

I consent to conduct transactions electronically

Grant Agreement

As the responsible authorized agent of the applicant, I certify and agree as follows:

1. I certify to the best of my knowledge and belief, the information provided in my application is true and correct.
2. I understand that submitting false, misleading, or incomplete information in connection with this application will result in disqualification from financial assistance from the State of Montana and may require repayment of entire grant amount.
3. I agree to comply with all federal, state, and local laws, licenses, permits, and regulations including those prohibiting discrimination on the basis of race, sex, religion, national origin, age, or handicap.
4. I agree to provide a report on the results of the activity as requested by the State of Montana.
5. I understand that any information submitted with the application, including but not limited to, business name, location, amount requested, amount received, and use of funds shall be considered public information. Sensitive personally identifiable information such as driver's license, Social Security Number, and financial information will be protected from public disclosure. Other information which applicant wishes to remain confidential will require prior approval from agency legal staff.
6. I personally guarantee the performance of the obligations contained and agreed to in this agreement. In the event that I misuse the funds or fail to use the funds for eligible expenditures, I guarantee to perform and be held responsible in the same way as if I were personally the recipient of the funds.
7. I have read, understand, and agree to all the terms herein.

1) PARTIES

This agreement is entered into between Applicant and the Montana Department of Agriculture (Grantor).

2) TERM

This agreement shall terminate January 29, 2021 or upon receipt and approval of final report. In the event that additional guidance is issued by the Department of Treasury extending the December 30, 2020 deadline for covered costs, your contract will be amended as necessary to reflect that change.

3) PURPOSE

This agreement is entered into pursuant to funding made available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). The CARES Act established the Coronavirus Relief Fund (the "Fund") and appropriated \$150 billion to the Fund. Under the CARES Act, the State of Montana is tasked with distributing payments for necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19). All awards are contingent upon availability of Federal funding.

4) FUNDED ACTIVITIES

The Grantor may provide money to Applicant for the purposes stated in this agreement. Any use of funds for purposes not specified in this agreement is a breach of this agreement.

Applicant agrees to use the funds in a manner consistent with their application intended to help companies scale up, improve capabilities, or drive expanded distribution of products or services developed in response to COVID-19.

As approved, Applicant's proposed expenditures qualify as eligible support without risk of penalty or repayment.

Applicant shall not use any part of the funds as a match to obtain funding for any project unrelated to Applicant's application without the Grantor's written consent.

If Applicant's business is sold or moved out of state within twelve (12) months of the original awarding of funding, Grantor may require all funding be returned.

Equipment purchased in excess of \$5,000 under the terms of this agreement may not be sold by Applicant within 12 months of the award date without written permission by Grantor. Applicants are subject to the full range of acquisition, use, management, and disposition requirements of 2 CFR §200. Applicant must maintain property records, develop control procedures, and use equipment for the authorized purposes of the project. The equipment must not be encumbered without prior approval and any sale of equipment over \$5,000 must follow federal procedures.

5) COMPENSATION

The Grantor agrees to reimburse Applicant for eligible costs incurred after **March 1, 2020**. The Recipient must provide receipts or other proof of expenditures to the Grantor to initiate reimbursement.

Funds must be used for the approved purposes only and failure to properly document and account for fund expenditures constitutes breach of this agreement and may result in full repayment of grant including associated costs and fees. Applicant shall reimburse Grantor for any funds used for purposes not authorized by this agreement.

Award amount is subject to offset for child support but not taxes or other state debt.

All grant funds must be returned to the Grantor or used for the approved purposes specified in this agreement by no later than **January 29, 2021**.

6) COMPLIANCE / REPORTING

Applicant shall provide the Grantor with a final activity and expenditure report as outlined in this section and 7) REPORTING. Reporting is a critical requirement of this agreement and may be submitted at any time following expenditure of funding.

Final reporting shall include (1) a detailed financial report and any necessary supporting documentation certifying that all money granted has been used for the approved purposes and; (2) a detailed summary of the project or event describing the measurable outcomes to include employment, income, and other relevant business performance metrics.

Upon approval of complete and accurate reporting documents, Grantor warrants and ensures compliance with applicable federal oversight rules and regulations. Grantor will hold Applicant harmless for unavoidable business failures or other unforeseen losses arising as a result of the COVID-19 emergency up to the full amount of this agreement.

Failure to provide the required reports at the scheduled time constitutes a breach of this agreement.

7) REPORTING

Reporting is a requirement of this agreement. Applicant must comply with reporting requirements communicated by Grantor, and file a comprehensive final report no later than January 29, 2021. Reporting requirements will be posted at covidrelief.mt.gov. Applicant's failure to comply with reporting requirements constitutes breach of this agreement.

8) GRANTOR LIAISON:

The liaison for Grantor is:

Montana Department of Agriculture

302 N Roberts Street

Helena, MT 59601

406.444.5424

Mtaap@mt.gov

9) LEGAL RELATIONSHIP BETWEEN THE PARTIES

This agreement does not create a partnership, joint venture, joint enterprise, or joint undertaking of any sort between Grantor and Applicant, its agents, employees, cooperators, subcontractors, or independent contractors.

10) ACCESS FOR MONITORING AND REVIEW

Applicant shall allow Grantor and its agents access at any reasonable time to the project sites, financial documents, and activity records pertaining to the grant so the Grantor may carry out any desired monitoring or review to determine compliance with this agreement.

Applicant agrees that Grantor or the Legislative Audit Division may, at any reasonable time, audit all records, reports, and other documents which Applicant maintains under or in the course of this agreement to ensure compliance with this agreement. In addition, the Grantor may require, with reasonable notice, Applicant to submit to an audit by a Certified Public Accountant or other person acceptable to the Grantor, paid for by Applicant.

11) FAILURE TO COMPLY

If Applicant fails to comply with the terms and conditions of this agreement, or reasonable directives or orders issued by the Grantor, the Grantor may terminate this agreement pursuant to the section entitled "Termination." In the event this agreement is terminated for failure to comply, Applicant shall report on results of the project to date. The Grantor reserves the right to seek additional reimbursement from Applicant if the Grantor determines that funds were improperly received, paid in error, or a material breach of the agreement has occurred.

12) TERMINATION

Grantor may terminate this agreement for failure of Applicant to perform in accordance with the terms of this agreement, after providing Applicant with written notice to Applicant, of the stated failure and an opportunity to cure the issue of nonperformance. The written notice must specify the performance failure and provide Applicant an opportunity to correct the failure within a specified period of time not less than 21 days. If the failure is not corrected within the specified period, or such other period as agreed upon by the parties in writing, the termination is effective at the end of the specified period.

Upon receiving a notice of termination of this agreement, Applicant shall immediately cease all activities under this agreement unless Grantor expressly directs otherwise in such notice of termination.

13) MONTANA'S LAW AND VENUE

The parties mutually agree that any action at law, suit in equity, or judicial proceeding for the enforcement of this agreement or any provision thereof shall be instituted only in the courts of the state of Montana, and it is mutually agreed that this agreement shall be governed by the laws of the state of Montana, both as to interpretation and performance. In the event of litigation concerning the terms of this agreement, venue shall be in the First Judicial District in and for the County of Lewis and Clark, Montana.

14) ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

The parties mutually agree that there will be no assignment, transfer, or subcontracting of this agreement, nor any interest in this agreement, unless prior agreement has been stipulated elsewhere in this agreement or with the express written consent of both parties.

15) NON-DISCRIMINATION

Any hiring of employees or provisions of goods or services under this agreement by the Applicant shall be on the basis of merit and qualification, and there shall be no discrimination in such hiring on the basis of race, color, religious creed, political ideas, sex, age, marital status, physical or mental handicap, national origin, or ancestry. As used herein, "qualifications" means qualifications that are generally related to competent performance of the particular occupational task.

16) COMPLIANCE WITH LAWS

Applicant shall use all money provided in accordance with all applicable federal, state, and local laws and written standards of the Grantor. Applicant further agrees to abide by all applicable workers' compensation laws.

17) MODIFICATION AND PREVIOUS AGREEMENT:

This agreement, Applicant's application, approval email, and program guidelines encompass the entire agreement between the parties, and no statements, promises or inducements made by either party or agents of either party, who are not contained in the writing, shall be valid or binding. This agreement shall not be enlarged, modified, or otherwise altered without written consent of both parties. The Grantor neither expressly nor impliedly warrants it will renew this agreement. Upon written request of Applicant, the Grantor may extend reporting deadlines.

18) INDEMNITY AND LIABILITY:

Applicant shall protect, indemnify, defend, and save the State of Montana and its agents harmless from and against any and all claims, portions of claims, liabilities, demands, causes of actions, judgments, and settlements, including costs and reasonable attorneys' fees, arising in favor of or asserted by any person or entity based in whole or in part on any acts or omissions of the Applicant, its employees, agents, or independent contractors, in connection with the activities described in this agreement and attachments.

The duty of the Applicant to defend is not contingent upon an admission or jury determination that Applicant committed any negligent acts or engaged in any willful misconduct. Applicant shall pay the reasonable cost and attorneys' fees incurred by the Grantor in establishing its right to defense or indemnification.

19) SEVERABILITY:

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

20) CONFIDENTIALITY AND PUBLIC DISCLOSURE:

All information submitted to Grantor by Applicant, including, but not limited to, business name, location, amount requested, amount received, and use of funds shall be considered public information, except sensitive personally identifiable information and information such as driver's license, Social Security Number, and financial information, which will be protected from public disclosure.

21) AUTHORIZATION

A copy of the original has the same force and effect for all purposes as the original.

22) DISPUTE RESOLUTION:

If any dispute arises under this agreement, the parties agree to attempt to resolve the dispute in good faith as follows:

A. First, by informal negotiation between the Liaisons.

B. If informal negotiations fail to resolve the dispute, the parties agree to seek mediation using a mediator acceptable to both parties.

C. If mediation fails to resolve the dispute within sixty (60) days of initial mediation session, the parties may proceed to contested case hearing under the Montana Administrative Procedures Act.

Signed by:

Title at Organization

Date