

SPECIFIC AWARD CONDITIONS
U.S. DEPARTMENT OF COMMERCE
Economic Development Administration (EDA)

ARP Act CONSTRUCTION PROJECTS: Economic Adjustment Assistance Program as authorized by Sections 209 and 703 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. §3121 et seq.) (PWEDA)

Project Title: Caras Park River Access	
Recipients Name: City of Missoula and Missoula Downtown Association	Project Number: 05-79-06168

1. This EDA Award supports the work described in the approved final scope of work, which is incorporated by reference into this Award, as the *Authorized Scope of Work*. All work on this project should be consistent with this *Authorized Scope of Work*, unless the Grants Officer has authorized a modification of the scope of work in writing through an amendment memorialized by a fully executed Form CD-451.

The *Authorized Scope of Work* for this project consists of the construction of river access improvements including an ADA accessible path (with sidewalk, retaining walls, and handrails), stone access stairs, concrete access stairs, concrete viewing platform (with retaining walls and existing statue relocation), and stone terrace seating to the Clark Fork River, adjacent to Caras Park in the City of Missoula. The project also includes landscape including riprap, fencing, boulders, revegetation, and signature and other related site work (demolition and erosion control) along the river bank.

2. The Primary Recipient Authorized Representative's name, title, address, and telephone number are:

Gwen Jones City of Missoula (406) 552-6001	Acting Mayor 435 Ryman St. Missoula, Montana 59802-4207
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The Primary Recipient Point of Contact's name, title, address, email and telephone number are:

Ryan Applegate City of Missoula Park and Recreation (406) 552-6681 applegater@ci.missoula.mt.us	Business Services Superintendent 435 Ryman St. Missoula, Montana 59802-4207
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The Co-recipient Authorized Representative and Point of Contact name, title, address, email and telephone number are:

Linda McCarthy Missoula Downtown Association (406) 543-4238 linda@missouladowntown.com	Executive Director 218 E Main St., Suite C Missoula, Montana 59802-4478
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The Grants Officer is authorized to award, amend, suspend, and terminate financial assistance awards. The Grants Officer is:

Angela B. Martinez Regional Director Phone: (303) 844-3909 Email: amartinez@eda.gov	Economic Development Administration 1244 Speer Blvd. Suite 431 Denver, Colorado 80204
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The Federal Program Officer oversees the programmatic aspects of this Award. The Federal Program Officer is:

Cindy Edwards Area Director Phone: (303) 844-5360 Email: cedwards@eda.gov	Economic Development Administration 1244 Speer Blvd. Suite 431 Denver, Colorado 80204
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The Project Officer is responsible for day-to-day administration and liaison with the Recipient and receives all reports and payment requests. The Project Officer is:

Ryan Smith Civil Engineer Phone: (303) 489-8717 Email: rsmith4@eda.gov	Economic Development Administration 1244 Speer Blvd. Suite 431 Denver, Colorado 80204
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3. ADDITIONAL INCLUDED DOCUMENTS:

In addition to the regulations, documents, or authorities incorporated by reference on the Financial Assistance Award form (Form CD-450) the following additional documents are included with and considered to be part of the Award's terms and conditions:

- A Recipient's final completed Application including subsequently submitted documents (this item not enclosed in this Award package);

Should there be a conflict between the above referenced documents and the Specific Award Conditions (this document), the Specific Award Conditions, including any attachments, shall prevail.

4. PROJECT DEVELOPMENT TIME SCHEDULE: The Recipient agrees to the following Project Development Time Schedule:

Item	Due Date
Date of Award	August 23, 2022
Return of executed <i>Financial Assistance Award</i> (Form CD-450)	no later than 30 calendar days after receipt of Form CD-450
Start of Construction no later than 24 Months from Date of Award	August 23, 2024
Construction Completed no later than 36 Months from Date of Award	August 23, 2025
Authorized Award End Date 42 Months from Date of Award	February 23, 2026
Submission of final reports, including <i>Federal Financial Report</i> (Form SF-425)	no later than 120 calendar days from the Authorized Award End Date

Project Closeout – All Project closeout documents, including any required program reports, shall be submitted to EDA not more than 120 calendar days after the date the Recipient accepts the completed project from the contractor(s).

The Recipient shall diligently pursue the development of the Project so as to ensure completion within this time schedule. Moreover, the Recipient shall promptly notify EDA in writing of any event that could substantially delay meeting any of the proscribed time limits for the Project as set forth above. The Recipient further acknowledges that failure to meet the Project Development Time Schedule may result in EDA’s taking action to terminate the Award in accordance with the regulations set forth at 2 C.F.R. §§ 200.339 through 200.343, as applicable.

5. PROJECT REPORTING AND FINANCIAL DISBURSEMENTS INSTRUCTIONS:

A. AWARD DISBURSEMENTS: Reimbursable basis only: EDA will make disbursements under this Award on a reimbursement basis only, based on actual costs. The “*Request for Reimbursement*” (Form SF-271) is used to request a disbursement, which shall be approved in writing by the Project Officer.

Please note that prior to the initial disbursement, Recipients must complete the attached Form SF-3881, “*ACH Vendor/Miscellaneous Payment Enrollment Form*” and submit it to NOAA’s Accounting Office by emailing through secure/encrypted email to: edagrants@noaa.gov. The form must be completed by the respective parties (EDA, Recipient Bank, and Recipient) at the start of each new award.

B. REPORTS:

a. *Project Progress Reports:* The Recipient shall submit project progress reports to the Project Officer on a quarterly basis for the periods ending **December 31, March 31, June 30, and September 30**, or any portion thereof until the final grant payment is made by EDA. Reports should be submitted using the approved EDA template, which will be provided by the Project Officer and discussed during the project kick-off meeting. Reports are due no later than 15 days following the end of the quarterly period.

- b. *Financial Reports:* The Recipient shall submit a “*Federal Financial Report*” (Form SF-425) on a semi-annual basis for the periods ending **March 31** and **September 30**, or any portion thereof, for the entire project period. Reports are due no later than 30 days following the end of the semiannual reporting period. Form SF-425 (and instructions for completing this form) is available at: <https://www.gsa.gov/portal/forms/download/149786>.

A final Form SF-425 must be submitted no more than 120 calendar days after the expiration date of the Award (e.g., the Award end date specified on the Form CD-450 or Form CD-451). Final Financial reports should follow the guidance outlined by the form instructions for submitting mid-term financial reports, but should ensure that all fields accurately reflect the total outlays for the entire project period, and that all matching and program income (if applicable) is fully reported. Final grant rate and determinations of final balances owed to the government will be determined by the information on the final Form SF-425, so it is imperative that this final financial form is submitted in a timely and accurate manner.

6. **ALLOWABLE COSTS AND AUTHORIZED BUDGET:** Total allowable costs will be determined at the conclusion of the award period in accordance with the administrative authorities applicable pursuant to the *Financial Assistance Award* (Form CD-450), including the applicable requirements set forth in 2 C.F.R. part 200, after Final Financial Documents are submitted.

Except as otherwise expressly provided for within these Specific Award Conditions, the Investment Rate for the award (see 13 C.F.R. §§ 300.3 and 301.4) shall apply to allowable costs incurred by the Recipient in connection with the project. The Federal share in the allowable costs shall be based upon the Investment Rate (see 2 C.F.R. § 200.43). In the event of an underrun in total allowable costs for this project, the Federal share of allowable costs shall be determined by the Investment Rate established in the Form CD-450, or subsequently executed Form CD-451. The Federal Share of total allowable costs shall not exceed the dollar amount of the original Award and subsequent amendments, if any.

- A. Under the terms of the Award, the total approved authorized budget is:

Federal Share (EDA Amount)	\$1,220,304
Non-Federal Matching Share	\$305,076
Total Project Cost	\$1,525,380

- B. Under the terms of this Award, the total approved **Line Item Budget** is:

COST CLASSIFICATION	Proposed	Approved
Administrative and legal expenses	\$0	\$6,200
Land, structures, rights-of-way, etc.	\$0	\$0
Relocation expenses and payments	\$0	\$0
Architectural and engineering fees	\$81,250	\$0
Other architectural and engineering fees	\$18,750	\$0
Project inspection fees	\$25,000	\$0

Site work	\$0	\$0
Demolition and removal	\$0	\$0
Construction	\$1,333,695	\$1,446,810
Equipment	\$0	\$0
Contingencies	\$66,685	\$72,370
Total Project Costs	\$1,525,380	\$1,525,380

7. **MATCHING SHARE:** The Recipient agrees to provide the Recipient’s non-Federal Matching Share contribution for eligible project expenses in proportion to the Federal share requested for such project expenses. (See 13 C.F.R. § 300.3) The Recipient also certifies that, in accepting the Financial Assistance Award, the Recipient’s Matching Share of the project costs is committed and unencumbered, from authorized sources, and shall be available as needed for the project.

8. **NON-FEDERAL SHARE—STATE AND LOCAL FISCAL RECOVERY SUPPORT FUNDS:** The Recipient has informed EDA that it intends to fund all or part of the required non-federal share of project costs using funds provided through the Department of the Treasury’s State and Local Fiscal Recovery (SLFR) Funds program. By accepting this Award, the Recipient reaffirms that the SLFR Funds applied to the non-federal share will be taken only from the amount of SLFR Funds available for providing government services, as described at 31 C.F.R. § 35.6(d), and that the use of SLFR Funds for the non-federal share is consistent with Treasury’s regulations governing the SLFR Funds program and the terms and conditions of the SLFR Funds award. The Recipient further agrees that it will obligate all SLFR Funds designated for the non-federal share of this Award promptly after accepting the Award (and no later than December 31, 2024) and that it will expend all SLFR Funds designated for the non-federal share no later than December 31, 2026. In the event that the Department of the Treasury determines for any reason that SLFR Funds may not be used for the non-federal share of this Award or the SLFR Funds otherwise become unavailable, the Recipient agrees to fund the non-federal share from other allowable sources. The Recipient further agrees to inform EDA promptly if SLFR Funds become unavailable to fund the non-federal share.

9. **REFUND CHECKS, INTEREST, OR UNUSED FUNDS:** Treasury has given EDA two options for having payments deposited to EDA’s account:
 - A. The first one is Pay.Gov. This option allows the payee to pay EDA through the Internet. The payee will have the option to make a one-time payment or to set up an account to make regular payments.
 - B. The second option is Paper Check conversion. All checks must identify on their face the name of the DOC agency funding the award, award number, and no more than a two-word description to identify the reason for the refund or check. A copy of the check should be provided to the EDA Project Officer. This option allows the payee to send a check to NOAA’s Accounting Office, who processes EDA’s accounting functions at the following address:

Finance Office, AOD, EDA Grants
20020 Century Boulevard, Germantown, MD 20874

The accounting staff will scan the checks in to an encrypted file and transfer to the Federal Reserve Bank, where the funds will be deposited in EDA's account. While this process will not be an issue with most payees, there are occasionally issues for entities remitting funds to EDA via check. If you are remitting funds to EDA via check, please make note of the following:

- If a check is sent to EDA, it will be converted into an electronic funds transfer by copying the check and using the account information to electronically debit your account for the amount of the check. The debit from your account will usually occur within 24 hours and will appear on your regular account statement.
- EDA will not return your original check; the original will be destroyed and a copy will be maintained in our office. If the Electronic Funds Transfer (EFT) cannot be processed for technical reasons, the copy will be processed in place of the original check. If the EFT cannot be completed because of insufficient funds, EDA will charge you a one-time fee of \$25.00, which will be collected by EFT.

10. **PROJECT COMPLETION DEADLINE:** All work on this project **must be completed by May 31, 2027** to allow for closeout and final disbursement prior to **September 30, 2027**. By operation of the Account Closing Statute (31 U.S.C. §§ 1552(a)), on September 30, 2027, any remaining balances will be cancelled and no longer available for expenditure for any purpose. Nothing in this paragraph is intended to alter the Project Development Time Schedule set forth in provision 4 above.

11. **GOALS FOR WOMEN AND MINORITIES IN CONSTRUCTION:** Department of Labor regulations set forth in 41 C.F.R. § 60-4 establishes goals and timetables for participation of minorities and women in the construction industry. These regulations apply to all federally assisted construction contracts in excess of \$10,000. The Recipient shall comply with these regulations and shall obtain compliance with 41 C.F.R. § 60-4 from contractors and subcontractors employed in the completion of the Project by including such notices, clauses and provisions in the Solicitations for Offers or Bids as required by 41 C.F.R. § 60-4. The goal for the participation of women in each trade area shall be as follows: From April 1, 1981, until further notice: 6.9 percent.

All changes to this goal, as published in the Federal Register in accordance with the Office of Federal Contract Compliance Programs regulations at 41 C.F.R. § 60-4.6, or any successor regulations, shall hereafter be incorporated by reference into these Specific Award Conditions.

Goals for minority participation shall be as prescribed by Appendix B-80, Federal Register, Volume 45, No. 194, October 3, 1980, or subsequent publications. The Recipient shall include the "*Standard Federal Equal Employment Opportunity Construction Contract Specifications*" (or cause them to be included, if appropriate) in all Federally-assisted contracts and subcontracts. The goals and timetables for minority and female participation may not be less than those published pursuant to 41 C.F.R. § 60-4.6.

12. **PROCUREMENT:** The Recipient agrees that all procurement transactions shall be in accordance with the regulations at 2 C.F.R. §§200.317 through 200.326, as applicable.
13. **BUY AMERICAN:** Consistent with Executive Order 13858, *Strengthening Buy-American Preferences for Infrastructure Projects*,” as modified by Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America’s Workers*, the Recipient is encouraged to use, to the greatest extent practicable, iron and aluminum as well as steel, cement, and other manufactured products produced in the United States in every contract, subcontract, purchase order, or sub-award that is chargeable under this Award.
14. **EVIDENCE OF GOOD TITLE:** Prior to the initial disbursement of funds by EDA, the Recipient shall provide opinion of counsel, satisfactory to EDA, that the Recipient has acquired good and marketable title to land, free of all encumbrances, as well as rights-of-way, long term leases, easements, state or local government permits or other items necessary for the completion of the project in accordance with 13 C.F.R. § 314.7.
15. **USEFUL LIFE:** The Estimated Useful Life of this project is hereby determined to be 20 years from the date of Award.
16. **HISTORICAL AND ARCHAEOLOGICAL RESOURCES:** If during construction of the project, historical and archeological resources, including burial grounds and artifacts are discovered, the Recipient shall immediately stop construction in the area, contact the State Historic Preservation Officer (SHPO) and EDA and follow the SHPO’s instructions for the preservation of resources.
17. **SHPO MEMORANDUM OF AGREEMENT:** Prior to EDA’s approval of the bid documents, a Memorandum of Agreement (MOA) must be completed with the Montana State Historic Preservation Officer (SHPO) and all interested parties. Any mitigation measures from the MOA will be added to the EDA award and National Environmental Policy Act (NEPA) documentation. No demolition, ground disturbing, or earth-moving activity is permitted until the consultations and the MOA are complete and approved by the Denver Regional Environmental Officer. The Recipient shall comply with all conditions of the MOA, agrees to implement any changes to the project that EDA may require in response to the MOA, and is responsible for covering any resulting cost increase.
18. **USFWS CONSULTATION:** Prior to EDA’s approval of the bid documents, consultations must be completed with the U.S. Fish and Wildlife Service (USFWS). Any mitigation measures from the agency consultations will be added to the EDA award and National Environmental Policy Act (NEPA) documentation. No demolition, ground disturbing, or earth-moving activity is permitted until the consultations are complete and approved by the Denver Regional Environmental Officer. The Recipient agrees to implement any changes to the project that EDA may require in response to the pending consultation and is responsible for covering any resulting cost increase.
19. **PERMITS:** Prior to EDA’s approval of the bid documents, the Recipient shall provide documentation satisfactory to EDA that the permits listed below have been obtained, or that the bid documents include language requiring the contractor to obtain such permits prior to the start of construction. If the contractor obtains the permits, then prior to initial disbursement of

construction costs, the Recipient shall provide EDA with satisfactory documentation that such permits have been obtained:

- a. 404 Permit (USACE)
- b. 408 Permit (USACE)
- c. 124 Permit (Montana FWP)
- d. Navigable Rivers Land Use License/Easement (Montana DNRC)
- e. 318 Permit (Montana DEQ)
- f. Floodplain Development Permit (City of Missoula)

20. **SOLE SOURCE AQUIFERS:** Due to the presence of a sole source aquifer in the project area, EPA must review the project and provide concurrence to the Denver Regional Office. No ground disturbance activity may take place until the Regional Environmental Officer has received adequate documentation from the EPA.

21. **MONITORING AND REPORTING FOR ENVIRONMENTAL REQUIREMENTS AND PERMITS:** The Recipient acknowledges that there are environmental and permitting requirements that must be completed prior to construction. EDA will require all environmental award conditions to be satisfied prior to the approval of bid documents. In order to monitor the status of the environmental consultations and permits, the Recipient agrees to provide, along with the Quarterly Progress Report, a detailed quarterly status report for each of the permits or environmental specific conditions in this award agreement. The report shall provide an update of the schedule for completion of each of the environmental award conditions, discuss activities completed to date, and document any issues or concerns that have been identified that may impact the start of construction date specified in the Project Development Time schedule.

22. **NONRELOCATION:** In signing this award of financial assistance, the Recipient(s) attests that the EDA funded project will not be used to induce the relocation or the movement of existing jobs from one Region to another Region by a primary beneficiary of the Award. (See 13 C.F.R. § 300.3) In the event that EDA determines that its assistance was used for such relocation purposes, EDA reserves the right to pursue all rights and remedies, including suspension of disbursements and termination of the award for convenience or cause, and disallowance of any costs attributable, directly or indirectly, to the relocation and the recovery of the Federal share thereof.

For purposes of ensuring that EDA assistance will not be used for relocation purposes, each applicant must inform EDA of all employers that constitute primary beneficiaries of the project assisted by EDA. EDA considers an employer to be a “primary beneficiary” if, in seeking EDA assistance, the applicant estimates that such employer will create or save 100 or more permanent jobs as a result of the investment assistance and specifically names the employer in its application to EDA to make the Award. In smaller communities, EDA may consider a primary beneficiary to be an employer of 50 or more jobs permanent jobs so identified.

23. **PERFORMANCE MEASURES:** The Recipient agrees to report on program performance measures and program outcomes in such a form and at such intervals as may be prescribed by EDA in compliance with the Government Performance and Results Act (GPRA) of 1993, and the Government Performance and Results Modernization Act of 2010.

At this time, all Awards for construction assistance require Recipients to report actual job creation/retention and private investment leverage three (3), six (6), and nine (9) years after an EDA investment. Recipients are to retain sufficient documentation so that they can submit these required reports. Failure to submit this required report can adversely impact the ability of the Recipient to secure future funding from EDA.

Performance measures and reporting requirements that apply to program activities funded by this investment will be provided in a separate GPRA information collection document. EDA staff will contact Recipients in writing within a reasonable period prior to the time of submission of the reports with information on how this data should be submitted. Recipients should ensure adequate and sufficient records are kept to support the methodology for computing initial job and private investment estimates and all subsequent actual performance data calculations so that this information can be made available to EDA in the event of an audits or performance site visits.

24. **WASTE, FRAUD AND ABUSE:** Consistent with 2 CFR part 200, at EDA’s direction, at any time(s) during the estimated useful life of the Project, Recipient’s key personnel will take a training on preventing waste, fraud and abuse as provided by the Government. Key personnel include those responsible for managing the Recipient’s finances and overseeing any contractors, sub-contractors or sub-grantees (for financial matters and/or general oversight related to this Project). EDA will provide instructions on when and how to take the training. Within sixty days of the date of Award, the Recipient shall provide to the Project Officer all Certificates of Completion for the Waste, Fraud, and Abuse training. In the event there are co-recipients of this Award, the obligations in the Specific Award Condition shall apply to all recipients whether or not designated in this Award as the Lead Recipient.

Further, Recipient will monitor award activities for common fraud schemes (hereinafter “Fraud Schemes”), such as but not limited to:

- false claims for materials and labor,
- bribes related to the acquisition of materials and labor,
- product substitution,
- mismarking or mislabeling on products and materials, and
- time and materials overcharging.

Should Recipient detect any Fraud Schemes or any other suspicious activity, Recipient will contact the EDA staff listed above and the Department of Commerce, Office of Inspector General, as indicated at <https://www.oig.doc.gov/Pages/Contact-Us.aspx>, as soon as possible.

25. **LEAD RECIPIENT DESIGNATION AND OBLIGATIONS:** This Award is made to multiple Recipients as identified in the Form CD-450. EDA has requested that one of the Recipients be designated as the Lead Recipient to facilitate the administration of this Award. The Recipient named first on the Form CD-450 agrees to be designated as Lead Recipient. The Co-Recipients acknowledge, agree with and consent to this designation. The Recipients agree that all funds available pursuant to this Award shall be solely disbursed by EDA to the Lead Recipient. The Lead Recipient agrees to be solely responsible for the further disbursement of all such funds received from EDA pursuant to this Award strictly in accordance with the Authorized Budget that is part of this Award and all applicable requirements of EDA as

identified and set forth on the Form CD-450. The Lead Recipient further agrees to be solely responsible for collecting all data and information, including but not limited to coordinating the collection of any and all data and information from other Co-Recipients, and preparing all reports required to be submitted to EDA pursuant to this Award. Any changes to the Lead Recipient designation, including replacement of the Lead Recipient, require advance approval by EDA and will be memorialized through the execution of a Form CD-451.