports will be made available to the public on the DNRC website.

Final Report Requirements

1. Title Page:

- A. Recipient's name, address, and telephone numbers.
- B. DNRC Grant Agreement Number
- C. Funding: total project cost and amount of agreement
- D. State where copies of the report may be obtained (Recipient contact person name, address, phone number. An email address or website is acceptable).
- E. A list of supporting documents (for example, construction completion reports or other project deliverables, if applicable).

2. **Introduction:** Describe the project history, location, and purpose. Provide a project location map.

3. Discussion and Results:

- A. Describe how project goals and tasks identified in the Agreement were completed:
 - Describe the planning process (for example: discuss project design, independent review, coordination with agencies, permits required and other activities).
 - Describe how each task listed in the scope of work was accomplished. Provide details on each task (for example: if trees were planted as an erosion control measure, state how many, the tree species, the age or size of the trees, and location of the plantings).
 - List the goals and/or objectives of the project as stated in the scope of work and briefly describe how they were met by the activities described in the tasks above. Discuss any differences between project goals and objectives and actual project results.
 - Provide an explanation for tasks that were not completed or any out-of-scope work.
 - Include a project map, data, and/or photos that document the project.
- B. Summarize any problems encountered and solutions adopted. What would you do differently?

4. Resource and Public Benefits:

Describe the project's overall benefits. What are the anticipated and realized benefits to resources and to the local and regional area of the completed project? Were these benefits realized? If not, explain why.

5. Grant Agreement Administration & Project Costs:

- A. Work schedule: Compare the time allotted for project completion with actual schedule. Identify delays and discuss the reasons for delays.
- B. Budget: Include a table that summarizes how the monies were spent by budget category or task as described in Attachment B. Explain cost overruns or savings. Discuss unbudgeted expenses that arose over the course of the project.

6. Project Completion and Certification

- A. Recipient's Certificate of Compliance (must be signed for all projects).
- B. Photos of the of the site before project construction and after project completion.
- C. 60SF or 60DF water right (or other applicable water right) abstract from FRWMB for the completed project.
- D. For projects that require a FIIP Special Use Permit, documentation that the permit was obtained.

7. Final Report submitted electronically (PDF)

