



Marketing and Promotion (MAP) Fund INFORMATION

GENERAL FUND INFORMATION

MAP FUND GOALS

The purpose of the MAP Fund is to provide funding solely for the marketing and promotion of West Yellowstone and the surrounding area. To achieve this purpose, MAPFAB has established the following goals for the Fund:

- To fund events or projects that have economic, cultural, social and/or aesthetic impacts and benefits on visitors, residents, businesses, organizations and other diverse interests in town and the surrounding area
- To fund events or projects that reach potential visitors outside West Yellowstone
- To fund events or projects that have potential to increase the number of visitors or extend visitor stays
- To fund events or projects that previous experience shows as being viable and beneficial or compliment or enhance existing events or projects
- To fund a variety of new events or projects that show potential for current year and subsequent annual success and sustainability

NUMBER AND DOLLAR AMOUNTS OF AWARDS

There is no set number of awards that may be made in any fiscal year, other than the maximum funding or total dollar amount of awards cannot exceed the total amount of the MAP funding available for that specific year.

- There is no minimum amount for requests.
- **The total dollar amount of an award cannot exceed 35% of an event's or project's total expense budget or \$40,000 maximum. It is within the Board's discretion to consider additional funds.**
- A proposed event or project may receive all or a portion of the funding requested in a specific proposal. MAPFAB maintains its discretion to withhold some funding.

ELIGIBLE APPLICANTS

Any organization or individual presenting an event or project that supports the goals of the MAP Fund and meets the criteria established by MAPFAB.

ELIGIBLE EVENTS OR PROJECTS

Any event or project that supports the goals of the MAP Fund and meets the criteria established by MAPFAB.

- Events or projects that have economic, cultural, social and/or aesthetic impacts and benefits on visitors, residents, businesses, organizations and other diverse interests in town and the surrounding area
- Special one time or annually reoccurring events or projects
- Local, regional, specific state or national print, digital and social media marketing campaigns
- Marketing and promotional signage, billboards, posters, brochures, travel guides, image pieces
- Familiarization or historical tours, wayfinding signage, maps
- Marketing and promotion events, projects and activities not identified herein that will be evaluated on an application by application basis by MAPFAB

APPLICATION PROCESS

Applications are available on the town's website. www.townofwestyellowstone.com

- Review all MAP Fund information prior to completing the Application. Then complete the fill in the blank parts of the Application: Cover Page, Sections 1-6, Certification Page.
- Email a copy of your completed application to the town offices: info@townofwestyellowstone.com, drop it off in person or mail it to: Marketing and Promotion Fund Advisory Board, Town of W. Yellowstone, PO Box 1570, W. Yellowstone, MT 59758
- Applications must be submitted by the 25th day of the month to be considered for review by MAPFAB at a Board meeting scheduled around the 10th day of the following month.
- MAP funds are limited and the application review, recommendation and approval process may take up to 30 days. Thus, applications should be submitted as far in advance of the event or project as possible.
- If funds are not available to fund the requests of all applicants at any given monthly review, the Board will consider funding the applications on an earliest date submitted basis. Also, the Board may choose to recommend partial funding for multiple events or projects. Finally, if an application is denied because of lack of funding, an applicant may resubmit an application.
- If MAPFAB does not have any applications to review or other issues that need to be addressed within a particular month, then MAPFAB may not schedule a meeting during that month.
- MAPFAB will consider any event or project for approval that supports its goals and meets the additional criteria listed on the application.
- Though not required, you are encouraged to attend the MAPFAB meeting at which your application will be reviewed. You will be advised as to the date, place and time of that review and will have up to 10 minutes to address your application. The Board will then discuss and approve or not approve to recommend the review and approval of the application by the town council.
- If MAPFAB approves an application, they will forward their recommendation to the town council for final approval. All MAP funding is subject to final approval by the town council. If the town council gives final approval, then MAPFAB will notify the applicant by email within 3 days. An Event or Project Tracking # will be assigned to the event or project. Please reference this tracking # on all subsequent communications, emails, documents, etc. regarding your event or project.
- If MAPFAB decides not to recommend an application to the town council for approval, they will have made their decision at their meeting with the applicant present or will notify the applicant of their decision by email within 3 days.
- Applicants are responsible for obtaining all required contracts, permits, licenses, insurance, approvals, etc. from federal, state, county, town, public and private agencies and paying applicable fees and bonds before the event or project takes place. Events or projects may be subject to collecting and remitting West Yellowstone's resort tax. Resort taxes will be paid at the conclusion of the event or project by the date listed in the town's Exposition License Application. Approval of this application by MAPFAB and the town council for the event or project does not waive these requirements.

DISBURSEMENT OF MAP FUNDS

Once an application is approved, MAPFAB will email an Applicant Award Notification to the applicant and the town Finance Dept. At that time, the approved MAP Fund amount is authorized for disbursement or reimbursement.

- Funds will not be disbursed or reimbursed prior to the applicant receiving the Award Notification.
- An approved event or project will be assigned to an individual MAPFAB member. The applicant will email or deliver in person an Advanced Funding Request (AFR) to the Board member contact and/or submit copies of (paid) vendor invoices, checks or credit card receipts verifying payments to vendors, advance contracts and/or cash prize/purse listings w/ winner identification info.
- The applicant is responsible for paying vendors for their services. The town Finance Dept. will not pay vendor invoices. All advances and/or expenses must be supported with documentation, i.e. invoices, contracts, etc.
- Even though you've submitted a line item budget of specific expense amounts, you can request disbursement or reimbursement in any amounts for any approved expenses, as long as the amounts requested aren't more than the approved total amount of funding.
- To minimize the number of disbursement or reimbursement checks issued by the town Finance Dept. to applicants, we request that applicants submit expenses and proof of payments for approval to the Board member contact in increments of not less than approximately \$1000, or the total amount of expenses if the applicant's event or project has been awarded less than \$1000.

ADVANCE FUNDING REQUEST (AFR)

- Advance funding requests can be made by completing an Advance Funding Request (AFR) document. Download the document [here](#) or it can be requested by email or in person from the Board member contact. The applicant will need to complete the AFR document and email it back to or deliver it in person to the Board member responsible for overseeing their event or project.
- Applicants who have been awarded funding of \$2500 or less may make a request to receive up to the full amount of approved funding in advance of actual expenses being incurred.
- Applicants who have been awarded funding of more than \$2500 may make a request to receive \$2500 or 25% of the total funds awarded, whichever is greater, in advance of actual expenses being incurred. Exceptions to this will be reviewed by the Board on a case by case basis.
- Applicants who receive advance funds won't be approved to receive any additional approved funding until they submit expenses and proof of payments to account for spending of the advance amount.
- AFRs and/or expense documentation should be submitted to the Board member contact in a timely manner in order to prevent a rushed review for approval. Board members need a reasonable amount of time to review documentation before it is submitted to the town for disbursement or reimbursement.
- The Board member will review the AFR and confirm an approval for the advance by email or in person. Regardless of whether a request is confirmed by email or in person, the Board member will stamp the AFR with an approval stamp. The applicant or Board member will take the copy of the approved AFR to the town Finance Dept. for disbursement or reimbursement. The Finance Dept. does not immediately disburse or reimburse funds. The Dept. submits a claim for that disbursement or expense reimbursement to be approved by the town council at the next regularly scheduled town council meeting.
- Once the claim is approved, the Finance Dept. will disburse or reimburse funds soon afterward. Note that this process can take up to three weeks to complete.
- If an event or project is in progress and is going to incur an expense that is not in the previously submitted budget, then the applicant must submit, in writing, the new or additional expense to the Board member contact for approval. The new or additional expense must not cause total expenses to exceed the approved award.

GUIDELINES FOR WORKING WITH MAP FUND AWARDS

INTRODUCTION

MAP Fund monies are generated from the collection of resort taxes. When applicable, please collect resort taxes for your event or project. If you're uncertain as to whether or not your event or project will be subject to remitting resort taxes, check with the town offices.

- If your event or project is being held outside of town limits, then you will need to explain to the MAP Fund Advisory Board the ways in which your event or project will generate resort taxes.
- If your event or project is approved for a MAP Fund award, it will be assigned an Event or Project Tracking #. You'll reference that number on all subsequent communications, emails, documents, etc. regarding your event or project. Also, a MAP Fund Advisory Board member will be assigned to oversee your event or project. This event or project manager will be the primary contact for your award throughout the entire process. Do not submit anything directly to the Town of West Yellowstone staff. Your assigned event or project manager will review what you are submitting against the criteria and guidelines and approve any request or documentation. This includes 1) advance funds requests using the appropriate "Advance Funding Request" form, 2) invoice statements and required documentation and 3) the final Outcome Report.
- As part of your application, you'll submit a detailed budget with specific income and expenses. During your event or project, keep documentation for each expenditure, including the bill/invoice, proof that the bill was paid, and any other necessary documentation. It's important to track bills and payments as they occur in order to receive the timeliest reimbursement. Proof
 - ✓ A copy of both sides of a check proving it was issued and then cashed for payment of services
 - ✓ A copy of a credit card statement showing the specific payment accompanied with additional detail and description
 - ✓ If a cash payment was made, an invoice or bill with a signed receipt from the vendor
 - ✓ If cash was paid to an individual for a participant prize, purse or winnings, you will need to keep a list of recipients including an individual's printed name, signature, address, phone number and social security number. Check current state and federal tax regulations for payout amounts that require you to issue an IRS Form 1099 to individuals.

REIMBURSEMENTS

- If you receive advance funds, you will need to first submit the documentation showing how the advance amount was spent. Once documentation for the total advance amount has been submitted, then you can submit additional expense reimbursement requests in the minimum amount of \$1,000.00.
- Note: the reimbursement check will be payable to the organization/business/individual who requested the funds, not to specific suppliers or vendors.
- An Expense Reimbursement Request (ERR) Template can be downloaded [here](#) or requested by email or in person from the Board member contact and adapted for your event or project. Use of this fill in the blank Template isn't required, but it is provided as a convenience for applicants who want to use it.

EVENT OR PROJECT COMPLETION

Your event or project must be completed within 12 months of the approval date of the town council. One extension may be granted for up to 6 months at the discretion of the MAP Fund Advisory Board.

- All approved MAP Fund expenditures should be expensed or paid out to your event or project within 60 days after its completion, or within the same 12 month time period, whichever is more applicable to your type of event or project.
- If approved funds remain unspent 60 days after the completion of your event or project, or shortly before the end of the 12 month time period, whichever is more applicable to your type of event or project, the MAP Fund Advisory Board member responsible for overseeing your event or project will email you a Confirmation of Event or Project Completion (CEPC) Notice, or you can download the CEPC Notice [here](#). The CEPC Notice asks you to confirm that your event or project is complete and that the amount of unspent funds will go back into the general MAP Fund to fund future events or projects.

EVENT OR PROJECT OUTCOME REPORT

Your MAP Fund award is an investment of West Yellowstone Resort Tax monies and local resources. MAPFAB is responsible for reporting back to the town council on funded event or project outcomes.

- Please complete an Outcome Report and give a printed copy to or email a copy to the Board member responsible for overseeing your event or project within 60 days after its completion. This report is of your own design, but the cover page or first page must list the total MAP funds awarded to the event or project, the amount of MAP funds spent on each applicable budget expense and, if any, the remaining funds not spent that are to be returned to the Fund.
- The Report should detail your event or project's successes, disappointments, impacts, outcomes and /or achieved goals as described in Section 1 or 5 of your application. Also, please state whether or not you think the event or project should continue in subsequent years. If not, then please explain.
- The Report should include at least 1 letter from a business that details the impact of the event/project on their business.
- Failure to complete an Outcome Report may result in funding being denied if requested in a subsequent year.

TOWN OF WEST YELLOWSTONE MARKETING AND PROMOTION FUND EVENT AWARD AGREEMENT

This Event Award Agreement (the “Agreement”) is between the Town of West Yellowstone Marketing and Promotion Fund Advisory Board (“MAPFAB”) and _____ (the “Awardee”)

PROVISION 1 – PURPOSE

1.1 Purpose. The purpose of this Agreement is to enable MAPFAB to award funds of \$ _____ (the “Award”) from the Town of West Yellowstone’s Marketing and Promotion (MAP) Fund to the Awardee for eligible costs of the services or event (the “Event”) described in the Awardee’s previously submitted, authorized and approved MAP Fund Application (the “Application”), which is on file with MAPFAB and is incorporated by reference.

1.2 Use of Funds. The funds shall be used exclusively in accordance with the provisions contained in this Agreement and the Awardee’s Application and in conformance with Section 3.12.140 of the West Yellowstone Municipal Code and Resolution 515 establishing the MAP Fund and MAPFAB’s authority to oversee and award these funds, as well as any policies and procedures adopted thereunder. Use of the funds for administrative salaries or wages cannot exceed five (5%) percent of the total award. Use of the funds for all other MAPFAB defined Administrative Expenses cannot exceed an additional ten (10%) percent of the total award.

PROVISION 2 – REPRESENTATIONS AND WARRANTIES OF THE AWARDEE

2.1 Representations and Warranties. The Awardee expressly represents and warrants to MAPFAB that it is duly qualified and eligible to receive these Award funds, and that the information included in its application is accurate, complete, and true. It shall implement and complete the Event in accordance with plans, timelines and specifications contained in the Application. Also, that the funds received by the Awardee pursuant to this Agreement shall be used only to implement the Event or provide services in conformance with the Awardee’s MAP Fund Application and for no other purpose.

2.2 Certification. The Awardee certifies by entering into this Agreement that neither it nor its principals are presently debarred, proposed for debarment, suspended, declared ineligible or voluntarily excluded from entering into this Agreement by any federal or state department or agency. The term “principal” for purposes of this Agreement is defined as any officer, director, owner, partner, key employee or representative or other person with primary management or supervisory responsibilities, or a person who has critical influence on or substantive control over the operations of the Awardee or the Awardee’s business, organization, group or entity.

PROVISION 3 – TERM

3.1 Effective Date. This Agreement begins on the date when it is fully executed by both parties. No payments will be made to the Awardee until this Agreement is fully executed.

3.2 Expiration Date. The Event must be completed within twelve (12) months of the Town Council Award approval date, or the execution date of this Agreement, whichever date is later. One (1) extension to the twelve (12) month completion date requirement may be granted for up to six (6) months at the discretion of MAPFAB. This Agreement shall remain in effect sixty (60) days after the occurrence or completion of the Event, or until all obligations have been satisfactorily fulfilled, whichever occurs first. Unless otherwise provided herein, it may be extended upon written agreement of the parties.

3.3 Survival of Terms. The following Provisions survive the expiration or termination of this Agreement: 8. Liability; 9. Surety Bond and Insurance; 10. Audits; 12. Breach or Default; Remedies; Termination; 13. Miscellaneous Provisions

PROVISION 4 – OBLIGATION; BUDGET; PAYMENT OF AWARD FUNDS

4.1 Total Obligation. The total obligation of MAPFAB for payment of advance funds, expense invoices and/or reimbursement claims to the Awardee from the MAP Fund under this Agreement will not exceed \$ _____.

4.2 Advance Funds. The Awardee may request advance funds of no greater than twenty-five percent (25%) of the Event's total expense budget. Procedures for requesting advance funds are set forth in the separate Addendum A and Advance Funds Request (AFR) documents available from MAPFAB Representatives, and are to be completed by Awardee, and are incorporated by reference.

4.3 Budget Modifications. The approved Event Budget is set forth in the Application and is incorporated by reference. Modifications are permitted without prior approval from MAPFAB provided such modifications are indicated in submitted financial reports, expense invoices and/or reimbursement claims, and they don't exceed the total Award amount.

4.4 Payment of Claims, Expense Invoices, Reimbursements, Disbursements. The Town of West Yellowstone (the "Town") will pay the Awardee for claims only after the Awardee properly submits itemized expense invoices and/or requests for reimbursements to MAPFAB Representatives and they accept and approve them. Procedures for payment of claims, expense invoices, requests for reimbursement or disbursement of funds are set forth in the separate Addendum A and Expense Reimbursement Request (ERR) documents available from MAPFAB Representatives, and are to be completed by the Awardee, and are incorporated by reference.

4.5 Unapproved Claims or Expenses

Any unapproved claim or expense shall be returned by MAPFAB Representatives to the Awardee with a brief explanation as to why the claim or expense was rejected. If any such rejection relates only to a portion of the itemized eligible expenses, the Town shall have no obligation to pay or disburse any Award funds for any itemized eligible expenses unless and until the Awardee submits a change or correction that is acceptable to and approved by MAPFAB Representatives.

4.6 Disallowed Claims. The Awardee agrees that if it claims or receives payment from the Town for an eligible expense, claim, invoice payment or reimbursement which is later disallowed by the Town, the Awardee shall promptly refund the disallowed amount to the Town upon the Town's request. At its option, the Town may offset all or any portion of the disallowed amount against any other payment due to the Awardee. Any such offset with respect to a portion of the disallowed amount shall not release the Awardee from its obligation to refund the remainder of the disallowed amount.

4.7 Method of Payment. The Town of West Yellowstone shall make all payments or disbursements of Award funds pursuant to this Provision by check payable to the Awardee sent via U.S. mail.

4.8 Unexpended Funds. The Event must be completed within twelve (12) months of the Town Council Award approval date, or the execution date of this Agreement, whichever date is later. One (1) extension may be granted for up to six (6) months at the discretion of MAPFAB. The Awardee must return to the MAP Fund any unexpended funds that have not been accounted for, claimed, or disbursed for the Event within sixty (60) days after its occurrence or completion date. Procedures for returning unexpended funds are set forth in the separate Confirmation of Event or Project Completion (CEPC) Notice available from MAPFAB Representatives, and is to be completed by the Awardee, and is incorporated by reference.

PROVISION 5 – PUBLICITY, PROMOTION, MARKETING

5.1 Publicity, Promotion, Marketing. Any publicity, promotion and marketing regarding the Event of this Agreement must identify the MAP Fund and/or the “Businesses of West Yellowstone” as the provider of funds or sponsoring source for the Event.

PROVISION 6 – REPORTING REQUIREMENTS

6.1 Reports. The Awardee shall submit written progress, operational and/or financial reports every sixty (60) days via email to MAPFAB Representatives until the occurrence or completion of the Event. A final Event Outcome Report will be submitted within sixty (60) days after the Event’s occurrence or completion. Event Outcome Report requirements are set forth in the separate MAP Fund Information document, available from MAPFAB Representatives, and is incorporated by reference.

PROVISION 7 – AUTHORIZED REPRESENTATIVE(S); NOTICE TO PARTIES

7.1 MAPFAB’s Authorized Representative(s). MAPFAB’s Authorized Representative(s) have the responsibility to monitor the Awardee’s performance and the authority to accept the services provided under this Agreement and the Awardee’s Application. If services are satisfactory and the Awardee meets disbursement of advance funds and invoice submission and payment requirements listed in this Agreement, the Application and Appendix A, they will certify acceptance and authorize the Town to pay advance funds or invoices submitted for payment. MAPFAB’s Authorized Representative(s) are:

Print Name: _____

Print Name: _____

Email: _____

Email: _____

Phone: _____

Phone: _____

7.2 Awardee’s Representative(s). The Awardee’s Authorized Representatives are responsible for completing the Event and the representations and warranties of Provision 2.1.

Print Name: _____

Print Name: _____

Email: _____

Email: _____

Phone: _____

Phone: _____

7.3 Change of Representative(s). If Authorized Representatives for either party change at any time during this Agreement, the party changing Representatives must immediately notify the other party.

7.4 Communication. Whenever any statement, document or other communication is required between Representatives, the above phone numbers and email addresses shall be used for the communication.

PROVISION 8 – LIABILITY

8.1 Liability. The Awardee must indemnify, defend, and hold MAPFAB and the Town harmless from any claims or causes of action, including attorney's fees incurred by MAPFAB or the Town, arising from the performance of this Agreement by the Awardee or the Awardee's representatives, agents or employees. This provision will not be construed to bar any legal remedies the Awardee may have for MAPFAB's failure to fulfill its obligations under this Agreement.

PROVISION 9 – SURETY BOND AND INSURANCE

9.1 Surety Bond. Without limiting Awardee's liability pursuant to Provision 8, Awardee shall maintain, during the full term of this Agreement, a Performance, Payment and Indemnity Bond for default or negligent acts, errors or omission with respect to professional or technical services, failure to re-pay funds in the event of a breach or termination if any, required in the performance of this Agreement and the Event with limits not less than half a million dollars (\$500,000) each claim.

9.2 Commercial General Liability Insurance. Commercial General Liability Insurance with limits not less than one million five hundred thousand dollars (\$1,500,000) each occurrence and two million dollars (\$2,000,000) general aggregate for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; an Excess or Umbrella liability policy in the amount of five million dollars (\$5,000,000); Employer's Liability of one million dollars (\$1,000,000) and an automobile liability policy in the amount of one million dollars (\$1,000,000) combined single limit, and shall name MAPFAB and the Town as additional insureds.

9.3 Required Post Expiration Coverage. Should any of the bond or insurance required hereunder be provided under a claims-made form, Awardee shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of one (1) year beyond the expiration or termination of this Agreement, to the effect that, should occurrences during the term hereof give rise to claims after expiration or termination of the Agreement, such claims shall be covered by such claims-made policies.

9.4 Evidence of Insurance. Before beginning any operations under this Agreement or the Application, Awardee shall furnish to MAPFAB Representatives certificates of bond and insurance evidencing all coverages set forth above and shall furnish complete copies of policies upon MAPFAB's request.

PROVISION 10 – AUDITS

10.1 Audits. The Awardee's books, records, documents, and accounting procedures and practices of the Awardee or other party relevant to this Agreement or transaction are subject to examination by MAPFAB and/or the Finance Director of the Town of West Yellowstone and/or their agents, as appropriate, for a minimum of one (1) calendar year from the end of this Agreement, receipt and approval of all final reports or the period of time to satisfy all Town and MAP Fund Award Program retention requirements, whichever is later.

PROVISION 11 – ORDER OF PREFERENCE; INCORPORATION BY REFERENCE

11.1 Order of Preference; Incorporation by Reference. Any inconsistency or ambiguity in this Agreement shall be resolved by giving precedence in the following order: 1) requirements imposed by applicable federal or state law or Town's legal precedents, 2) this Agreement, 3) the Awardee's MAP Fund Event Application, and 4) the Event Application's various accompanying and referenced documents prepared by MAPFAB and/or completed by the Awardee, i.e. MAP Fund Policies and Procedures, MAP Fund Information, AFR, ERR, Addendum A. All of the foregoing are incorporated fully herein by reference.

PROVISION 12 – BREACH OR DEFAULT; REMEDIES; TERMINATION

12.1 Breach or Default. A breach or default under this Agreement shall include but not be limited to any failure to comply with Federal, State or local laws, statutes, ordinances, rules, regulations, requirements, or the terms and conditions of the MAP Fund Program and this Agreement, or any material misrepresentation in the Application and supporting document submissions.

If MAPFAB and/or the Town determine that the Awardee has breached or is in default under this Agreement, then MAPFAB and/or the Town may take any remedial action legally available. Actions that may constitute a breach or default under this Agreement include but are not limited to:

- a. Any false or misleading statement or material misrepresentation in this Agreement, the Application and supporting submissions, in any claim or expense payment request or in any other document submitted to MAPFAB and/or the Town under this Agreement.
- b. Expenditure or use of funds provided under this Award for any purpose, in any manner or at any time, other than as authorized by and in conformance with this Award, the Event Budget and Agreement.
- c. Failure to comply with the MAP Fund Program requirements or any other Federal, State, or local laws, statutes, ordinances, rules, regulations, or requirements applicable in operating the MAP Fund Program.
- d. Excessive delay or failure to perform any obligation or otherwise fail to proceed in a manner consistent with the plans, tasks, activities and timelines of the Application; or
- e. Failure to comply with, or any material breach of, any other requirements, conditions, provisions, or terms of this Agreement.

12.2 Additional Conditions. If the Awardee breaches any term of this Agreement or remains in default after notice under this Agreement, MAPFAB and/or the Town may impose additional conditions to remedy such breach or default. Additional conditions may include, but are not limited to:

- a. Requiring corrected, additional and/or more detailed documentation, reports or financial accounting; and,
- b. Requiring the Awardee to change plans, methods, activities and actions or obtain additional assistance.

12.3 Other Remedies. If MAPFAB and/or the Town determine that a breach or default can't be remedied by imposing additional conditions, MAPFAB and/or the Town may take one or more of the following actions, individually or in combination with any other remedy:

- a. Require the immediate return of any previously disbursed Award funds that have been claimed or expended by the Awardee in breach or default of the terms of this Agreement.
- b. Temporarily withhold all or any portion of the Award funds not yet disbursed, regardless of whether the Awardee has previously submitted claims or whether MAPFAB and/or the Town have approved the disbursement of funds requested in any claim, pending correction of the breach or default.
- c. Disallow all or part of the cost of the service, activity, action or claim not in compliance.
- d. Wholly or partly suspend or terminate the Award.
- e. Reduce the Award in the amount affected by the breach or default.
- f. Take other remedies that may be legally available, including injunction, requiring reimbursement by the Awardee under the Awardee's bond and insurance policies for Award amounts used improperly or in breach or default of the terms of this Agreement, including reimbursement for attorney's fees, costs and interest at the statutory rate in effect at the time of the breach.

12.4 Termination for Cause. If the Awardee materially breaches or defaults under this Agreement, MAPFAB may terminate the Award and this Agreement. Material breaches include, but are not limited to failure to comply with the provisions of this Agreement, submission of false payment claims, failure to achieve reasonable progress on the Event, failure to fulfill the purposes for which the funds were awarded or any other findings regarding an Awardee's failure to abide by the terms of the Award and this Agreement that would support a termination of funding, the determination of which shall be exclusively within MAPFAB's discretion.

MAPFAB shall give the Awardee written notice specifying the date and the extent to which such termination, including the termination of their rights thereunder, becomes effective. At MAPFAB's discretion, the Awardee may be allowed ten (10) days to provide information and documentation challenging the termination or cure the breach or default. Upon termination, the Awardee will be entitled to payment of eligible expenses, determined on a pro rata basis, for services satisfactorily performed. MAPFAB will not be liable for work on the Event performed after the effective date of termination.

12.5 Termination for Convenience. Notwithstanding any other provision of this Agreement to the contrary, either party may terminate this Agreement and Award, at any time, for any reason, by giving the other party a thirty (30) day written notice specifying the date and the extent to which such termination, including the termination of rights thereunder, becomes effective. If terminated for convenience by Awardee, Awardee shall immediately return all funds previously distributed.

12.6 Termination for Insufficient Funding. MAPFAB may immediately terminate this Award if funding cannot be continued at a level sufficient to allow for the payment of the Event Budget's services and expenses. MAPFAB shall exercise this option by giving the Awardee a ten (10) day written notice specifying the date and the extent to which such termination becomes effective. MAPFAB is not obligated to pay for any services or expenses that are provided after notice and effective date of termination. However, the Awardee may be entitled to payment, determined on a pro rata basis, for eligible expenses and services satisfactorily performed to the extent that funds are available.

12.7 Termination for Force Majeure. One or both parties may be relieved from performing their contractual obligations under this Agreement and Award when certain external circumstances that are unforeseeable,

unavoidable and/or beyond their control arise, making performance inadvisable, impracticable, illegal, or impossible. External circumstances include but are not limited to 1) atypical weather (excessive or lack of precipitation, extreme heat or cold) and natural disasters or “acts of God” (wildfires, floods, earthquakes, super volcanoes, hurricanes, tornadoes), and 2) catastrophes created by humans, i.e. governmental or societal actions (pandemic, civil unrest, labor strikes).

If the performance of this Agreement and the Event cannot be continued due to force majeure, the parties may be exempted from liabilities in whole or part according to the impact of the force majeure. If either party cannot perform this Agreement or Event due to force majeure, it shall 1) promptly notify the other party, 2) submit sufficient proof of force majeure, 3) make reasonable efforts to reduce the consequences and minimize possible losses by either party, and 4) resume the performance of all relevant or remaining obligations as soon as possible after the termination of the force majeure. MAPFAB may, within its sole discretion, require repayment from the Awardee for funds previously distributed regardless of the reason or cancellation of the event.

12.8 Remedies Nonexclusive. Each of the remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The remedies contained herein are in addition to all other remedies available to MAPFAB and the Town in law or in equity by statute or otherwise and the exercise of any such remedy shall not preclude or in any way be deemed to waive any other remedy.

PROVISION 13 – MISCELLANEOUS PROVISIONS

13.1 Modification and Waiver. No modification, waiver, amendment, or addition to any of the terms of this Agreement shall be effective unless set forth in writing signed by the Parties. The failure of MAPFAB to enforce any provision of this Agreement shall not be construed to be a waiver of such provision or of the right of MAPFAB thereafter to enforce each and every provision hereof.

13.2 Other Writings. Except for this Agreement and the Awardee’s application, this Agreement supersedes all previous agreements, written or oral, between the Parties. Paragraph headings are for convenience only and should not be construed as part of this Agreement.

13.3 Severability. All provisions, terms, conditions, paragraphs, sub-paragraphs, agreements and covenants ("Provisions") contained in this Agreement are severable and, in the event any one of them shall be held to be invalid by any court of competent jurisdiction, this Agreement shall be interpreted as modified by the court or as if such Provision was not contained herein, but in either event such determination shall not otherwise affect the validity of any other Provisions.

13.4 Choice of Law and Jurisdiction. This Agreement shall become effective as of the date set forth below and shall be governed by, and construed in accordance with, the internal, substantive laws of the State of Montana. The Parties agree that the state courts located in Gallatin County, Montana shall have jurisdiction in any action, suit or proceeding against MAPFAB based in part on or arising out of this Agreement, and Awardee hereby: (a) submits to the personal jurisdiction of such courts; (b) consents to service of process in connection with any action, suit or proceeding against Awardee; and (c) waives any other requirement (whether imposed by statute, rule of court or otherwise) with respect to personal jurisdiction, venue or service of process.

13.5 Assignments. This Agreement is not assignable by either party without the prior written consent of the other, except that MAPFAB may assign it to any assignee or successor to all of any substantial part of MAPFAB.

BY SIGNING BELOW, the Awardee and MAPFAB have, through their duly Authorized Representatives, entered into this Agreement. The parties, having read and understood the foregoing terms of this Agreement, do by their respective signatures dated below agree to the terms thereof.

{Awardee}

{Awardee}

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

{MAPFAB}

{MAPFAB}

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____