

VIRGINIA DEPARTMENT OF HEALTH  
Office of Environmental Health Services (OEHS)  
109 Governor Street  
Richmond, Virginia 23219

**SUB-RECIPIENT AGREEMENT**

SUB-RECIPIENT Number: VDH-23-102-0088

- I. **PARTIES TO THE AGREEMENT:** This Memorandum of Agreement is entered into by Portsmouth Boating Center, 1244 Bay Street, Portsmouth, Virginia 23705, hereinafter called the "Contractor" and Commonwealth of Virginia through the Department of Health, Department of Health, Office of Environmental Health Services at 109 Governor Street, 5<sup>th</sup> Floor, Richmond, Virginia 23219 hereinafter called the "Department."
- II. **WHEREAS,** Department of Health desires to enter into an Agreement with the Sub-Recipient to provide a scope of services and;  
**WHEREAS,** The Sub-Recipient desires to perform such services;  
**THEREFORE,** in consideration of their respective undertakings, the Department and the Sub-Recipient hereby covenant and agree to the following terms.
- III. **PERIOD OF AGREEMENT:** From execution date of VDH signature on last page through July 1, 2025.
- IV. **PURPOSE:** To replace failing bulkhead that supports the Boating Infrastructure Grant funded bathhouse, fuel system, and laundry room.
- V. **SCOPE OF SERVICES:** the contractor seeks to replace an ageing bulkhead by:
  - Removing old bulkhead and replacing with new

In summary, the bulkhead replacement will extend the service life of the upland support facilities serving the Town of Onancock Wharf for 20 years from the time the project has been completed and is therefore deemed to have Federal Interest in real property until 2045. A signed resolution by the Town of Onancock Council shall be provided to VDH, prior to reimbursement, agreeing to the terms and conditions incorporated in to the Notice of Award including all citations, Federal regulations, program legislation, regulations; and special award terms and conditions.

As a condition of this grant the **Buy America, Build America** requirements have been included in the Notice of Award. The Buy America, Build America applies to all infrastructure projects, which includes construction, alternation, maintenance or repair of infrastructure.

**VI. COMPENSATION:** The Department will reimburse Sub-Recipient for actual expenditures as a result of services provided under the terms of the basic agreement.

**Total compensation for this contract will not exceed \$64,544.00**

Payments shall be made upon receipt and approval of the Department of required reports for services performed under the terms of this Agreement and invoices and acceptable supporting documentation from the Sub-Recipient. The reimbursement for services shall be based on the budget and on compliance with activities described in the Scope of Work submitted by the Recipient and approved by the Department. The invoices, with supporting documentation acceptable to the Department, shall include a report of expenditures that are itemized by budgeted line item with quarterly and year-to-date total expenditures per budget category. To be reimbursable, expenditures must adhere to the requirements detailed in the Commonwealth Accounting Policy and Procedure (CAPP) Manual which may be viewed at [http://www.doa.virginia.gov/Admin\\_Services/CAPP/CAPP\\_Main.cfm](http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Main.cfm), included in the budget for this agreement, and, if applicable, in compliance with all federal guidance for the funding provided under this agreement. Supporting documentation shall include item level description of the purchase. Additional supporting documentation requirements are as follows:

- All Expenditures: a report from the Sub-Recipient's financial management information system must be provided.
- Personnel: payroll reports from the Sub-Recipient's financial management information system must be provided.
- Contractual: specific explanations of what expenditures were made, to whom the payment was made, date(s) of payment, and any other relevant information.
- Supplies, Miscellaneous, and Other: listing of the specific items and/or goods for which payment was made.
- Telephone/Mobile: if possible, a copy of the top page of the phone bill related to the request for reimbursement should be provided. If this is not possible, such as in cases where these charges are centrally allocated, an explanation of the charges must be provided.

Contract Value: \$64,544.00

**VII. FEDERAL REQUIREMENTS FOR SUB-RECIPIENT CONTRACTS**

Contractor is subrecipient **not** receiving pass-through federal funds. Information below not applicable.

Contractor is subrecipient receiving pass-through federal funds. Information below is applicable.

FEDERAL AWARD INFORMATION: Sub-Recipient of federal awards must be informed of the catalog of Federal Domestic Assistance (CFDA) number, grant name and number, grant year and federal awarding agency. This information will become part of the Contract.

Sub-Award Organization SAMS: VM5ALKM87BC1  
 Federal Award Identification Number: F22AP03436-00  
 Federal Award Date: 2022  
 Amount of Sub-Award: \$360,000.00  
 Total Amount of Federal Award: \$ 64,544.00  
 Name of Federal Grantor: U.S. Department of Interior, Fish and Wildlife Service  
 CFDA Number & Name: 15.622 Sport Fish & Boating Safety Act

**FEDERAL AWARD RESTRICTIONS:** There are general Federal cost principles that are applicable to all Federal Awards. These general principles are outlined in Part 200 – Uniform Administrative Requirements, Cost Principles, and Subpart F. Audit Requirements for Federal awards (2 CFR Section 200.0 – 200.521). The local health districts are required to adhere to these principles while managing federal grant awards (specifically Subpart E – Cost Principles). The Electronic Code of Federal Regulations can be found at [www.eCRF.gov](http://www.eCRF.gov).

General Provisions Sections:	200.400-200.401
Federal equipment	200.313
Procurement guidelines	200.318-200.326
Basic Considerations Sections:	200.402-200.411
Direct and Indirect (F&A) Costs Sections:	200.412 – 200.415
Special Considerations for States, Local Governments and Indian Tribes Sections:	200.416-200.417
General Provisions for Selected Items of Cost Sections:	200.420-200.475 (with exception of 200.424 and 200.475 as these are more applicable to Higher education Institution and other nonprofit organizations.

The Virginia Department of Health, Office of Environmental Health Services, as a pass-through entity for numerous federal grants, is responsible for ensuring certain activities occur with respect to monitoring of sub-recipients. The above requirements include, but are not limited to the following: Sub-recipients receiving more than \$750,000 in federal funds, during the sub-recipient’s fiscal year, from any and all sources are required to have a single audit performed in accordance with code (§200.501(a)). When required, the most recent copy of the audit must be provided to the assigned contract monitor within 30 days of the effective date on this Agreement. If any findings were noted in the audit report, corrective actions taken to fully resolved the finding must be provided. If an audit occurs during the term of this Agreement, a copy of that audit and response to any findings must be provided as well. The sub-recipient must provide a written statement if the organization did not receive more than \$750,000 in federal funds.

**Federal Funding Accountability and Transparency Act (FFATA)** Effective October, 2010, all entities that plan to apply for and ultimately receive a Federal grant/cooperative agreement or receive sub awards directly from recipients of those funds shall:

- Be registered in System for Award Management (SAM) prior to submitting an application or plan. The SAM is a Web-enabled government wide application that collects, validates, stores and disseminates business information about the federal government's trading partners in support of the contract award, grants and the electronic payment processes. SAM information must be updated at least every 12 months to remain active (for both grantees and sub-recipients),
- Provide address for primary Virginia service location including nine-digit zip code,
- Provide Executive compensation information for five most highly compensated officers if all of the following apply:
  - Organization receives 80% or more of its annual gross revenues in Federal awards,
  - Organization receives \$25,000,000 or more in annual gross revenues from Federal awards,
  - Executive compensation has not previously been reported to any Federal Agency through any other reporting system.

**Certifications regarding lobbying (2 CFR 200.450)**

Certification Regarding Lobbying (2 CFR 200.450) By signing this agreement, the Sub-recipient Authorized Official certifies, to the best of his/her knowledge and belief, that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Sub-recipient, 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 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 in accordance with 2 CFR 200.450. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or intending 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 Sub-recipient shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," to VDH. 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 is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. 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.

Monitoring: The Department will monitor the Sub-Recipient to evaluate the progress and performance of the program. The Sub-Recipient shall furnish the Department on request information regarding payments claimed for services under this contract. The Department and Federal personnel shall be provided access to all program-related records and facilities under reasonable request.

The Sub-Recipient shall retain all books, accounts, reports, files and other records relating to the performance of the contract for a period of five years after its completion. All accounting records must be supported by source documentation and retained in order to show for what purpose funds were spent. All such records shall be made available and produced for inspection when required by the Department.

Should an audit by authorized state or federal official result in disallowance of amounts previously paid to the Sub-Recipient, the Sub-Recipient shall reimburse the Department upon demand.

Time and Effort Reporting: The Sub-Recipient shall comply with time and effort reporting as required by the Federal Office of Management and Budget (OMB) Circular A-87 (Cost Principles for State, Local and Indian Tribal Government). 2 CFR 200.430 Compensation-Personal Services. All

employees paid in whole or in part from grant funds should prepare a timesheet indicating the hours worked on each specific project for each pay period. Based on these time sheets and hourly payroll cost for each employee, a statement indicating the distribution of payroll charges should be prepared and placed in the appropriate files and shall be made available for inspection when required by the Department. The Sub-Recipient shall retain all books, reports, files and other records relating to time and effort reporting for a period of five years after completion.

**Audit of Financial Records:** The Sub-Recipient shall comply with the audit and reporting requirements defined by the Federal Office of Management and Budget (OMB) Circular A-133 (Audits of States, Local Government and Non-Profit organizations) as applicable. The Sub-Recipient will, if total Federal funds expended are \$750,000 or more a year, have a single or program-specific financial statement audit conducted for the annual period in compliance with the General Accounting Office audit standards. A copy of the portion of the audit that affects the program will be submitted to the Commonwealth of Virginia. If there are no audit findings, a letter indicating no finds shall be submitted. The copy of the portion of the audit findings or the letter indicating no findings shall be sent to the Virginia Department of Health.

If total federal funds expended are less than \$750,000 for a year the Sub-Recipient must meet the above audit requirements or maintain financial records for such audit that are available for review by appropriate officials of the granting Federal agency, pass-through entity, and the General Accounting Office.

**APPROPRIATIONS:** The Sub-Recipient acknowledges the understanding that this Agreement is subject to appropriations and constraints by the State or the Federal government budget.

**SMOKEFREE ENVIRONMENT:** Public Law 103-277, also known as the Pro-Children Act of 1994, requires that smoking not be permitted in any portion of any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 for each violation **and/or the imposition of an administration compliance order on the responsible entity.**

**SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of the purchasing agency. In the event that the Sub-Recipient desires to subcontract some part of the work specified herein, the Sub-Recipient shall furnish the Departments names, qualifications and experience of their proposed Sub-Recipients and shall assure compliance with all requirements of the contract. Subcontracting with local health districts is not allowed.

**INTEGRATION AND MODIFICATION:** This Agreement constitutes the entire understanding of the parties as to the matters contained herein. No alteration, amendment or modification of this Agreement shall be effective unless in writing and signed by the duly authorized officials of both The Department and Sub-Recipient.

**PRICE ADJUSTMENT:** This is a cost reimbursement agreement that is negotiated prior to annual renewal each year depending on the approved budget. The Department approved, price adjustment may be allowed at any time during the term of this Agreement.

**CONFIDENTIALITY OF PROPRIETARY INFORMATION, DUPLICATION AND DISCLOSURE:** The Sub-Recipient agrees that proprietary information disclosed by the Department to the Sub-Recipient for the purpose of a Memorandum of Understanding shall be held in confidence

and used only in the performance of the contract. No item designed for or by the Department shall be duplicated or furnished to others without prior written consent. All products and materials including but not limited to papers, data, reports, forms, records, materials, creations, or inventions relating to this contract are sole and exclusive property of the Department. All such materials shall be delivered to the Department in usable condition at any time requested by the Department.

**DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (2 CFR 200.213 and 2 CFR 180)** By initialing this box     , the Sub-recipient Authorized Official certifies, to the best of his/her knowledge and belief that neither the Sub-recipient nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, in accordance with 2 CFR 200.213 and 2 CFR 180.

**AUDIT AND ACCESS TO RECORDS PER 2 CFR 200.501- 200.521**, by initialing this box     , the sub recipient certifies that it will provide notice of any adverse findings which impact this Sub award and will provide access to records as required by parts 2 CFR 200.336, 200.337, and 200.201 as applicable. If Sub-recipient is not subject to the Single Audit Act, then Sub-recipient will provide notice of the completion of any required audits and provide access to such audits upon request.

**VIII. METHOD OF PAYMENT:** The Sub-Recipient will be paid for services rendered upon receipt of a valid invoice by the Department. Within thirty (30) days after the end date of the budget period, the Sub-Recipient shall submit to the Department a final invoice with acceptable supporting documentation. Payment will be made in accordance with the Prompt Payment Act of Virginia.

Invoices, reports, and supporting documentation shall be submitted to:

Virginia Department of Health  
Office of Environmental Health Services  
Division of Onsite Sewage, Water Programs, Environmental Engineering, and Marina Programs  
Attention: Preston Smith  
109 Governor Street, 5th Floor or Email: preston.smith@vdh.virginia.gov  
Richmond, Virginia 23219

If the final cost of this project exceeds **\$360,000.00** the Federal Share through VDH reimbursement will be limited to **\$64,544.00** and all additional costs will be the responsibility of the Sub-Recipient. If the final cost of this project is less than **\$360,000.00**, the Sub-Recipient agrees to be reimbursed at the rate of **18%** of the total eligible cost of the project. The Sub-Recipient shall submit all invoices by August 1, 2025.

Failure of the Sub-Recipient to submit reports, invoices, and acceptable supporting documentation within the prescribed time frame may forfeit Sub-Recipient's right to payment from the Department.

In the event the Sub-Recipient fails to fulfill the requirements set forth in the Scope of Services, the Sub-Recipient will be asked to submit a plan of corrective action within 30 days, or a time frame acceptable to both parties. The plan of corrective action will be mutually agreed to prior to implementation.

**Invoicing Required Elements**

- Required Certifications (2 CFR 200.415). Must include a signature from an authorized official.
- Current expense column (project costs broken down by ledger cost category)

- Cumulative expense column (project costs broken down by ledger cost category)
- Point of contact for invoicing questions (Name, Email, Phone Number)
- Contract number
- Tax ID Number
- Invoice date
- Invoicing period of performance
  - Billing period to be no more frequent than monthly in accordance with 2 CFR 200.305
- Sub recipient contact person for invoice questions
- Cost sharing amounts if applicable
- Program income amounts if applicable
- Invoice marked “final” if applicable
  - Final invoices shall be submitted no later than 30 days after ending of contract period of performance

**IX. TERMS AND CONDITIONS:**

- A. AUDIT:** The Sub-Recipient shall retain all books, records, and other documents relative to this agreement for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The Department, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.
- B. APPLICABLE LAWS AND COURTS:** This contract shall be governed in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The Department and the Sub-Recipient are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia, § 2.2-4366*). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The Sub-Recipient shall comply with all applicable federal, state and local laws, rules and regulations.
- C. AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the department shall be bound hereunder only to the extent that the legislature has appropriated funds that are legally available or may hereafter become legally available for the purpose of this agreement.
- D. BACKGROUND CHECKS:**
1. The VDH may require a background check for Sub-Recipient staff assigned to any resulting agreement. The Sub-Recipient shall be required to pay for all background checks processed for staff assigned to any agreement resulting from this contract agreement at a rate of \$50.00. Fees are on a per background check basis and will be invoiced by VDH Accounting. The Sub-Recipient employees will be required to complete a form granting authority to release information. The Sub-Recipient shall allow the VDH access to review Sub-Recipient staff personnel and employment records.
  2. Background investigation results will be reviewed by the VDH, and are not releasable to the Sub-Recipient, however, can be provided to the individual of the investigation upon a written request.

3. In the event agreement award is made prior to completion of background checks, any unfavorable results shall be subject to the terms and conditions of this contract agreement.
  4. In the event of any staff turnover or staff reassignments, the Sub-Recipient shall notify the VDH and shall submit the appropriate background history questionnaire, authority for release of information and have fingerprints obtained for any proposed new staff member. This shall be in addition to the requirement to provide the required credentials information. The VDH may remove any Sub-Recipient employee that the Contract Administrator feels threatens the health or safety of staff, security of the facility, or quality of the service provided by the Sub-Recipient.
- E. CANCELLATION OF AGREEMENT:** The department reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the Sub-Recipient. In the event the initial contract period is for more than 12 months, the resulting contract may also be terminated by the Sub-Recipient, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the Sub-Recipient of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
- F. CHANGES TO THE AGREEMENT:** The parties may agree in writing to modify the scope of the Memorandum of Agreement. An increase or decrease in the price to the memorandum of Agreement resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the Memorandum of Agreement.
- G. CONFIDENTIALITY OF PROPRIETARY INFORMATION AND PERSONALLY IDENTIFIABLE INFORMATION:** The Sub-Recipient assures that information and data obtained as to proprietary information and personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the Department's written consent and only in accordance with federal law or the Code of Virginia. Sub-Recipients who utilize, access, or store proprietary information or personally identifiable information as part of the performance of an agreement are required to safeguard this information and immediately notify the Department of any breach or suspected breach in the security of such information. Sub-Recipients shall allow the Department to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Sub-Recipients and their employees working on this project may be required to sign a confidentiality statement.
- H. DRUG-FREE WORKPLACE:** Applicable for all contracts over \$10,000:
- During the performance of this contract, the Sub-Recipient agrees to (i) provide a drug-free workplace for the Sub-Recipient's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Sub-Recipient's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Sub-Recipient that the Sub-Recipient maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each Sub-Recipient or vendor.



For the purposes of this section, “*drug-free workplace*” means a site for the performance of work done in connection with a specific contract awarded to a Sub-Recipient, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- I. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** Applicable for all contracts over \$10,000: By entering into a written contract with the Commonwealth of Virginia, the Sub-Recipient certifies that the Sub-Recipient does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
  
- J. **RENEWAL OF AGREEMENT:** This agreement may be renewed by the Commonwealth upon written agreement of both parties for (one year) successive one year periods), under the terms of the current agreement, and at a reasonable time (approximately 90 days) prior to the expiration.
  
- K. **ANTI-DISCRIMINATION:** By submitting this agreement Sub-Recipient certifies to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

- 1. During the performance of this contract, the Sub-Recipient agrees as follows:
  - a. The Sub-Recipient will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Sub-Recipient. The Sub-Recipient agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - b. The Sub-Recipient, in all solicitations or advertisements for employees placed by or on behalf of the Sub-Recipient, will state that such Sub-Recipient is an equal opportunity employer.
  - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

- d. If the sub-Recipient employs more than five employees, the contractor shall (i) provide annual training on the sub-Recipient's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the sub-Recipient owns or leases for business purposes and (b) the contractor's employee handbook.
  - e. The requirements of these provisions 1. and 2. are a material part of the contract. If the Sub-Recipient violates one of these provisions, the Commonwealth may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific contract is terminated.
  - f. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the Sub-Recipient, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this contract.
2. The Sub-Recipient will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each Sub-Recipient or vendor.
- L. ANTITRUST:** By entering into an agreement, the Sub-Recipient conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said agreement.
- M. PAYMENT:**
- 1. To Prime Sub-Recipient:
    - a. Invoices for items ordered, delivered and accepted shall be submitted by the Sub-Recipient directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual Sub-Recipients) or the federal employer identification number (for proprietorships, partnerships, and corporations).
    - b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
    - c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the Sub-Recipient at the contract price, regardless of which public agency is being billed.
    - d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.

- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Sub-Recipients should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be resolved in accordance with *Code of Virginia*, § 2.2-4363 and -4364. Upon determining that invoiced charges are not reasonable, the Commonwealth shall notify the Sub-Recipient of defects or improprieties in invoices within fifteen (15) days as required in *Code of Virginia*, § 2.2-4351. The provisions of this section do not relieve a department of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).
2. **To Sub-Recipients:**
- a. Within seven (7) days of the Sub-Recipient's receipt of payment from the Commonwealth, a Sub-Recipient awarded a contract under this solicitation is hereby obligated:
    - (1) To pay the Sub-Recipient(s) for the proportionate share of the payment received for work performed by the Sub-Recipient(s) under the contract; or
    - (2) To notify the department and the Sub-Recipient(s), in writing, of the Sub-Recipient's intention to withhold payment and the reason.
  - b. The Sub-Recipient is obligated to pay the Sub-Recipient(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Sub-Recipient that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Sub-Recipient performing under the primary contract. A Sub-Recipient's obligation to pay an interest charge to a Sub-Recipient may not be construed to be an obligation of the Commonwealth.
3. Each prime Sub-Recipient who wins an award in which provision of a SWaM procurement plan is a condition to the award, shall deliver to the contracting department or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from Sub-Recipient default) with the SWaM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the department or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.
4. The Commonwealth of Virginia encourages Sub-Recipients and Sub-Recipients to accept electronic and credit card payments.
- N. ASSIGNMENT OF AGREEMENT:** An agreement shall not be assignable by the Sub-Recipient in whole or in part without the written consent of the Commonwealth.
- O. DEFAULT:** In case of failure to deliver goods or services in accordance with the agreement terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the Sub-Recipient responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

**P. NONDISCRIMINATION OF SUB-RECEIPIENTS:** A Sub-Recipient A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

**Q. WHISTLEBLOWER PROTECTIONS:** Congress has enacted the whistleblower protection statute 41 U.S.C. Section 4712 to encourage employees to report fraud, waste, and abuse without repercussions. This statute applies to all employees working for Sub-Recipients, grantees, Sub-Recipients, and sub grantees in accordance with this agreement. All Sub-Recipients, grantees, sub grantees, and Sub-Recipients for federal grants and contracts are required to:

1. Inform their employees in writing of the whistleblower protections under 41 U.S.C. Section 4712 in the predominant native language of the workforce, to include the specific requirements of the statute, and
2. Include this term and condition in any agreement made with a Sub-Recipient or sub grantee.

The employees' rights under 41 U.S.C. Section 4712 shall survive termination of this agreement.

**R. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:** A Sub-Recipient organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contact with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

**S. SERVICE ORGANIZATION CONTROLS:** Service Organization Controls (SOC) may be required for this contract.

Please see [link](http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/10305.pdf) for requirements: [http://www.doa.virginia.gov/Admin\\_Services/CAPP/CAPP\\_Topics/10305.pdf](http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/10305.pdf)

**CERTIFICATION OF INTERNAL CONTROLS:** The Sub-Recipient shall have clearly delineated processes and procedures for the internal control of sensitive data and processes, which are any data and processes of which the compromising of confidentiality, integrity, and/or availability could have a material adverse effect on Commonwealth of Virginia interests,

the conduct of department programs, or to the privacy of which individuals are entitled, when such sensitive data or processes are related to the goods and/or services provided pursuant to this agreement.

The Sub-Recipient shall provide evidence of compliant and ongoing internal control of sensitive data and processes through a standard methodology, such as but without limitation the American Institute of Certified Public Accountant (AICPA) Service Organization Control (SOC) Reports. The evidence of compliance shall be contained in a report describing the effectiveness of the Sub-Recipient's internal controls. The most recent version of the report shall be provided to the purchasing office upon request. Trade secrets or proprietary information contained within the report shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Sub-Recipient must invoke the protection of Code of Virginia, § 2.2-4342F, in writing, prior to or upon submission of the report, and must identify the data or other materials to be protected and state the reasons why protection is necessary.

If deficiencies in the Sub-Recipient's internal control processes and procedures are described in the most recent version of the report, the Sub-Recipient shall automatically submit the report to the purchasing office within a timely manner and shall describe the corrective actions to be put into place by the Sub-Recipient to remedy the deficiencies. Failure to report and/or repair deficiencies in a timely manner shall be cause for the Commonwealth to make a determination of breach of contract.

The Sub-Recipient's obligations for certification of internal controls shall survive and continue after completion of this agreement unless the Sub-Recipient certifies the destruction of the sensitive data at the end of the contract term.

**U. CONTINUITY OF SERVICES:**

- a.) **USE OF PREMISES:** The owner shall operate, maintain, and use the facilities throughout its useful life (at least 20 years from the time project reimbursement is executed) for the purpose stated in the PURPOSE AND SCOPE OF WORK, and must obtain written approval from the appropriate U.S. Fish and Wildlife Service, Regional Director before converting the facilities to another use. The Owner shall allow reasonable access to all transient recreational vessels and may charge equitable fees. Any income generated by the collection of User Fee's should be used to support operations and maintenance of the funded facility throughout its useful life. These fees should be collected in an escrow account and used for renovation, maintenance, or replacement of the Boating Infrastructure Grant funded facility. Those individuals using the fuel dock shall be granted access to the shore and basic features such as restrooms and sanitary waste pump-out and dump station. In the event ownership of this project changes, the Virginia Department of Onsite and Water Services, Environmental Engineering, and Marina Programs shall be promptly notified in writing.
- b.) A **Notice of Grant Agreement** shall be recorded on the property deed. A Notice of Grant Agreement alerts interested parties that the property contains a project that was paid for in part with Federal Funds, and therefore the Federal government has an "interest" in said property. The Notice of Grant Agreement informs the

current or future owner of the property of the terms and conditions associated with the Boating Infrastructure Grant.

The Sub-Recipient must give credit to the Federal Aid in Sportfish Restoration Program and the United States Fish and Wildlife Service as the source of the project funding by using crediting logo identified in 50 CFR Part 86.26.

**V. CIVILITY IN STATE WORKPLACES:**

The contractor shall take all reasonable steps to ensure that no individual, while performing work on behalf of the contractor or any subcontractor in connection with this agreement (each, a “Contract Worker”), shall engage in 1) harassment (including sexual harassment), bullying, cyber-bullying, or threatening or violent conduct, or 2) discriminatory behavior on the basis of race, sex, color, national origin, religious belief, sexual orientation, gender identity or expression, age, political affiliation, veteran status, or disability.

The contractor shall provide each Contract Worker with a copy of this Section and will require Contract Workers to participate in agency training on civility in the State workplace if contractor’s (and any subcontractor’s) regular mandatory training programs do not already encompass equivalent or greater expectations. Upon request, the contractor shall provide documentation that each Contract Worker has received such training.

For purposes of this Section, “State workplace” includes any location, permanent or temporary, where a Commonwealth employee performs any work-related duty or is representing his or her agency, as well as surrounding perimeters, parking lots, outside meeting locations, and means of travel to and from these locations. Communications are deemed to occur in a State workplace if the Contract Worker reasonably should know that the phone number, email, or other method of communication is associated with a State workplace or is associated with a person who is a State employee.

The Commonwealth of Virginia may require, at its sole discretion, the removal and replacement of any Contract Worker who the Commonwealth reasonably believes to have violated this Section.

This Section creates obligations solely on the part of the contractor. Employees or other third parties may benefit incidentally from this Section and from training materials or other communications distributed on this topic , but the Parties to this agreement intend this Section to be enforceable solely by the Commonwealth and not by employees or other third parties.

**XI. CONFIDENTIALITY TERMS AND CONDITIONS:**

- A. DATA PRIVACY :** In accordance with § 2.2-2009 of the *Code of Virginia*, during the performance of this contract, Sub-Recipient is required at all times to comply with all applicable federal and state laws and regulations, including those pertaining to information security and privacy.

- XII. STATUS OF PERSONNEL:** Preston K. Smith, for the Boating Infrastructure Grant Program, has been designated as the Department administrator for this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound thereby. This Memorandum of Agreement becomes effective on the date of the last signature.

**SUB-RECIPIENT:**

**VIRGINIA DEPARTMENT OF HEALTH:**

By:	By:
Title:	Title:
Date:	Date:

**Note:** This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, sexual orientation, gender identity, political affiliation, or veteran status or any other basis prohibited by state law relating to discrimination in employment.

1. DATE ISSUED MM/DD/YYYY 08/22/2022

1a. SUPERSEDES AWARD NOTICE dated except that any additions or restrictions previously imposed remain in effect unless specifically restricted

2. CFDA NO. 15.622 - Sportfishing and Boating Safety Act

3. ASSISTANCE TYPE Project Grant

4. GRANT NO. F22AP03436-00  
Originating MCA #

5. TYPE OF AWARD Other

4a. FAIN F22AP03436

5a. ACTION TYPE New

6. PROJECT PERIOD MM/DD/YYYY  
From 07/01/2022 Through 07/01/2025

7. BUDGET PERIOD MM/DD/YYYY  
From 07/01/2022 Through 07/01/2025

**NOTICE OF AWARD**



AUTHORIZATION (Legislation/Regulations)  
Sportfishing and Boating Safety Act—Boating Infrastructure (16 U.S.C. § 777g-1)

8. TITLE OF PROJECT (OR PROGRAM)  
Town of Onancock, county of Accomack seeks to replace bulkhead

9a. GRANTEE NAME AND ADDRESS  
HEALTH, VIRGINIA DEPARTMENT OF  
109 Governor St Ste 1221  
Richmond, VA, 23219-3623

9b. GRANTEE PROJECT DIRECTOR  
Mr. Preston Smith  
109 GOVERNOR ST STE 1221  
RICHMOND, VA, 23219-3623  
Phone: 804-684-7468

10a. GRANTEE AUTHORIZING OFFICIAL  
Mr. Ahmad Seldi  
109 GOVERNOR ST STE 1221  
RICHMOND, VA, 23219-3623  
Phone: 804-684-7468

10b. FEDERAL PROJECT OFFICER  
BBI Perry  
300 WESTGATE CENTER DRIVE  
HADLEY, MA, 01035  
Phone: 413-263-8302

ALL AMOUNTS ARE SHOWN IN USD

11. APPROVED BUDGET (Excludes Direct Assistance)

I Financial Assistance from the Federal Awarding Agency Only

II Total project costs including grant funds and all other financial participation

a. Salaries and Wages	\$ 0.00
b. Fringe Benefits	\$ 0.00
c. Total Personnel Costs	\$ 0.00
d. Equipment	\$ 0.00
e. Supplies	\$ 0.00
f. Travel	\$ 0.00
g. Construction	\$ 300,000.00
h. Other	\$ 0.00
i. Contractual	\$ 0.00
<b>j. TOTAL DIRECT COSTS</b>	<b>\$ 300,000.00</b>
k. INDIRECT COSTS	\$ 0.00
<b>l. TOTAL APPROVED BUDGET</b>	<b>\$ 300,000.00</b>
m. Federal Share	\$ 64,544.00
n. Non-Federal Share	\$ 295,456.00

12. AWARD COMPUTATION

a. Amount of Federal Financial Assistance (from Item 11a)	\$ 64,544.00
b. Less Unobligated Balance From Prior Budget Periods	\$ 0.00
c. Less Cumulative Prior Award(s) This Budget Period	\$ 0.00
<b>d. AMOUNT OF FINANCIAL ASSISTANCE THIS ACTION</b>	<b>\$ 64,544.00</b>
<b>13. Total Federal Funds Awarded to Date for Project Period</b>	<b>\$ 64,544.00</b>

14. RECOMMENDED FUTURE SUPPORT  
(Subject to the availability of funds and satisfactory progress of the project):

YEAR	TOTAL DIRECT COSTS	YEAR	TOTAL DIRECT COSTS
a. 2	\$	d. 5	\$
b. 3	\$	e. 6	\$
c. 4	\$	f. 7	\$

15. PROGRAM INCOME SHALL BE USED IN ACCORD WITH ONE OF THE FOLLOWING ALTERNATIVES:

a. DEDUCTION  
b. ADDITIONAL COSTS  
c. MATCHING  
d. OTHER RESEARCH (Add / Deduct Option)  
e. OTHER (Over REMARKS)

16. THIS AWARD IS BASED ON AN APPLICATION SUBMITTED TO, AND AS APPROVED BY, THE FEDERAL AWARDING AGENCY ON THE ABOVE TITLED PROJECT AND IS SUBJECT TO THE TERMS AND CONDITIONS INCORPORATED EITHER DIRECTLY OR BY REFERENCE IN THE FOLLOWING:

a. The grant program legislation  
b. The grant program regulations  
c. This award notice including terms and conditions, if any, noted below under REMARKS.  
d. Federal administrative requirements, cost principles and staff requirements applicable to this grant.

In the event there are conflicting or otherwise inconsistent policies applicable to the grant, the above order of precedence shall prevail. Acceptance of the grant terms and conditions is acknowledged by the grantee when funds are drawn or otherwise obtained from the grant payment system.

REMARKS (Other Terms and Conditions Attached -  Yes  No)  
See next page

GRANTS MANAGEMENT OFFICIAL:  
Shelley Dbons, GRANTS FISCAL OFFICER  
300 WESTGATE CENTER DRIVE  
HADLEY, MA, 01035  
Phone: 413-263-8509

17. VENDOR CODE	0070498330	18a. UEI W063KVNZFKS	18b. DUNS 809740459	19. CONG. DIST.	04	
LINE#	FINANCIAL ACCT	AMT OF FIN ASST	START DATE	END DATE	TAB ACCT	PO LINE DESCRIPTION
1	0061026864-00010	64,544.00	07/01/2022	07/01/2025	8151	9771 VA



**NOTICE OF AWARD (Continuation Sheet)**

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<b>GRANT NO. F22AP03436-00</b>	

**REMARKS:**

Please note a condition for Buy American, Build America Act has been added to this grant award. This applies to all infrastructure projects, which includes construction, alteration, maintenance or repair of infrastructure. On July 13, 2022, the Office of Management and Budget's Made in America office approved the Department's request for a General Applicability Waiver, a temporary waiver, suspending the Buy America preference for a six-month period. The Waiver expires on January 12, 2023.

No program income estimated

# NOTICE OF AWARD (Continuation Sheet)

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## SCOPE OF WORK

### 1. Project Description

The Service hereby incorporates the recipient's application submitted to and approved by the Service into these award terms and conditions.

## BUDGET AND PROGRAM REVISIONS

### 1. WSFR Budget and Program Revisions

The recipient is permitted to re-budget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, certain types of post-award changes in budgets and projects shall require the prior written approval of the Service. Refer to 2 CFR 200.308 for additional information on the types of changes that require prior written approval.

## AWARD CONDITIONS

### 1. Pre-Award Costs

The Service authorizes the recipient to request reimbursement for pre-award expenses incurred. Pre-award costs are those incurred prior to the effective date of this award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award.

### 2. WSFR TRACS Grant Entry

The recipient is responsible for entering grant and project statement information for this award into the Service's electronic performance reporting system - TRACS (<https://tracs.fws.gov>). This information must be entered in TRACS within 60 calendar days of the latter: (a) period of performance start date; or (b) the date the award was approved. The grant and project statement information entered in TRACS must be consistent with the approved Project Statement (narrative) in GrantSolutions. If you need assistance, please contact the WSFR Federal Project Officer identified in this Notice of Award.

### 3. Other Program- or Project-Specific Terms and Conditions

1. This grant is conditionally approved, subject to review and approval by the Service of the fully executed land control agreement between the state and the subrecipient.
2. The recipient is responsible for entering required information into the TRACS (<https://tracs.fws.gov>) inventory modules to create real property/facility record(s). These records will become the basis for future recipient real property/facility reporting compliance under 2 CFR 200.330 and 2 CFR 1402.329. If you need assistance with entering real property/facility records in TRACS, please contact the WSFR Federal Project Officer identified in this Notice of Award.

### 4. WSFR Cost Accounting

Cost accounting is at the Grant level.

### 5. Indirect Cost Restrictions

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Recipient will charge all costs directly.

### 6. WSFR Small Grants Match

The federal share of the total project costs cannot exceed 75%. The Grant Recipient is eligible to request Federal obligated funds up to but not in excess of an amount equal to 75% of the total project expenditures. See also 2 CFR §200.306.

## PAYMENTS

### 1. Domestic Recipients Enrolled in Treasury's ASAP System

The recipient will request payments under this award in the [U.S. Treasury's Automated Standard Application for Payment \(ASAP\)](#) system. When requesting payment in ASAP, your Payment Requestor will be required to enter an Account ID. The number assigned to this award is the partial Account ID in ASAP. When entering the Account ID in ASAP, the Payment Requestor should enter the award number identified in the notice of award, followed by a percent sign (%). Refer to the [ASAP.gov Help](#) menu for detailed instructions on requesting payments in ASAP.

## REPORT

### 1. WSFR Interim Financial Reports

The recipient is required to submit interim financial reports on an annual basis directly in GrantSolutions. The recipient must follow the financial reporting period end dates and due dates provided in GrantSolutions. The interim reporting due dates are available by signing in to GrantSolutions and selecting the menu for Reports>Federal Financial Report. The GrantSolutions financial report data entry fields are the same as those on the SF-425, "[Federal Financial Report](#)" form. See also our instructional video on "[Completing the Federal Financial Report \(SF-425\)](#)".

### 2. WSFR Interim Performance Reports

The recipient is required to submit interim performance reports on an annual basis directly in GrantSolutions. The recipient must follow the performance reporting period end dates and due dates provided in GrantSolutions. The interim reporting due dates are available by signing in to GrantSolutions and selecting the menu for Reports>FPR.

### 3. Final Reports

The recipient must liquidate all obligations incurred under the award and submit a *final* financial report in GrantSolutions no later than 120 calendar days after the award period of performance end date. The GrantSolutions financial report data entry fields are the same as those on the SF-425, "[Federal Financial Report](#)" form. See also our instructional video on "[Completing the Federal Financial Report \(SF-425\)](#)".

The recipient must submit a *final* performance report no later than 120 calendar days after the award period of performance end date. Performance reports must contain: 1) a comparison of actual accomplishments with the goals and objectives of the award as detailed in the approved scope of work; 2) a description of reasons why established goals were not met, if appropriate; and 3) any other pertinent information relevant to the project results. Please include the Service award number on all reports.

The recipient must follow the final Federal Financial Report and the final Performance Report reporting period end dates and due dates provided in GrantSolutions. The final reporting due dates are available by signing in to GrantSolutions and selecting the menu for Reports>Federal Financial Report or Reports>FPR.

### 4. Reporting Due Date Extensions

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Reporting due dates may be extended for an award upon request to the Service Project Officer identified in the notice of award. The request should be sent by selecting the award in GrantSolutions and selecting send message. The message must include the type of report to be extended, the requested revised due date, and a justification for the extension. The Service may approve an additional extension if justified by a catastrophe that significantly impairs the award Recipient's operations. The recipient must submit reporting due date extension requests through GrantSolutions to the Service Project Officer identified in their notice of award before the original due date. The Service Project Officer will respond to the recipient after approval or denial of the extension request.

### 5. WSFR TRACS Reporting

The recipient is responsible for entering interim (if required) and final performance report information for this award into the Service's electronic performance reporting system – TRACS (<https://tracs.fws.gov>) and attaching those reports from TRACS into GrantSolutions by the report due date(s) as specified in GrantSolutions. Performance information entered in TRACS must provide quantitative outputs to the approved Standard Objectives and narrative responses to the following questions. If the award includes multiple project statements, the recipient must answer these questions for each project statement. If you need assistance, please contact the WSFR Federal Project Officer identified in this Notice of Award.

1. What progress has been made towards completing the objective(s) of the project?
2. Please describe and justify any changes in the implementation of your objective(s) or approach(es).
3. If applicable, please share if the project resulted in any unexpected benefits, promising practices, new understandings, cost efficiencies, management recommendations, or lessons learned.
4. For survey projects only: If applicable, does this project continue work from a previous award? If so, how do the current results compare to prior results? (Recipients may elect to add attachments such as tables, figures, or graphs to provide further detail when answering this question).
5. If applicable, identify and attach selected publications, photographs, screenshots of websites, or other documentation (including articles in popular literature, scientific literature, or other public information products) that have resulted from this project that highlight the accomplishments of the project.
6. Is this a project that you wish to highlight for communication purposes?
7. For CMS State fish and wildlife agencies only: If the grant is a CMS, has the agency submitted an update report every 3 years detailing the CMS components: (a) inventory and scanning; (b) strategic plan; (c) operational plan; and (d) evaluation and control have been reviewed and summaries included which provide detailed review results and recommendations?

### 6. Significant Developments Reports

See 2 CFR §200.328(d). Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, recipients are required to notify the Service in writing as soon as the recipient becomes aware of any problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation. The recipient should also notify the Service in writing of any favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

## Terms and Conditions

### 1. Buy America Provision

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### Required Use of American Iron, Steel, Manufactured Products, and Construction Materials for Infrastructure

As required by Section 70914 of the Infrastructure Investment and Jobs Act (Pub. L. 117-58), on or after May 14, 2022, none of the funds under a federal award that are part of a Federal financial assistance program for infrastructure may be obligated for a project unless all the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. Recipients must include the requirements in this section all subawards, including all contracts and purchase orders for work or products under this program.

None of the funds provided under this award may be used for a project for infrastructure unless:

1. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States,
2. All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation, and
3. all construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

This Buy America preference only applies to articles, materials, and supplies consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

For more information, visit the Department's Buy America site at [www.doi.gov/grants/BuyAmerica](http://www.doi.gov/grants/BuyAmerica) and the Office of Management and Budget's site at [www.whitehouse.gov/omb/management/made-in-america/](http://www.whitehouse.gov/omb/management/made-in-america/).

### Waivers

There may be instances where an award qualifies, in whole or in part, for an existing DOI general applicability waiver as described at [www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers](http://www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers). If the specific financial assistance agreement, infrastructure project, or non-domestic materials meets the criteria of an existing general applicability waiver within the limitations defined within the waiver, the Recipient does not need to request a separate waiver for non-domestic materials.

When necessary, recipients may apply for, and the Department of the Interior (DOI) may grant, a waiver from these requirements, subject to review by the Made in America Office. The DOI may waive the application of the domestic content procurement preference in any case in which it is determined that one of the below circumstances applies:

1. Non-availability Waiver: the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality,
2. Unreasonable Cost Waiver: the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent, or
3. Public Interest Waiver: applying the domestic content procurement preference would be inconsistent with the public interest.

If a general applicability waiver does not already apply, and the Recipient believes that one of the above circumstances applies to

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an award, the Recipient may submit a request to waive the application of the domestic content procurement preference.

### Waiver Submission Instructions

Recipients must submit all waiver requests to the Service in writing. Email all waiver requests to [fwqfnsupport@fwa.gov](mailto:fwqfnsupport@fwa.gov). Please use the subject line: "Buy America Waiver Request". Include the following information with each waiver request:

1. Type of waiver requested (non-availability, unreasonable cost, or public interest)
2. Requesting entity name and Unique Entity Identifier (UEI)
3. Awarding bureau: U.S. Fish and Wildlife Service
4. Awarding program Assistance Listing number and title (Notice of Award, Block 2)
5. Project title (Notice of Award, Block 8)
6. Federal Award Identification Number (Notice of Award, Block 4)
7. Federal award amount (Notice of Award, Block 11)
8. Total infrastructure costs, to the extent known (federal and non-federal funds)
9. Infrastructure project description and location, to the extent known
10. List of iron or steel item(s), manufactured goods, and construction material(s) the recipient seeks to waive from Buy America requirements. Include the name, cost, countries of origin, if known, and relevant PSC or NAICS code for each (see <https://pactool.us/> and <https://www.census.gov/naics/>).
11. A certification that the Recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor.
12. A statement of waiver justification, including a description of the Recipient's efforts (e.g., market research, industry outreach) to avoid the need for a waiver. Such a justification may cite, if applicable, the absence of any Buy America-compliant bids received in response to a solicitation.
13. Anticipated impact if no waiver is issued.

Do not include any Privacy Act information, sensitive data, or proprietary information with the waiver request.

### Waiver Review Process

The Department will post waiver requests to [www.doi.gov/grants/buyamerica](http://www.doi.gov/grants/buyamerica) for the required 15-day public comment period. The Made in America Office will also review all waiver requests. The Department will post approved waivers at [www.doi.gov/grants/BuyAmerica/ApprovedWaivers](http://www.doi.gov/grants/BuyAmerica/ApprovedWaivers). The Service will notify Recipients of their waiver request determination by email.

### Definitions

*Construction materials* includes an article, material, or supply that is or consists primarily of:

- non-ferrous metals,

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- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables),
- glass (including optic glass),
- lumber, or
- drywall.

*Construction materials* does not include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

*Domestic content procurement preference* means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

*Infrastructure* includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

*Project* means the construction, alteration, maintenance, or repair of infrastructure in the United States.

## 2. Notice of Temporary Waiver of the Applicable Buy America Preference for Infrastructure

**In Effect July 13, 2022–January 12, 2023**

Per the Buy America, Build America Act (Section 70914 of the Infrastructure Investment and Jobs Act, Pub. L. 117-58) applicable to this award, none of the funds under a federal award may be obligated for an infrastructure project unless all the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver.

The Recipient hereby notified that as of July 13, 2022, the applicable Buy America preference for infrastructure is temporarily waived through January 12, 2023. On July 13, 2022, the Office of Management and Budget's Made in America office approved a General Applicability Waiver suspending the Buy America preference for Department of the Interior recipients for a six-month period. A copy of the approved waiver is available for the public on the "Approved Waivers" section of the Department of the Interior's Buy America web page (<https://www.doi.gov/grants/buyamerica>).

This waiver does not change the terms and conditions of this award, but rather suspends them for the specified period. This provides a window of opportunity in which your organization may identify known domestic supply chain issues affecting your Service award(s). If such issues are identified, please notify your Service program point of contact as soon as possible.

## 3. U.S. Fish and Wildlife Service

### General Award Terms and Conditions

Recipients of U.S. Fish and Wildlife Service (Service) grant and cooperative agreement awards (hereafter referred to as 'awards') are subject to the terms and conditions incorporated into their Notice of Award either by direct citation or by reference to Federal regulations; program legislation or regulation; and special award terms and conditions. Award terms and conditions are applicable unless and until the USFWS removes or revises them in written notice to the recipient. The Service will make such changes by issuing a written notice that describes the change and provides the effective date.



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Recipients indicate their acceptance of an award by starting work, drawing down funds, or accepting the award via electronic means. Recipient acceptance of an award carries with it the responsibility to be aware of and comply with all terms and conditions applicable to the award. Recipients are responsible for ensuring that their subrecipients and contractors are aware of and comply with applicable award statutes, regulations, and terms and conditions. Recipient failure to comply with award terms and conditions can result in the Service taking one or more of the remedies and actions described in Title 2 of the Code of Federal Regulations (CFR) §§200.339—343.

A PDF of these terms and conditions with embedded links to all regulations is available on the Service's website at: <https://www.fws.gov/media/fws-financial-assistance-award-terms-and-conditions-2020-12-31>. See also the Department of the Interior's General Award Terms and Conditions on their website at: <https://www.doi.gov/grants/doi-standard-terms-and-conditions>.

**Administrative Requirements, Cost Principles, and Audit Requirements**

These requirements and cost principles are applicable to all awards except those to individuals receiving the award separate from any business or organization they may own or operate. Foreign public entities and foreign organizations must comply with special considerations and requirements specific to their entity type, unless otherwise stated in this section. Foreign public entities must comply with those for states.

**2 CFR Part 200, Subparts A—D, as supplemented by 2 CFR Part 1402**

Foreign public entities must follow payment procedures in 2 CFR §200.305(b). For foreign public entities and foreign organizations, the requirements in 2 CFR §§200.321—323 do not apply.

**Appendix XII to 2 CFR Part 200—Recipient Integrity and Performance Matters**

Applicable to awards with a total Federal share of more than \$500,000 except for awards of any amount to foreign public entities.

**2 CFR Part 200, Subpart E—Cost Principles**

Applicable to all domestic and foreign non-Federal entities except non-profit organizations identified in Appendix VIII to 2 CFR Part 200.

**48 CFR Subpart 31.2—Contracts with Commercial Organizations**

Applicable to non-profit organizations identified in Appendix VIII to 2 CFR Part 200 and for-profit organizations.

**Indirect Cost Proposals**

Requirements for development and submission of indirect cost rate proposals are contained in Appendix III (Institutions of Higher Education), Appendix IV (Nonprofit organizations), and Appendix VII (States, local government agencies, and Indian tribes) to 2 CFR Part 200. See also the DOI negotiated indirect cost rate deviation policies at 2 CFR §1402.414. For-profit entities should contact the DOI National Business Center, Office of Indirect Cost Rate Services at: <https://ibc.doi.gov/ICS/icma>.

**2 CFR Part 200, Subpart F—Audit Requirements**

Applicable to U.S. states, local governments, Indian tribes, institutions of higher education, and nonprofit organizations. Not applicable to foreign public entities, foreign organizations, or for-profit entities.

**Statutory and National Policy Requirements**



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These requirements are applicable to all awards, including those to individuals, for-profits, foreign public entities, and foreign organizations, unless otherwise stated in this section.

**Appendix A to 2 CFR Part 25—Universal Identifier and System for Award Management**

Not applicable to individuals or any entity exempted by the awarding bureau or office prior to award per 2 CFR §25.110(c)(2) and bureau or office policy.

**Appendix A to 2 CFR Part 170—Award term for reporting subaward and executive compensation**

Not applicable to individuals. See 2 CFR 170 for other exceptions.

**2 CFR §175.15—Award Term for Trafficking in Persons**

Applicable to private entities as defined in 2 CFR §175.25(d), states, local governments, and Indian tribes. Applicable to foreign public entities if funding could be provided to a private entity as a subrecipient under the award.

**2 CFR Part 1400—Nonprocurement Debarment and Suspension**

All recipients must ensure they do not enter into any covered transaction with an excluded or disqualified participant or principal. See also 2 CFR Part 180—OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement). 2 CFR §180.215 defines nonprocurement transactions that are not covered transactions.

**2 CFR Part 1401—Requirements for Drug-Free Workplace (Financial Assistance)**

Not applicable to foreign public entities or foreign organizations.

**43 CFR Part 18—New Restrictions on Lobbying**

Recipients are prohibited from using any federally appropriated funds (annually appropriated or continuing appropriations) or matching funds under a Federal award to pay any person for lobbying in connection with the award. Lobbying is influencing or attempting to influence an officer or employee of any U.S. agency, a Member of the U.S. Congress, or an officer or employee of a Member of the U.S. Congress in connection with the award.

**41 U.S.C. §4712—Whistleblower Protection for Contractor and Grantee Employees**

**41 U.S.C. §6306—Prohibition on Members of Congress Making contracts with Federal Government**

**Mandatory Disclosures**

Failure to make required disclosures may result in any of the remedies for noncompliance described in 2 CFR §200.339, including suspension or debarment (see also 2 CFR Part 180).

**Conflicts of Interest:** Per 2 CFR §1402.112, non-Federal entities and their employees must take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements. In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the provisions in 2 CFR §200.318 apply. Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR §200.112. Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Service Project Officer identified in their notice of award in writing of any conflicts of interest that may arise during the life of the award, including those that reported by subrecipients. The Service will examine each disclosure to

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determine whether a significant potential conflict exists and, if it does, work with the applicant or recipient to develop an appropriate resolution. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award.

**Lobbying:** If the Federal share of the award is more than \$100,000, recipients must disclose making or agreeing to make any payment using non-appropriated funds for lobbying in connection with the award. To make such disclosures, recipients must complete and submit the SF-LLL, "Disclosure of Lobbying Activities" form to the USFWS. This form is available at: <https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html>. For more information on when additional submission of this form is required, see 43 CFR, Subpart 18.100. These restrictions are not applicable to such expenditures by Indian tribe, tribal organization, or any other Indian organization that are specifically permitted by other Federal law.

**Other Mandatory Disclosures:** Recipients and subrecipients must disclose, in a timely manner, in writing to the Service Project Officer identified in their notice of award or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities subject to the 2 CFR 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM.

**National Policy Encouragements**

**Executive Order 13043—Increasing Seat Belt Use in the United States**

Non-Federal entities are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles. Individuals are encouraged to use seat belts while driving in connection with award activities.

**E. O. 13513—Federal Leadership on Reducing Text Messaging While Driving**

Non-Federal entities are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the order. Individuals are encouraged to not text message while driving in connection with award activities.