

**PARTICIPATING ADDENDUM  
UNDER THE  
NASPO VALUEPOINT  
WIRELESS COMMUNICATION SERVICES AND EQUIPMENT  
MASTER AGREEMENT NUMBER: MA149**

**PARTICIPANT: State of Montana**

This Participating Addendum (the "PA") is effective upon execution between the State of Montana (Participating Entity), and AT&T Corp. ("Contractor") (Participating Entity and Contractor are, at times, referred to individually as a "Party" or together as the "Parties").

**Section 1. Recitals.**

**1.1** Contractor and the State of Utah, acting through its Department of Administration, Purchasing Division, and the participating members of the NASPO ValuePoint, a division of the National Association of State Procurement Officials ("NASPO"), are parties to that certain wireless communication services and equipment contract #MA 149, dated December 6, 2019 (the "Contract" or "Master Agreement").

**1.2** Participating Entity wants to participate in the Contract pursuant to the terms and conditions of the PA.

Participating Entity has elected to participate in Categories:

Category 1: Cellular Wireless Services

Category 2: Equipment and Accessories

Access to Category 3 Cloud Solutions Services Requires State CIO Approval: Unless otherwise stipulated in this Participating Addendum (PA), specific services accessed through the NASPO ValuePoint cooperative Master Agreements for Category 3 Cloud Solutions by State of Montana executive branch agencies are subject to the prior approval of the State of Montana Information Technology Division's (SITSD). Contractor may not accept any orders for Category 3 solutions and services from State of Montana executive branch agencies without proof of prior approval or be subject to a Stop Work Order per the terms and conditions listed in Exhibit 1. Executive branch agencies are listed in Attachment A.

**Section 2. Agreement.** In consideration of the recitals set forth in §1 above, which are hereby re-stated and agreed to by the Parties, and for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, Participating Entity and Contractor hereby agree to the terms and conditions of the PA (the Contract and the PA, together with all valid Orders submitted to Contractor by Participating Entity, collectively, the "Agreement"). Unless otherwise defined, capitalized terms in the PA have the meanings ascribed to them in the Master Agreement.

**Section 3. Authorized Purchasing Entities.** This PA may be used by all state agencies, institutions of higher education, political subdivisions and other entities who are authorized by the State Chief Procurement Official or otherwise eligible to place orders against this PA (collectively "Purchasing Entities"). It will be the responsibility of the Purchasing Entity to comply with any legal or regulatory provisions applicable to the Purchasing Entity. A Purchasing Entity may issue individual releases (Purchase Orders) against this PA on an as-needed basis.

**Section 4. Purchase Orders.** Participating Entity must issue purchase orders hereunder that reference both Master Agreement #MA149 and the PA. Upon issuance of any such valid purchase order, Participating Entity will be bound by the terms and conditions of the Agreement including, without limitation, the obligation to pay Contractor for Service, Equipment, and related Products provided. Notwithstanding the foregoing, any purchase order submitted that does not properly reference the Master Agreement number and/or the PA may be accepted, at Contractor's sole discretion, if Contractor can reasonably ascertain that such Purchase Order was properly authorized and intended for use with the PA. In such instances, the corresponding Purchase Order will be similarly valid and binding. Except as expressly provided in the Agreement, terms and conditions inconsistent with, contrary or in addition to the terms and conditions of the Agreement will not be added to or incorporated into the Agreement by any Purchase Order; and any such attempts to add or incorporate such terms and conditions are hereby

rejected. The terms and conditions of the Agreement will prevail and govern in the case of any such inconsistent or additional terms.

**Section 5. Primary Contacts.**

**Participating Entity:**

Name: Tia Snyder  
Title: Cooperative Purchasing/eMACS Support Unit Supervisor  
Address: 125 North Roberts St., Room 165, Helena, MT 59601:  
Telephone: 406-444-3315  
E-Mail: [tsnyder@mt.gov](mailto:tsnyder@mt.gov)

**Contractor Account Team:**

**Contractor Main:**

Name: Tate Archibald  
Title: Client Solutions Executive  
Address: 4393 Riverboat Rd Floor 1  
Taylorsville UT, 84123  
Telephone: (801) 903-2000  
E-Mail: [ma257p@att.com](mailto:ma257p@att.com)

Name: Bethani Cross  
Title: Client Solutions Executive  
Address: 311 S Akard St.  
Dallas, TX 75202  
Telephone: 214-979-9053  
E-Mail: [bethani.cross@att.com](mailto:bethani.cross@att.com)

**Section 6. Authority.** By signing below, the corresponding Party's representative represents that he or she is duly authorized by Contractor or Participating Entity, as applicable, to execute the PA on behalf of the respective Party, and that the Contractor and Participating Entity agree to be bound by the provisions hereof. In addition, Participating Entity represents that it has received the requisite approvals from the applicable Chief Procurement Official and NASPO to participate in the Master Agreement.

**Section 7. Miscellaneous.**

**7.1 Employee Benefit Program.** Participating Entity will participate with Contractor in efforts to obtain eligible Employees' participation in the Employee Benefit Program.

**Section 9. Order of Precedence.** Notwithstanding the Order of Precedence set forth in the Master Agreement, the Parties acknowledge and agree that in the event of a conflict between the terms contained in the various documents comprising the Agreement, the following order of precedence will control: (a) the PA; (b) the Master Agreement; and (c) any valid purchase order issued in connection therewith.

**Section 10. Exhibit #1.** Participating Entity Modifications or Additions are incorporated as Exhibit #1.

**Section 11. Entire Agreement.** Master Agreement and this Participating Addendum sets forth the entire agreement between the Parties with respect to its subject matter, and it supersedes all previous communications, representations or agreements, whether oral or written, with respect thereto.

IN WITNESS WHEREOF, the Parties have executed the PA as of the PA Effective Date.

**State of Montana**

DocuSigned by:  
By: *Cheryl Grey*  
duly authorized  
5F94A1B99288110

Name: Cheryl Grey

Title: SFSD Administrator

Date: 3/30/2021

Approved as to Legal:

DocuSigned by:  
By: *Mike Manion*  
8E2DE9861B4E4EF...

Date: 3/29/2021

Chief Information Officer Approval:

Contractor is notified that, under the provisions of 2-17-514, MCA, the Department of Administration retains the right to cancel or modify any contract, project, or activity that is not in compliance with the Agency's Plan for Information Technology, the State Strategic Plan for Information Technology, or any statewide IT policy or standard.

DocuSigned by:  
By: *Kevin Gilbertson*  
D999BB1A7DDC479...

Date: 3/30/2021

**AT&T CORP.**

DocuSigned by:  
By: *Jack Wildermuth*  
duly authorized  
F733E4B7291443...

Name: Jack wildermuth

Title: Senior Contract Manager

Date: 3/30/2021

## **EXHIBIT #1**

### **State Terms and Conditions**

Sections 29 and 34 of the Master Agreement is amended as follows:

#### **29. LIMITATIONS OF LIABILITY AND DISCLAIMERS**

**a. Limitation of Liability.** For purposes of this §29 only, the term "Party," means the Lead State, the Participating Entity, and/or the Purchasing Entity on the one hand and means AT&T on the other.

**(1) SUBJECT TO APPLICABLE MONTANA LAW (E.G. THE PARTICIPATING OR PURCHASING ENTITY MAY NOT BIND ITS EMPLOYEES, AGENTS OR THIRD PARTIES TO THE OBLIGATIONS UNDER THIS PA OR THE MASTER AGREEMENT) INCLUDING BUT NOT LIMITED TO THE GOVERNMENT ENTITY'S OBLIGATIONS AND RIGHTS UNDER TITLE 2, CHAPTER 9, MCA, EITHER PARTY'S ENTIRE LIABILITY AND THE OTHER PARTY'S EXCLUSIVE REMEDY FOR DAMAGES ON ACCOUNT OF ANY CLAIM ARISING OUT OF AND NOT DISCLAIMED UNDER THIS AGREEMENT SHALL BE:**

**(A) FOR BODILY INJURY, DEATH OR DAMAGE TO REAL PROPERTY OR TO TANGIBLE PERSONAL PROPERTY PROXIMATELY CAUSED BY A PARTY'S NEGLIGENCE, PROVEN DIRECT DAMAGES;**

**(B) FOR BREACH OF §23 (Confidential Information), PROVEN DIRECT DAMAGES;**

**(C) FOR ANY THIRD-PARTY CLAIMS, THE REMEDIES AVAILABLE UNDER §34 (Third Party Claims);**

**(D) FOR CLAIMS ARISING FROM THE OTHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, PROVEN DAMAGES; OR**

**(E) FOR CLAIMS OTHER THAN THOSE SET FORTH IN §29 (a)(i) (A)-(D), PROVEN DIRECT DAMAGES NOT TO EXCEED, ON AN AGGREGATE BASIS DURING ANY TWELVE (12) MONTH PERIOD, AN AMOUNT EQUAL TO TWO TIMES THE TOTAL NET CHARGES INCURRED BY A PURCHASING ENTITY DURING THAT TWELVE (12) MONTH TIME-PERIOD UNDER A CORRESPONDING PARTICIPATING ADDENDUM OR \$3,000,000.00, WHICHEVER IS GREATER.**

**(2) EXCEPT AS SET FORTH IN §34 (Third-Party Claims) OR IN THE CASE OF A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OR FOR INCREASED COST OF OPERATIONS.**

**(3) THE LIMITATIONS IN THIS §29 SHALL NOT LIMIT PURCHASING ENTITY'S RESPONSIBILITY FOR THE PAYMENT OF ALL PROPERLY DUE CHARGES UNDER THIS AGREEMENT.**

**b. Disclaimer of Liability.** CONTRACTOR WILL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATING TO: INTEROPERABILITY, ACCESS OR INTERCONNECTION OF THE SERVICES WITH APPLICATIONS, DATA, EQUIPMENT, SERVICES, CONTENT OR NETWORKS PROVIDED BY PURCHASING ENTITY OR THIRD PARTIES; SERVICE DEFECTS, SERVICE LEVELS, DELAYS OR ANY SERVICE ERROR OR INTERRUPTION, INCLUDING INTERRUPTIONS OR ERRORS IN ROUTING OR COMPLETING ANY 911 OR OTHER EMERGENCY RESPONSE CALLS OR ANY OTHER CALLS OR TRANSMISSIONS (EXCEPT FOR CREDITS EXPLICITLY

SET FORTH IN THIS AGREEMENT); LOST OR ALTERED MESSAGES OR TRANSMISSIONS; OR UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF PURCHASING ENTITY'S (OR ITS AFFILIATES', USERS' OR THIRD PARTIES') APPLICATIONS, CONTENT, DATA, PROGRAMS, INFORMATION, NETWORKS OR SYSTEMS.

### 34. THIRD-PARTY CLAIMS

**a. Contractor's Obligations.** Contractor shall at its expense indemnify, defend, and either settle any third-party claim against Lead State, Participating Entities, Purchasing Entities, or their Affiliates and their respective employees and directors or to pay all damages, costs and attorney fees that a court finally awards against such parties for a claim alleging that a Product provided to a

Purchasing Entity under this Master Agreement infringes any patent, trademark, copyright or trade secret, but not where the claimed infringement arises out of or results from: (i) Lead State's, Participating Entity's, Purchasing Entities, or their Affiliate's or a User's content; (ii) modifications to a Product by a Purchasing Entity, its Affiliate or a third party, or combinations of the Product with any non-Contractor services or products by Purchasing Entity or others; (iii) Contractor's adherence to Lead State's, Participating Entity's, Purchasing Entity's, or their Affiliate's written requirements; or (iv) use of a Service in violation of this Agreement.

**b. Infringing Services.** Whenever Contractor is liable under §34, Contractor may at its option either procure the right for Purchasing Entity to continue using, or may replace or modify, the Service so that it is non-infringing.

**c. Notice and Cooperation.** The Party seeking defense or settlement of a third party claim under this §34 will provide notice to the other party promptly upon learning of any claim for which defense or settlement may be sought, but failure to do so will have no effect except to the extent the other party is prejudiced by the delay. To the extent permitted by law **and subject to the Montana Attorney General's right to participate in litigation involving the State of Montana**, the party seeking defense or settlement will allow the other party to control the defense and settlement of the claim and will reasonably cooperate with the defense. The defending party will use counsel reasonably experienced in the subject matter at issue and will not settle a claim without the written consent of the party being defended, which consent will not be unreasonably withheld or delayed, except that no consent will be required to settle a claim where relief against the party being defended is limited to monetary damages that are paid by the defending party under this §34.

**COMPLIANCE WITH LAWS:** Contractor shall, in performance of work under this PA, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Any subletting or subcontracting by Contractor subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Contractor agrees that the hiring of persons to perform this PA 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 PA.

**STATE OF MONTANA IT POLICIES AND STANDARDS:** If applicable, The Contractor is expected to be aware of the State of Montana IT environment.

The links below provide information on State of Montana IT strategic plans, current environment, policies, and standards.

State of Montana Information Technology Strategic Plan  
<http://sitsd.mt.gov/Governance/IT-Plans>

State of Montana Information Technology Environment  
<http://sitsd.mt.gov/Services-Support/Enterprise-Architecture>

State of Montana IT Policies  
<http://sitsd.mt.gov/Governance/IT-Policies>

#### **CONTRACT OVERSIGHT:**

**CIO Oversight.** The Chief Information Officer (CIO) for the State of Montana, or designee, may perform contract oversight activities. Such activities may include the identification, analysis, resolution, and prevention of deficiencies that may occur within the performance of Agreement obligations. The CIO may issue a stop work order.

**Stop Work Order.** State may, at any time, by written order to Contractor require Contractor to stop any or all parts of the work required by this PA for the period of days indicated by State after the order is delivered to Contractor. The order must be specifically identified as a stop work order issued under this clause. Upon receipt of the order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, Contractor shall resume work. The State Project Manager shall make the necessary adjustment in the delivery schedule or PA price, or both, and this PA shall be amended in writing accordingly.

**DEPARTMENT OF ADMINISTRATION POWERS AND DUTIES:** The Department of Administration is responsible for carrying out the planning and program responsibilities for information technology (IT) for state government. (Section 2-17-512, MCA) The Chief Information Officer is the person appointed to carry out the duties and responsibilities of the Department of Administration relating to information technology.

The Department of Administration shall:

- Review the use of information technology resources for all state agencies;
- Review and approve state agency specifications and procurement methods for the acquisition of information technology resources; and
- Review, approve, and sign all state agency IT contracts and shall review and approve other formal agreements for information technology resources provided by the private sector and other government entities.

**DISABILITY ACCOMMODATIONS:** The State does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

**STATE OF MONTANA ADMINISTRATIVE FEE:** The State of Montana assesses an Administrative Fee of one and one-half percent (1.50%) for all CRUs' Total Wireless Spend made under this PA. The prices paid to Contractor must include the 1.5% Administrative Fee. The Contractor shall remit this Administrative Fee no

later than sixty (60) days following the end of each calendar quarter as concurrent with the Required Usage Reporting described below. The Administrative Fee must be submitted by ACH along with email notification to the State of Montana Contracts Officer. This Administrative Fee is effective upon execution of this Participating Addendum.

**REQUIRED REPORTING:** Contractor shall submit quarterly reports to the Contracts Officer (CO) assigned by the State to manage this contract. Contractor shall provide CO with an electronic usage report (Excel), which must list the following information at the minimum: purchasing entity; description of items purchased; date of purchase; contract price; and the extended price for each transaction. The Administrative Fee reporting shall be submitted forty-five (45) days following the end of the quarter.

<b>End of Quarter</b>	<b>Reporting Date</b>	<b>Pay Date</b>
March 31st	May 15th	May 31st
June 30th	August 15th	August 30th
September 30th	October 15th	October 30th
December 31st	February 15th	February 28th (29)

## NET NEUTRALITY

**Internet Neutrality Requirements.** Contractor shall comply with the State of Montana Executive Order No. 3-2018 providing for Internet neutrality principles.

**Definitions.** As used in this PA, the following definitions apply:

1. "Broadband Internet Access Service" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. This term also encompasses any service that the State finds to be providing a functional equivalent of the service described in the previous sentence, or that is used to evade the protections set forth in this section.
2. "Reasonable Network Management" means a network management practice that has a primarily technical network management justification, but does not include other business practices. A network management practice is reasonable if it is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service.

In the event of a dispute as to the definition of any other term in this section, a term that is defined in the State Financial Services Division's Internet Neutrality Principles in State Procurement Policy shall have the definition set forth in the Policy.

**Public Disclosure.** Contractor shall publicly disclose to all of its customers in the State of Montana (including but not limited to the State itself) accurate information regarding the network and transport management practices (including cellular data and wireless broadband transport), performance, and commercial terms of its broadband Internet access services sufficient for: a) consumers to make informed choices regarding use of such services and for content, application, service; and b) device providers to develop, market, and maintain Internet offerings. Compliance with the Federal Communications Commission's transparency rule, as amended by 83 Fed. Reg. 7852, 7922 (Feb. 22, 2018), satisfies Contractor's public disclosure requirements under this paragraph.

**Provision of Services.** Contractor shall not, with respect to any customer in the State of Montana (including but not limited to the State itself):

1. Block lawful content, applications, services, or non-harmful devices, subject to reasonable network management that is disclosed to the customer;
2. Throttle, impair or degrade lawful Internet traffic on the basis of Internet content, application, service, or use of a non-harmful device, subject to reasonable network management that is disclosed to the customer;
3. Engage in paid prioritization; or
4. Unreasonably interfere with or unreasonably disadvantage:
  - a. End users' ability to select, access, and use broadband Internet access service or the lawful Internet content, applications, services, or devices of their choice; or
  - b. Edge providers' ability to make lawful content, applications, services, or devices available to end users.

**Compliance.** Contractor agrees to provide the State, upon request, at any time during the term of this contract, records, documentation, or any other information as required to demonstrate Contractor's compliance

with the requirements of this section.

## **Federal Terms and Conditions (Non-Construction)**

### **1. NONDISCRIMINATION**

The Contractor agrees that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Contractor's performance under this contract, on the ground of race, religion, color, national origin, sex or handicap. Accordingly, and to the extent applicable, the Contractor agrees to comply with the following:

a. On the basis of race, color or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) as implemented by DoD regulations at 32 CFR part 195.

b. On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 {3 CFR, 1964-1965 Comp. pg. 339}, as implemented by Department of Labor regulations at 41 CFR part 60.

c. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by DoD regulations at 32 CFR part 196.

d. On the basis of age, in The Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.

e. On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.

### **2. LOBBYING**

a. The Contractor agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: 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. The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement the provisions of Section 319 of Public Law 101-121 (31 U.S.C. Section 1352) is incorporated by reference and the State agrees to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.

### **3. DRUG-FREE WORK PLACE**

The Contractor agrees to comply with the requirements regarding drug-free workplace requirements in Subpart B of 32 CFR part 26, which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

### **4. ENVIRONMENTAL PROTECTION**

a. The Contractor agrees that its performance under this contract shall comply with:

- (1) The requirements of Section 114 of the Clean Air Act (42 U.S.C. Section 7414);
- (2) Section 308 of the Federal Water Pollution Control Act (33 U.S.C. Section 1318), that relates generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder;
- (3) The Resources Conservation and Recovery Act (RCRA);
- (4) The Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA);
- (5) The National Environmental Policy Act (NEPA);

(6) The Solid Waste Disposal Act (SWDA);

(7) The applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.), as implemented by Executive Order 11738 and Environmental Protection Agency (EPA) rules at 40 CFR Part 31;

(8) To identify any impact this contract may have on the quality of the human environment and provide help as needed to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et seq.) and any applicable federal, state or local environmental regulation.

b. In accordance with the EPA rules, the parties further agree that the Contractor shall also identify to the state any impact this contract may have on:

(1) The quality of the human environment, and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et seq.) and to prepare Environment Impact Statements or other required environmental documentation. In such cases, the recipient agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process.

(2) Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.

(3) Coastal zones, and provide help the agency may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), concerning protection of U.S. coastal resources.

(4) Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.

(5) Any existing or proposed component of the National Wild and Scenic Rivers System, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.). Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C. 300H-3).

(6) Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking work source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C. 300H-3)

## **5. USE OF UNITED STATES FLAG VESSELS**

a. The Contactor agrees that travel under this contract shall use U.S.-flag air carriers ( air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the inter-operative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

b. The Contactor agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. 1241), as implemented by Department of Transportation regulation at 46 CFR 381.7, and 46 CFR 381.7(b).

## **6. DEBARMENT AND SUSPENSION**

a. The Contractor shall not make any award or permit any award (sub-contract or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension.

b. The Contractor agrees to comply with the requirements regarding debarment and suspension in Subpart C of the OMB guidance in 2 CFR part 180, as implemented by the DoD in 2 CFR part 1125. The Contractor shall comply with 2 CFR Part 1125 by checking the Excluded Parties List System (EPLS) at [www.sam.gov](http://www.sam.gov) to verify Contractor eligibility to receive contracts and subcontracts resulting from this Agreement. The Contractor shall not solicit offers from, nor award contracts to Contractors listed in EPLS. This verification shall be documented in the Contractor's contract files, and shall be subject to audit by federal/State audit agencies

The Contractor agrees to communicate the requirement to comply with Subpart C to persons at the next lower tier with whom the Contractor enters into transactions that are "covered transactions" under Subpart B of 2 CFR part 180 and the DoD implementation in 2 CFR part 1125.

## **7. BUY AMERICAN ACT**

The Contractor agrees that it will not expend any funds appropriated by Congress without complying with The Buy American Act (41 U.S.C. 10a et seq). The Buy American Act gives preference to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of America and the European Economic Community on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide that EEC and NAFTA end products and construction materials are exempted from application of the Buy American Act.

## **8. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY POLICES**

The Contractor agrees that it will comply with CFR 49 part 24, which implements the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

## **9. COPELAND "ANTI-KICKBACK" ACT**

The Contractor agrees that it will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). As applied to this contract, the Copeland "Anti-Kickback" Act makes it unlawful to induce, by force, intimidation, threat or procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

## **10. CONTRACT WORK HOURS AND SAFETY STANDARDS**

The Contractor agrees that it will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act.(40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). As applied to this agreement, the Contract Work Hours and Safety Standards Act specifies that no laborer or mechanic doing any part of the work contemplated by this agreement shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1 1/2 times the basic rate of pay.

## **11. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**

Any discovery or invention that arises during the course of the contract shall be reported to the non-Federal entity. Contractor must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

## **12. CLEAN AIR ACT (42 U.S.C. 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED**

Any Contract or subcontract in excess of \$150,000 must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the State who in turn will report to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

## **13. BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)**

Contractors that bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or

organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

#### **14. PROCUREMENT OF RECOVERED MATERIALS**

Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

#### **15. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

The Contractor agrees it will not provide or use covered telecommunications equipment or services in the performance of this contract in compliance with 2 CFR 200.216. Covered telecommunications equipment or services has the meaning provided in Public Law 115-232, section 889.

**Attachment A: Executive Branch Agencies**

Department of Administration  
Department of Agriculture  
Board of Public Education  
Department of Commerce  
Department of Corrections  
Deaf and Blind, School for  
Department of Environmental Quality  
Department of Fish, Wildlife and Parks  
Governor's Office  
Historical Society  
Department of Justice  
Department of Labor and Industry  
Department of Livestock  
Department of Military Affairs  
Montana Arts Council  
Department of Natural Resources and Conservation  
Commissioner of Political Practices  
Department of Public Health and Human Services  
Public Service Commission  
Department of Revenue  
Secretary of State  
State Auditor  
State Library  
Department of Transportation