**ATTACHMENT A**

INFORMATION FOR STATE SUBGRANT RECIPIENTS – EASTERN SHOSHONE TRIBE

The terms of this Attachment A are attached to and incorporated into the Subgrantee Award Agreement by this reference.

**General Provisions**

1. **Amendments.** Any changes, modifications, revisions, or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed by all parties to this Agreement.
2. **Applicable Law/Venue.** The parties agree that this Agreement shall be governed and interpreted according to federal laws and regulations and any applicable State of Wyoming laws and regulations and applicable Tribal laws and regulations. The Tribe hereby waives its immunity from suit for the limited purposes of allowing the State to pursue remedies against the Tribe for violations of this Agreement. The Tribe by execution hereof also expressly waives its sovereign immunity for purposes of State actions to enforce this Agreement or judicial review of any state workers compensation or state unemployment insurance proceeding. In the event a dispute arising under this Agreement, jurisdiction will be in a court of competent jurisdiction. The State by this Agreement does not consent to suit in Tribal court.
3. **Assignment Prohibited and Agreement Shall Not be Used as Collateral.** Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set out in this Agreement without the prior written consent of the other party. The Subgrantee shall not use this Agreement, or any portion thereof for collateral for any financial obligation without the prior written permission of the Agency.
4. **Availability of Funds.** Each payment obligation of the Agency is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation and which may be limited for any reason including, but not limited to, congressional, legislative, gubernatorial, or administrative action. If funds are not allocated and available for the continued performance of the Agreement, the Agreement may be terminated by the Agency at the end of the period for which the funds are available. The Agency shall notify the Subgrantee at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the Agency in the event this provision is exercised, and the Agency shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.
5. **Award of Related Agreements.** The Agency may undertake or award supplemental or successor Agreements for work related to this Agreement or may award agreements to other subgrantees for work related to this agreement. The Subgrantee shall cooperate fully with other subgrantees and the Agency in all such cases.
6. **Compliance with Laws.** The Subgrantee shall keep informed of and comply with all applicable federal, state, tribal and local laws and regulations in the performance of this Agreement.
7. **Force Majeure***.* Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays.
8. **Indemnification**. Each party to this agreement shall assume the risk of any liability arising from its own conduct. Neither party agrees to insure, defend or indemnify the other.
9. **Independent Contractor.** The Subgrantee shall function as an independent Contractor for the purposes of this Agreement and shall not be considered an employee of the State of Wyoming for any purpose. Consistent with the express terms of this Agreement, the Subgrantee shall be free from control or direction over the details of the performance of services under this Agreement. The Subgrantee shall assume sole responsibility for any debts or liabilities that may be incurred by the Subgrantee in fulfilling the terms of this Agreement and shall be solely responsible for the payment of all federal, state, and local taxes which may accrue because of this Agreement. Nothing in this Agreement shall be interpreted as authorizing the Subgrantee or its agents or employees to act as an agent or representative for or on behalf of the State of Wyoming or the Agency or to incur any obligation of any kind on behalf of the State of Wyoming or the Agency. The Subgrantee agrees that no health or hospitalization benefits, workers' compensation, unemployment insurance, or similar benefits available to State of Wyoming employees will inure to the benefit of the Subgrantee or the Subgrantee's agents or employees as a result of this Agreement.
10. **Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing either by regular mail or delivery in person at the addresses provided under this Agreement.
11. **Severability**. Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect, and the parties may renegotiate the terms affected by the severance.
12. **Sovereign Immunity and Limitations.** Except as noted herein, the State of Wyoming, the Agency, the Eastern Shoshone Tribe and its agency expressly reserve sovereign immunity by entering into this Agreement and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. § 1-39-104(a) and all other applicable state, tribal, or federal law. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.
13. **Taxes.** The Subgrantee shall pay all taxes and other such amounts required by federal, state, and local law, including but not limited to, federal and social security taxes, workers’ compensation, unemployment insurance, and sales taxes.
14. **Termination of Agreement**. This Agreement may be terminated, without cause, by the Agency upon ten (10) days written notice. This Agreement may be terminated immediately for cause if the Subgrantee fails to perform in accordance with the terms of this Agreement.
15. **Third-Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third-party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties, and obligations contained in this Agreement shall operate only between the parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.
16. **Titles Not Controlling**. Titles of sections and subsections are for reference only and shall not be used to construe the language in this Agreement.
17. **Waiver.** The waiver of any breach of any term or condition in this Agreement shall not be deemed a waiver of any prior or subsequent breach.Failure to object to a breach shall not constitute a waiver.
18. **Use and Commingling of Funds**. Subgrantee shall not use any state funds provided pursuant to this Agreement, to promote, advance, or further any religious purposes or mission of the Subgrantee. Further, Subgrantee agrees that any state funds provided pursuant to this Agreement shall not be commingled with other funds held by Subgrantee and shall be maintained in such a manner as to be separately identifiable from all other funds of Subgrantee. Subgrantee’s duties under this section include, without limitation, maintaining separate records of Agreement funds for audit purposes.
19. **Counterparts.** This Agreement may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Agreement. Delivery by the Subgrantee of an originally signed counterpart of this Agreement by facsimile or PDF shall be followed up immediately by delivery of the originally signed counterpart to the Agency.

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