

RESOLUTION NO. _____

WHEREAS, on March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law which provided for State and Local Fiscal Recovery Funds; and

WHEREAS, on November 4, 2021 the City Council adopted a plan of spending for the ARPA funds; and

WHEREAS, in this resolution a portion of this grant was set aside in support of culture and tourism centers within the City of Huntsville; and

WHEREAS, the City met with each of the entities and reviewed the rules and procedures required for funding with ARPA. Projects submitted were reviewed for compliance with the provisions of the interim final rule as provided by the U. S. Treasury; and

WHEREAS, The City worked with Counsel to develop sub-recipient agreements which meets the requirements set forth by the U.S. Treasury, and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Huntsville, Alabama does authorize the Mayor and his designees to enter into subrecipient agreements with the Huntsville Museum of Art, U.S. Space & Rocket Center, Huntsville Botanical Garden, Burritt on the Mountain, and EarlyWorks Family of Museums and may engage appropriate persons or businesses in order to execute the agreements.

ADOPTED this the 27th day of January, 2022

President of the City Council of the
City of Huntsville, Alabama

APPROVED this the 27th day of January, 2022

Mayor of the City of Huntsville, Alabama

CITY OF HUNTSVILLE, ALABAMA
AMERICAN RESCUE PLAN ACT – CORONAVIRUS STATE AND LOCAL FISCAL
RECOVERY FUNDS
SUBRECIPIENT AGREEMENT

This Agreement between the City of Huntsville, a political subdivision of the State of Alabama (the “City”) and Huntsville Museum of Art (the “Subrecipient”) shall be effective on the date signed by the City and the Subrecipient (the “Effective Date”). This Agreement shall apply to all funds provided by the City to the Subrecipient from the U.S. Department of the Treasury American Rescue Plan Act – Coronavirus State and Local Fiscal Recovery Funds.

RECITALS

WHEREAS, Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) (the “ARPA”), authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”).

WHEREAS, Treasury has allocated \$34,402,593 to the City as a “recipient”;

WHEREAS, funds awarded under the APRA-SLFRF may be used only for certain statutory eligible uses;

WHEREAS, Treasury’s interim final rule (“IFR”) contemplates that recipients like the City may transfer funds to entities (“subrecipients”) to carry out an eligible project or program on behalf of the recipient with the recipient’s Federal award funding;

WHEREAS, the subrecipient must comply with the statutory and regulatory requirements and the terms and conditions of the Federal award made to the recipient;

WHEREAS, the subrecipient must abide by the restrictions on use applicable to the recipient under the ARPA and other applicable law and program guidance;

NOW, THEREFORE, in consideration of the mutual promises and undertakings as contained in this Agreement, the sufficiency of which is hereby acknowledged by each party, the parties agree as follows:

1. USE OF FUNDS

- A. Subrecipient understands and agrees that the funds disbursed under this subaward may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- B. Subrecipient may only use the funds to carry out the eligible project or program on behalf of the City as described in **Exhibit A – Scope of Subaward**, which may be revised by the Parties in a signed writing without amendment to this Agreement.
- C. Subrecipient shall not engage in any project using this assistance unless it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. AWARD AMOUNT

- A. The amount of funding transferred to Subrecipient by the City for each eligible project or program is indicated on **Exhibit A – Scope of Subaward**, which may be revised by the Parties in a signed writing without amendment to this Agreement.
- B. Funding will be disbursed on a reimbursement basis according to expenditure reports submitted to the City monthly. Expenditure reports will be submitted to the Grants Manager no later than the 5th business day of the month. For months without applicable expenditures, a report showing no reimbursement request should still be submitted to the Grants Manager by the 5th business day of the month.

3. PERIOD OF PERFORMANCE

The period of performance for this subaward begins on the Effective Date and ends on December 31, 2026. As set forth in Treasury's implementing regulations, the funds may be used to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024, although funds may be expended through December 31, 2026. Any unused funds for a particular project must be returned to the City within 30 days of the project's end date, as indicate on **Exhibit A – Scope of Subaward**. All unused funds as of January 1, 2027 must be returned to the City by March 1, 2027. Subrecipient will be responsible to reimburse the City any funds used by the Subrecipient outside of the period of performance.

4. REPORTING

- A. Subrecipient agrees to comply with all reporting requirements established by Treasury as they relate to this award, including financial, performance, and compliance reporting as described in the latest version of *Coronavirus State and Local Fiscal Recovery Funds Guidance on Recipient Compliance and Reporting Responsibilities* published by Treasury and available at <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf> ("Treasury Reporting Guidance").
- B. Expenditures may be reported on a cash or accrual basis, as long as the methodology is disclosed and consistently applied.
- C. Reporting must be consistent with the definition of expenditures in 2 C.F.R. § 200.1.
- D. Subrecipient must appropriately maintain accounting records for compiling and reporting accurate, compliant financial data, in accordance with the appropriate accounting standards and principles.
- E. Subrecipient must establish controls to ensure completion and timely submission of all mandatory performance and/or compliance reporting.
- F. Subrecipient must provide the City with the information necessary for the City to produce and submit a quarterly Project and Expenditure Report to Treasury.
 - i. *Due Dates.* Project Expenditure Reports are due from the City to Treasury on October 31, January 31, April 30, and July 31, beginning October 31, 2021 through October 31, 2026, with a final report due March 31, 2027. In order for the City to meet these deadlines, Subrecipient must provide the required information to the

City for inclusion in the report no later than 15 calendar days prior to the City's deadline.

- ii. *Contents.* Subrecipient must provide information to the City as requested on all projects funded under this Agreement when requested and as part of quarterly and ad hoc reporting completed by the City. This information includes, but is not limited to:
 - (a) Subrecipient identifying and demographic information (e.g., DUNS number and location).
 - (b) Award number (e.g., Agreement number, Loan number).
 - (c) Award date, type, amount, and description.
 - (d) Primary place of performance.
 - (e) Quarterly obligation and expenditure amount.
 - (f) Project Name and Description
 - (g) Additional programmatic performance indicators for select Expenditure Categories as indicated in Treasury's Reporting Guidance.

5. MAINTENANCE OF AND ACCESS TO RECORDS

- A. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- B. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of subrecipient in order to conduct audits or other investigations.
- C. Records shall be maintained by subrecipient for a period of five years after all funds have been expended or returned to Treasury, whichever is later.

6. AUDITS AND MONITORING

- A. In accounting for the receipt and expenditure of funds under this Agreement, the Subrecipient must follow Generally Accepted Accounting Principles ("GAAP"). As defined by 2 C.F.R. § 200.49, "GAAP has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB)."
- B. Any audit of the Subrecipient's performance under this Agreement will use Generally Accepted Government Auditing Standards ("GAGAS"). As defined by 2 C.F.R. § 200.50, "GAGAS, also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits."
- C. If an audit shows that all or any portion of the funds disbursed under this Agreement were not spent in accordance with the conditions of and strict compliance with this Agreement, the Subrecipient will be liable for reimbursement to the City of all such funds within 30 days after the City has notified the Subrecipient of such non-compliance.

- D. The Subrecipient must have all audits completed by an independent auditor. The audits must be received by the City no later than nine months from the end of the Subrecipient's fiscal year.
- E. Fund payments are considered to be federal financial assistance subject to the Single Audit Act and the related provisions of the Uniform Guidance (2 C.F.R. Part 200).
- F. In addition to reviews of audits conducted in accordance with subparagraphs A-E above, monitoring procedures may include, but not be limited to, on-site visits by City staff, limited scope audits, or other procedures. The Subrecipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the City. In the event that the City determines that a limited scope audit of the Subrecipient is appropriate, the Subrecipient agrees to comply with any additional instructions provided by the City to the Subrecipient regarding such audit.

7. PRE-AWARD COSTS

Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding under this Agreement.

8. CONFLICTS OF INTEREST

Subrecipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Subrecipients must disclose in writing to the City any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. COMPLIANCE WITH APPLICABLE LAW, REGULATIONS, POLICY, AND PROGRAM GUIDANCE

- A. Subrecipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- B. Federal regulations applicable to this funding include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- C. Statutes and regulations prohibiting discrimination applicable to this funding include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. REMEDIES

In the event of Subrecipient's noncompliance with this Agreement, section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, the City may impose additional conditions on the receipt of a subsequent tranche of future funds, if any, or take other available remedies, as the City deems appropriate. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment by the City.

11. HATCH ACT

Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. FALSE STATEMENTS

Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

13. PUBLICATIONS

- A. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to the City of Huntsville by the U.S. Department of the Treasury."
- B. Any publications produced with funds from this award or pertaining to projects or programs administered with funds from this award must be approved by the City prior to publication.

14. DEBTS OWED TO THE CITY

- A. Any funds paid to Subrecipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of its award from Treasury; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by the City shall constitute a debt to the City.
- B. Any debts determined to be owed the City must be paid promptly by Subrecipient.
- C. A debt is delinquent if it has not been paid by the date specified in the City's initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 13(a). The City will take any actions available to it to collect such a debt.

15. PROTECTIONS FOR WHISTLEBLOWERS

- A. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- B. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- C. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

16. INCREASING SEAT BELT USE IN THE UNITED STATES

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating Subrecipient-owned, rented, or personally-owned vehicles.

17. REDUCING TEXT MESSAGING WHILE DRIVING

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient is encouraged to adopt and enforce policies that ban text messaging while driving.

18. TERMINATION

- A. *For Cause.* The City may terminate this Agreement for cause immediately upon written notice to the Subrecipient. Cause can include misuse of funds, fraud, lack of compliance with applicable rules, laws, and regulations, failure to perform on time, and refusal by the Subrecipient to permit public access to any document, paper, letter, or other material subject to disclosure under Al. Code §36-25A-1, as amended.

- B. *For Convenience by the City.* The City may terminate this Agreement for convenience or when it determines, in its sole discretion, that continuing the Agreement would not produce beneficial results in line with further expenditures of funds, but providing the Subrecipient with 30 calendar days' prior written notice. The notice will state the effective date of the termination and the procedures for proper closeout of this Agreement.
- C. *For Convenience by the Parties.* The Parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of this Agreement.
- D. *Termination Procedures.* In the event this Agreement is terminated, the Subrecipient will not incur new obligations for the terminated portion of this Agreement after they have received the notification of termination, except as otherwise indicated in the notice. The Subrecipient will cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed, except as otherwise indicate in the notice. Termination will not relieve Subrecipient of liability to the City because of any breach of this Agreement by the Subrecipient. The City may, to the extent authorized by law, withhold payments to the Subrecipient for the purpose of set-off until the exact amount of damages due the City from the Subrecipient is determined.

19. EQUAL EMPLOYMENT OPPORTUNITY

To the extent this Agreement is a federally assisted construction contract as defined in 41 C.F.R. § 60-1.3, the Subrecipient agrees that during the performance of this Agreement:

- A. Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. Subrecipient will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee

or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- D. Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. Subrecipient will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. Subrecipient will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of the Subrecipient's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- H. Subrecipient will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (A) through (H) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Subrecipient will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The City further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the City so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The City agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The City further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the City agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the City under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from the City; and refer the case to the Department of Justice for appropriate legal proceedings.

20. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

To the extent this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, the following terms apply:

- A. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (A) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for

liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.

- C. Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.
- D. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (D) of this section.

21. COMPLIANCE WITH CLEAN AIR ACT AND CLEAN WATER ACT

- A. Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq.
- B. Subrecipient agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to Treasury and the appropriate Environmental Protection Agency Regional Office.
- C. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by the Federal Government.

22. SUSPENSION AND DEBARMENT

Federal regulations restrict the City from contracting with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities, where the contract is funded in whole or in part with federal funds. Accordingly, a contract or subcontract must not be made with any parties listed on the SAM Exclusions list. SAM Exclusions is the list maintained by the General Services Administration that contains the name of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under certain statutory or regulatory authority. The Subrecipient can verify its status and the status of its principals, affiliates, and subcontractors at www.SAM.gov.

- A. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. Subrecipient must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. Subrecipient must execute the certification attached hereto as **Exhibit B**. This certification is a material representation of fact relied upon by the City. If it is later determined that Subrecipient did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

23. BYRD ANTI-LOBBYING AMENDMENT

If funds transferred under this Agreement equal \$100,000 or more, Subrecipient shall file the required certification found at APPENDIX A, 44 C.F.R. PART 18 and attached hereto as **Exhibit C**. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

24. PROCUREMENT OF RECOVERED MATERIALS

- A. In the performance of this Agreement, the Subrecipient shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 - i. Competitively within a timeframe providing for compliance with the Agreement performance schedule;
 - ii. Meeting Contract performance requirements; or
 - iii. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.
- C. The Subrecipient also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

25. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

A. *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as indicated and/or specifically defined in section 889 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232). In the absence of an indicated meaning or definition in section 889 of NDAA FY 2019 or guidance from Treasury, Subrecipient may also look to FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), for guidance on these terms.

B. Prohibitions.

- i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- ii. Unless an exception in paragraph (C) of this clause applies, the Subrecipient and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Government to:
 - (a) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (b) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (c) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system;
or
 - (d) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

C. Exceptions.

- i. This clause does not prohibit contractors from providing—

- (a) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - (b) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- ii. By necessary implication and regulation, the prohibitions also do not apply to:
 - (a) Covered telecommunications equipment or services that:
 - 1. Are not used as a substantial or essential component of any system; and
 - 2. Are not used as critical technology of any system.
 - (b) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

D. Reporting requirement.

- i. In the event the Subrecipient identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Subrecipient is notified of such by a subcontractor at any tier or by any other source, the Subrecipient shall report the information in paragraph (D)(ii) of this clause to the City, unless elsewhere in this Agreement are established procedures for reporting the information.
- ii. The Subrecipient shall report the following information pursuant to paragraph (d)(1) of this clause:
 - (a) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (b) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

E. *Subcontracts*. The Subrecipient shall insert the substance of this clause, including this paragraph (E), in all subcontracts and other contractual instruments.

26. DOMESTIC PREFERENCES FOR PROCUREMENTS

- A. As appropriate, and to the extent consistent with law, Subrecipient should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.
- B. For purposes of this clause:
- i. Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - ii. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

27. SIGNATURES

CITY OF HUNTSVILLE, ALABAMA

HUNTSVILLE MUSEUM OF ART

Signature



Signature

Name



Name

Title



Title

Date



Date

EXHIBIT A: SCOPE OF SUBAWARD

Project No.	Project Title	Project Description	Project Start Date	Project End Date	Amount of Approved Funding
SLFRF-08	Fine Art Empowers Diversity, Accessibility and Tourism	Funding from ARPA – SLFRF will allow Huntsville Museum of Art to recover from the public health emergency through three branches. First, the Museum will bring historically and culturally significant exhibitions that were put on hold to the North Alabama region due to the COVID-19 pandemic, enhancing the attraction Huntsville offers to community members and tourists alike. Each of these exhibits will incorporate programs thematically tied to the exhibition to engage with schools and community groups which were disproportionately affected by the pandemic and its subsequent recession and recovery period. Second, the Museum will expand classes for children, adolescents, and adults, as well as enhance the Museum visitor educational experience through robust programming and accessibility features. Third, the Museum will use funds to grow programs for underserved populations which engage these community members through free and reduced-price admission.	07/31/2021	9/30/2024	\$405,000

EXHIBIT B: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER-TIER COVERED TRANSACTIONS

“Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.” (2 CFR 200.212)

This certification is required by regulations implementing Executive Order 12549, Debarment and Suspension, for all lower-tier transactions meeting the threshold and tier requirements. (2 CFR 180.300)

Terms Defined

- *Nonprocurement Transaction:* A transaction under federal non-procurement programs, which can be either a primary covered transaction or a lower-tier covered transaction. (2 CFR 180.970)
- *Lower-Tier Covered Transaction:* (1) Any transaction between a participant and a person other than a procurement contract for goods or services, regardless of type, under a primary covered transaction; (2) any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed \$25,000; (3) any procurement contract for goods or services between a participant and a person under a covered transaction, regardless of amount
- *Participant:* Any person who submits a proposal for or who enters into a covered transaction, including an agent or representative of a participant. (2 CFR 180.980)
- *Principal:* An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or a consultant or other person, whether or not employed by the participant or paid with federal funds, who (1) is in a position to handle federal funds; (2) is in a position to influence or control the use of those funds; or (3) occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR 180.995)
- *System for Award Management (SAM) Exclusions:* The list maintained and disseminated by the General Services Administration (GSA) containing names and other information about persons who are ineligible. (2 CFR 180.945).
- *Debarment:* Action taken by a debarring official to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred. (2 CFR 180.925)
- *Suspension:* Action taken by a suspending official that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency

investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 CFR 180.1015)

- *Ineligible or Ineligibility:* A person or commodity is prohibited from covered transactions because of an exclusion or disqualification. (2 CFR 180.960)
- *Person:* Any individual, corporation, partnership, association, unit of government, or legal entity, however organized. (2 CFR 180.985)
- *Proposal:* A solicited or unsolicited bid, application, request, invitation to consider, or similar communication by or on behalf of a person seeking to participate or to receive a benefit, directly or indirectly, in or under a covered transaction.
- *Voluntary Exclusion:* A person's agreement to be excluded under the terms of a settlement between the person and one or more agencies. Voluntary exclusion must have governmentwide effect. (2 CFR 180.1020)
- *Voluntarily Excluded:* The status of a person who has agreed to a voluntary exclusion. (2 CFR 180.1020)

Instructions for Certification

1. By signing and submitting this proposal or agreement, the prospective lower-tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower-tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower-tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower-tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower-tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower-tier participant agrees by signing or certifying and submitting this proposal or agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower-tier participant further agrees by signing or certifying and submitting this proposal or agreement that it will include the clause titled Certification Regarding

Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower-Tier Covered Transactions, without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower-tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the non-procurement list.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower-tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—
Lower-Tier Covered Transactions**

1. The prospective lower-tier participant certifies, by signing or certifying and submitting this proposal or agreement, that neither it 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.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

Contractor Name

Contract Number

Name

Title

Signature

Date

**EXHIBIT C: CERTIFICATION REGARDING LOBBYING FOR CONTRACTS,
GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 (as amended by the Lobbying Disclosure Act of 1995). 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.

CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

CONTRACTOR Name

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

CITY OF HUNTSVILLE, ALABAMA
AMERICAN RESCUE PLAN ACT – CORONAVIRUS STATE AND LOCAL FISCAL
RECOVERY FUNDS
SUBRECIPIENT AGREEMENT

This Agreement between the City of Huntsville, a political subdivision of the State of Alabama (the “City”) and EarlyWorks Family of Museums (the “Subrecipient”) shall be effective on the date signed by the City and the Subrecipient (the “Effective Date”). This Agreement shall apply to all funds provided by the City to the Subrecipient from the U.S. Department of the Treasury American Rescue Plan Act – Coronavirus State and Local Fiscal Recovery Funds.

RECITALS

WHEREAS, Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) (the “ARPA”), authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”).

WHEREAS, Treasury has allocated \$34,402,593 to the City as a “recipient”;

WHEREAS, funds awarded under the APRA-SLFRF may be used only for certain statutory eligible uses;

WHEREAS, Treasury’s interim final rule (“IFR”) contemplates that recipients like the City may transfer funds to entities (“subrecipients”) to carry out an eligible project or program on behalf of the recipient with the recipient’s Federal award funding;

WHEREAS, the subrecipient must comply with the statutory and regulatory requirements and the terms and conditions of the Federal award made to the recipient;

WHEREAS, the subrecipient must abide by the restrictions on use applicable to the recipient under the ARPA and other applicable law and program guidance;

NOW, THEREFORE, in consideration of the mutual promises and undertakings as contained in this Agreement, the sufficiency of which is hereby acknowledged by each party, the parties agree as follows:

1. USE OF FUNDS

- A. Subrecipient understands and agrees that the funds disbursed under this subaward may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- B. Subrecipient may only use the funds to carry out the eligible project or program on behalf of the City as described in **Exhibit A – Scope of Subaward**, which may be revised by the Parties in a signed writing without amendment to this Agreement.
- C. Subrecipient shall not engage in any project using this assistance unless it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. AWARD AMOUNT

- A. The amount of funding transferred to Subrecipient by the City for each eligible project or program is indicated on **Exhibit A – Scope of Subaward**, which may be revised by the Parties in a signed writing without amendment to this Agreement.
- B. Funding will be disbursed on a reimbursement basis according to expenditure reports submitted to the City monthly. Expenditure reports will be submitted to the Grants Manager no later than the 5th business day of the month. For months without applicable expenditures, a report showing no reimbursement request should still be submitted to the Grants Manager by the 5th business day of the month.

3. PERIOD OF PERFORMANCE

The period of performance for this subaward begins on the Effective Date and ends on December 31, 2026. As set forth in Treasury's implementing regulations, the funds may be used to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024, although funds may be expended through December 31, 2026. Any unused funds for a particular project must be returned to the City within 30 days of the project's end date, as indicate on **Exhibit A – Scope of Subaward**. All unused funds as of January 1, 2027 must be returned to the City by March 1, 2027. Subrecipient will be responsible to reimburse the City any funds used by the Subrecipient outside of the period of performance.

4. REPORTING

- A. Subrecipient agrees to comply with all reporting requirements established by Treasury as they relate to this award, including financial, performance, and compliance reporting as described in the latest version of *Coronavirus State and Local Fiscal Recovery Funds Guidance on Recipient Compliance and Reporting Responsibilities* published by Treasury and available at <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf> ("Treasury Reporting Guidance").
- B. Expenditures may be reported on a cash or accrual basis, as long as the methodology is disclosed and consistently applied.
- C. Reporting must be consistent with the definition of expenditures in 2 C.F.R. § 200.1.
- D. Subrecipient must appropriately maintain accounting records for compiling and reporting accurate, compliant financial data, in accordance with the appropriate accounting standards and principles.
- E. Subrecipient must establish controls to ensure completion and timely submission of all mandatory performance and/or compliance reporting.
- F. Subrecipient must provide the City with the information necessary for the City to produce and submit a quarterly Project and Expenditure Report to Treasury.
 - i. *Due Dates.* Project Expenditure Reports are due from the City to Treasury on October 31, January 31, April 30, and July 31, beginning October 31, 2021 through October 31, 2026, with a final report due March 31, 2027. In order for the City to meet these deadlines, Subrecipient must provide the required information to the

City for inclusion in the report no later than 15 calendar days prior to the City's deadline.

- ii. *Contents.* Subrecipient must provide information to the City as requested on all projects funded under this Agreement when requested and as part of quarterly and ad hoc reporting completed by the City. This information includes, but is not limited to:

- (a) Subrecipient identifying and demographic information (e.g., DUNS number and location).
- (b) Award number (e.g., Agreement number, Loan number).
- (c) Award date, type, amount, and description.
- (d) Primary place of performance.
- (e) Quarterly obligation and expenditure amount.
- (f) Project Name and Description
- (g) Additional programmatic performance indicators for select Expenditure Categories as indicated in Treasury's Reporting Guidance.

5. MAINTENANCE OF AND ACCESS TO RECORDS

- A. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- B. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of subrecipient in order to conduct audits or other investigations.
- C. Records shall be maintained by subrecipient for a period of five years after all funds have been expended or returned to Treasury, whichever is later.

6. AUDITS AND MONITORING

- A. In accounting for the receipt and expenditure of funds under this Agreement, the Subrecipient must follow Generally Accepted Accounting Principles ("GAAP"). As defined by 2 C.F.R. § 200.49, "GAAP has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB)."
- B. Any audit of the Subrecipient's performance under this Agreement will use Generally Accepted Government Auditing Standards ("GAGAS"). As defined by 2 C.F.R. § 200.50, "GAGAS, also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits."
- C. If an audit shows that all or any portion of the funds disbursed under this Agreement were not spent in accordance with the conditions of and strict compliance with this Agreement, the Subrecipient will be liable for reimbursement to the City of all such funds within 30 days after the City has notified the Subrecipient of such non-compliance.

- D. The Subrecipient must have all audits completed by an independent auditor. The audits must be received by the City no later than nine months from the end of the Subrecipient's fiscal year.
- E. Fund payments are considered to be federal financial assistance subject to the Single Audit Act and the related provisions of the Uniform Guidance (2 C.F.R. Part 200).
- F. In addition to reviews of audits conducted in accordance with subparagraphs A-E above, monitoring procedures may include, but not be limited to, on-site visits by City staff, limited scope audits, or other procedures. The Subrecipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the City. In the event that the City determines that a limited scope audit of the Subrecipient is appropriate, the Subrecipient agrees to comply with any additional instructions provided by the City to the Subrecipient regarding such audit.

7. PRE-AWARD COSTS

Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding under this Agreement.

8. CONFLICTS OF INTEREST

Subrecipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Subrecipients must disclose in writing to the City any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. COMPLIANCE WITH APPLICABLE LAW, REGULATIONS, POLICY, AND PROGRAM GUIDANCE

- A. Subrecipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- B. Federal regulations applicable to this funding include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- C. Statutes and regulations prohibiting discrimination applicable to this funding include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. REMEDIES

In the event of Subrecipient's noncompliance with this Agreement, section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, the City may impose additional conditions on the receipt of a subsequent tranche of future funds, if any, or take other available remedies, as the City deems appropriate. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment by the City.

11. HATCH ACT

Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. FALSE STATEMENTS

Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

13. PUBLICATIONS

- A. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to the City of Huntsville by the U.S. Department of the Treasury."
- B. Any publications produced with funds from this award or pertaining to projects or programs administered with funds from this award must be approved by the City prior to publication.

14. DEBTS OWED TO THE CITY

- A. Any funds paid to Subrecipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of its award from Treasury; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by the City shall constitute a debt to the City.
- B. Any debts determined to be owed the City must be paid promptly by Subrecipient.
- C. A debt is delinquent if it has not been paid by the date specified in the City's initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 13(a). The City will take any actions available to it to collect such a debt.

15. PROTECTIONS FOR WHISTLEBLOWERS

- A. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- B. The list of persons and entities referenced in the paragraph above includes the following:
- i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- C. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

16. INCREASING SEAT BELT USE IN THE UNITED STATES

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating Subrecipient-owned, rented, or personally-owned vehicles.

17. REDUCING TEXT MESSAGING WHILE DRIVING

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient is encouraged to adopt and enforce policies that ban text messaging while driving.

18. TERMINATION

- A. *For Cause.* The City may terminate this Agreement for cause immediately upon written notice to the Subrecipient. Cause can include misuse of funds, fraud, lack of compliance with applicable rules, laws, and regulations, failure to perform on time, and refusal by the Subrecipient to permit public access to any document, paper, letter, or other material subject to disclosure under Al. Code §36-25A-1, as amended.

- B. *For Convenience by the City.* The City may terminate this Agreement for convenience or when it determines, in its sole discretion, that continuing the Agreement would not produce beneficial results in line with further expenditures of funds, but providing the Subrecipient with 30 calendar days' prior written notice. The notice will state the effective date of the termination and the procedures for proper closeout of this Agreement.
- C. *For Convenience by the Parties.* The Parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of this Agreement.
- D. *Termination Procedures.* In the event this Agreement is terminated, the Subrecipient will not incur new obligations for the terminated portion of this Agreement after they have received the notification of termination, except as otherwise indicated in the notice. The Subrecipient will cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed, except as otherwise indicate in the notice. Termination will not relieve Subrecipient of liability to the City because of any breach of this Agreement by the Subrecipient. The City may, to the extent authorized by law, withhold payments to the Subrecipient for the purpose of set-off until the exact amount of damages due the City from the Subrecipient is determined.

19. EQUAL EMPLOYMENT OPPORTUNITY

To the extent this Agreement is a federally assisted construction contract as defined in 41 C.F.R. § 60-1.3, the Subrecipient agrees that during the performance of this Agreement:

- A. Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. Subrecipient will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee

or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- D. Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. Subrecipient will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. Subrecipient will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of the Subrecipient's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- H. Subrecipient will include the portion of the sentence immediately preceding paragraph (I) and the provisions of paragraphs (A) through (H) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Subrecipient will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The City further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the City so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The City agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The City further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the City agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the City under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from the City; and refer the case to the Department of Justice for appropriate legal proceedings.

20. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

To the extent this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, the following terms apply:

- A. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (A) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for

liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.

- C. Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.
- D. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (D) of this section.

21. COMPLIANCE WITH CLEAN AIR ACT AND CLEAN WATER ACT

- A. Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq.
- B. Subrecipient agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to Treasury and the appropriate Environmental Protection Agency Regional Office.
- C. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by the Federal Government.

22. SUSPENSION AND DEBARMENT

Federal regulations restrict the City from contracting with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities, where the contract is funded in whole or in part with federal funds. Accordingly, a contract or subcontract must not be made with any parties listed on the SAM Exclusions list. SAM Exclusions is the list maintained by the General Services Administration that contains the name of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under certain statutory or regulatory authority. The Subrecipient can verify its status and the status of its principals, affiliates, and subcontractors at www.SAM.gov.

- A. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. Subrecipient must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. Subrecipient must execute the certification attached hereto as **Exhibit B**. This certification is a material representation of fact relied upon by the City. If it is later determined that Subrecipient did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

23. BYRD ANTI-LOBBYING AMENDMENT

If funds transferred under this Agreement equal \$100,000 or more, Subrecipient shall file the required certification found at APPENDIX A, 44 C.F.R. PART 18 and attached hereto as **Exhibit C**. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

24. PROCUREMENT OF RECOVERED MATERIALS

- A. In the performance of this Agreement, the Subrecipient shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 - i. Competitively within a timeframe providing for compliance with the Agreement performance schedule;
 - ii. Meeting Contract performance requirements; or
 - iii. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.
- C. The Subrecipient also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

25. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

A. *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as indicated and/or specifically defined in section 889 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232). In the absence of an indicated meaning or definition in section 889 of NDAA FY 2019 or guidance from Treasury, Subrecipient may also look to FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), for guidance on these terms.

B. *Prohibitions.*

- i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- ii. Unless an exception in paragraph (C) of this clause applies, the Subrecipient and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Government to:
 - (a) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (b) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (c) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system;
or
 - (d) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

C. *Exceptions.*

- i. This clause does not prohibit contractors from providing—

- (a) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - (b) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- ii. By necessary implication and regulation, the prohibitions also do not apply to:
 - (a) Covered telecommunications equipment or services that:
 - 1. Are not used as a substantial or essential component of any system; and
 - 2. Are not used as critical technology of any system.
 - (b) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

D. Reporting requirement.

- i. In the event the Subrecipient identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Subrecipient is notified of such by a subcontractor at any tier or by any other source, the Subrecipient shall report the information in paragraph (D)(ii) of this clause to the City, unless elsewhere in this Agreement are established procedures for reporting the information.
- ii. The Subrecipient shall report the following information pursuant to paragraph (d)(1) of this clause:
 - (a) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (b) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

E. *Subcontracts*. The Subrecipient shall insert the substance of this clause, including this paragraph (E), in all subcontracts and other contractual instruments.

26. DOMESTIC PREFERENCES FOR PROCUREMENTS

A. As appropriate, and to the extent consistent with law, Subrecipient should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

B. For purposes of this clause:

- i. Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- ii. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

27. SIGNATURES

CITY OF HUNTSVILLE, ALABAMA

EARLYWORKS FAMILY OF MUSEUMS

Signature



Signature

Name

BART Williams

Name

Title

EXEC. Director

Title

Date

1/10/2022

Date

EXHIBIT A: SCOPE OF SUBAWARD

Project No.	Project Title	Project Description	Project Start Date	Project End Date	Amount of Approved Funding
SLFRF-09	Reopening Alabama Constitution Hall Park	The EarlyWorks Family of Museums will use ARPA – SLFRF to re-hire the workforce vital for operations at Alabama Constitution Hall Park: one full-time employee and up to eight part-time employees. Funds will ensure the continuation of the development of educational programming and experiences that serve all students and families in our community and across the region while maintaining a health and safe environment. ARPA – SLFRF funds will provide admission assistance to disadvantaged students to attend field trip programs across the EarlyWorks Family of Museums. The investment of this grant into the EarlyWorks Family of Museums helps the recovery of a community treasure that not only teaches students about Alabama’s history, but also serves as a tourist attraction which welcomes visitors from across the country as they explore Huntsville’s downtown during tourists and traveling seasons.	1/31/2022	9/30/2024	\$608,570

**EXHIBIT B: CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER-TIER COVERED
TRANSACTIONS**

“Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.” (2 CFR 200.212)

This certification is required by regulations implementing Executive Order 12549, Debarment and Suspension, for all lower-tier transactions meeting the threshold and tier requirements. (2 CFR 180.300)

Terms Defined

- *Nonprocurement Transaction*: A transaction under federal non-procurement programs, which can be either a primary covered transaction or a lower-tier covered transaction. (2 CFR 180.970)
- *Lower-Tier Covered Transaction*: (1) Any transaction between a participant and a person other than a procurement contract for goods or services, regardless of type, under a primary covered transaction; (2) any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed \$25,000; (3) any procurement contract for goods or services between a participant and a person under a covered transaction, regardless of amount
- *Participant*: Any person who submits a proposal for or who enters into a covered transaction, including an agent or representative of a participant. (2 CFR 180.980)
- *Principal*: An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or a consultant or other person, whether or not employed by the participant or paid with federal funds, who (1) is in a position to handle federal funds; (2) is in a position to influence or control the use of those funds; or (3) occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR 180.995)
- *System for Award Management (SAM) Exclusions*: The list maintained and disseminated by the General Services Administration (GSA) containing names and other information about persons who are ineligible. (2 CFR 180.945).
- *Debarment*: Action taken by a debarring official to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred. (2 CFR 180.925)

- *Suspension*: Action taken by a suspending official that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 CFR 180.1015)
- *Ineligible or Ineligibility*: A person or commodity is prohibited from covered transactions because of an exclusion or disqualification. (2 CFR 180.960)
- *Person*: Any individual, corporation, partnership, association, unit of government, or legal entity, however organized. (2 CFR 180.985)
- *Proposal*: A solicited or unsolicited bid, application, request, invitation to consider, or similar communication by or on behalf of a person seeking to participate or to receive a benefit, directly or indirectly, in or under a covered transaction.
- *Voluntary Exclusion*: A person's agreement to be excluded under the terms of a settlement between the person and one or more agencies. Voluntary exclusion must have governmentwide effect. (2 CFR 180.1020)
- *Voluntarily Excluded*: The status of a person who has agreed to a voluntary exclusion. (2 CFR 180.1020)

Instructions for Certification

1. By signing and submitting this proposal or agreement, the prospective lower-tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower-tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower-tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower-tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower-tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower-tier participant agrees by signing or certifying and submitting this proposal or agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower-tier participant further agrees by signing or certifying and submitting this proposal or agreement that it will include the clause titled Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower-Tier Covered Transactions, without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower-tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the non-procurement list.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower-tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—
Lower-Tier Covered Transactions**

1. The prospective lower-tier participant certifies, by signing or certifying and submitting this proposal or agreement, that neither it 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.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

EARLYWORKS Family of MUSEUMS

Contractor Name

Contract Number

BART WILLIAMS

Name

EXEC. DIRECTOR

Title

[Signature]

Signature

1/10/2022

Date

**EXHIBIT C: CERTIFICATION REGARDING LOBBYING FOR CONTRACTS,
GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 (as amended by the Lobbying Disclosure Act of 1995). 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.

CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Early Works Family of Museums
CONTRACTOR Name

BART WILLIAMS
Signature of Contractor's Authorized Official

BART WILLIAMS - EXEC. DIRECTOR
Name and Title of Contractor's Authorized Official

1/10/2022
Date

CITY OF HUNTSVILLE, ALABAMA
AMERICAN RESCUE PLAN ACT – CORONAVIRUS STATE AND LOCAL FISCAL
RECOVERY FUNDS
SUBRECIPIENT AGREEMENT

This Agreement between the City of Huntsville, a political subdivision of the State of Alabama (the “City”) and The US Space and Rocket Center (the “Subrecipient”) shall be effective on the date signed by the City and the Subrecipient (the “Effective Date”). This Agreement shall apply to all funds provided by the City to the Subrecipient from the U.S. Department of the Treasury American Rescue Plan Act – Coronavirus State and Local Fiscal Recovery Funds.

RECITALS

WHEREAS, Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) (the “ARPA”), authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”).

WHEREAS, Treasury has allocated \$34,402,593 to the City as a “recipient”;

WHEREAS, funds awarded under the APRA-SLFRF may be used only for certain statutory eligible uses;

WHEREAS, Treasury’s interim final rule (“IFR”) contemplates that recipients like the City may transfer funds to entities (“subrecipients”) to carry out an eligible project or program on behalf of the recipient with the recipient’s Federal award funding;

WHEREAS, the subrecipient must comply with the statutory and regulatory requirements and the terms and conditions of the Federal award made to the recipient;

WHEREAS, the subrecipient must abide by the restrictions on use applicable to the recipient under the ARPA and other applicable law and program guidance;

NOW, THEREFORE, in consideration of the mutual promises and undertakings as contained in this Agreement, the sufficiency of which is hereby acknowledged by each party, the parties agree as follows:

1. USE OF FUNDS

- A. Subrecipient understands and agrees that the funds disbursed under this subaward may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- B. Subrecipient may only use the funds to carry out the eligible project or program on behalf of the City as described in **Exhibit A – Scope of Subaward**.
- C. Subrecipient shall not engage in any project using this assistance unless it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. AWARD AMOUNT

- A. The amount of funding transferred to Subrecipient by the City for each eligible project or program is indicated on **Exhibit A – Scope of Subaward**.
- B. Funding will be disbursed on a reimbursement basis according to expenditure reports submitted to the City monthly. Expenditure reports will be submitted to the Grants Manager no later than the 5th business day of the month. For months without applicable expenditures, a report showing no reimbursement request should still be submitted to the Grants Manager by the 5th business day of the month.

3. PERIOD OF PERFORMANCE

The period of performance for this subaward begins on the Effective Date and ends on December 31, 2026. As set forth in Treasury's implementing regulations, the funds may be used to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024, although funds may be expended through December 31, 2026. Any unused funds for a particular project must be returned to the City within 30 days of the project's end date, as indicate on **Exhibit A – Scope of Subaward**. All unused funds as of January 1, 2027 must be returned to the City by March 1, 2027. Subrecipient will be responsible to reimburse the City any funds used by the Subrecipient outside of the period of performance.

4. REPORTING

- A. Subrecipient agrees to comply with all reporting requirements established by Treasury as they relate to this award, including financial, performance, and compliance reporting as described in the latest version of *Coronavirus State and Local Fiscal Recovery Funds Guidance on Recipient Compliance and Reporting Responsibilities* published by Treasury and available at <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf> ("Treasury Reporting Guidance").
- B. Expenditures may be reported on a cash or accrual basis, as long as the methodology is disclosed and consistently applied.
- C. Reporting must be consistent with the definition of expenditures in 2 C.F.R. § 200.1.
- D. Subrecipient must appropriately maintain accounting records for compiling and reporting accurate, compliant financial data, in accordance with the appropriate accounting standards and principles.
- E. Subrecipient must establish controls to ensure completion and timely submission of all mandatory performance and/or compliance reporting.
- F. Subrecipient must provide the City with the information necessary for the City to produce and submit a quarterly Project and Expenditure Report to Treasury.
 - i. *Due Dates.* Project Expenditure Reports are due from the City to Treasury on October 31, January 31, April 30, and July 31, beginning October 31, 2021 through October 31, 2026, with a final report due March 31, 2027. In order for the City to meet these deadlines, Subrecipient must provide the required information to the City for inclusion in the report no later than 15 calendar days prior to the City's deadline.

- ii. *Contents.* Subrecipient must provide information to the City as requested on all projects funded under this Agreement when requested and as part of quarterly and ad hoc reporting completed by the City. This information includes, but is not limited to:

- (a) Subrecipient identifying and demographic information (e.g., DUNS number and location).
- (b) Award number (e.g., Agreement number, Loan number).
- (c) Award date, type, amount, and description.
- (d) Primary place of performance.
- (e) Quarterly obligation and expenditure amount.
- (f) Project Name and Description
- (g) Additional programmatic performance indicators for select Expenditure Categories as indicated in Treasury's Reporting Guidance.

5. MAINTENANCE OF AND ACCESS TO RECORDS

- A. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- B. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of subrecipient in order to conduct audits or other investigations.
- C. Records shall be maintained by subrecipient for a period of five years after all funds have been expended or returned to Treasury, whichever is later.

6. AUDITS AND MONITORING

- A. In accounting for the receipt and expenditure of funds under this Agreement, the Subrecipient must follow Generally Accepted Accounting Principles ("GAAP"). As defined by 2 C.F.R. § 200.49, "GAAP has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB)."
- B. Any audit of the Subrecipient's performance under this Agreement will use Generally Accepted Government Auditing Standards ("GAGAS"). As defined by 2 C.F.R. § 200.50, "GAGAS, also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits."
- C. If an audit shows that all or any portion of the funds disbursed under this Agreement were not spent in accordance with the conditions of and strict compliance with this Agreement, the Subrecipient will be liable for reimbursement to the City of all such funds within 30 days after the City has notified the Subrecipient of such non-compliance.

- D. The Subrecipient must have all audits completed by an independent auditor. The audits must be received by the City no later than nine months from the end of the Subrecipient's fiscal year.
- E. Fund payments are considered to be federal financial assistance subject to the Single Audit Act and the related provisions of the Uniform Guidance (2 C.F.R. Part 200).
- F. In addition to reviews of audits conducted in accordance with subparagraphs A-E above, monitoring procedures may include, but not be limited to, on-site visits by City staff, limited scope audits, or other procedures. The Subrecipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the City. In the event that the City determines that a limited scope audit of the Subrecipient is appropriate, the Subrecipient agrees to comply with any additional instructions provided by the City to the Subrecipient regarding such audit.

7. PRE-AWARD COSTS

Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding under this Agreement.

8. CONFLICTS OF INTEREST

Subrecipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Subrecipients must disclose in writing to the City any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. COMPLIANCE WITH APPLICABLE LAW, REGULATIONS, POLICY, AND PROGRAM GUIDANCE

- A. Subrecipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- B. Federal regulations applicable to this funding include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- C. Statutes and regulations prohibiting discrimination applicable to this funding include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. REMEDIES

In the event of Subrecipient's noncompliance with this Agreement, section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, the City may impose additional conditions on the receipt of a subsequent tranche of future funds, if any, or take other available remedies, as the City deems appropriate. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment by the City.

11. HATCH ACT

Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. FALSE STATEMENTS

Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

13. PUBLICATIONS

- A. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to the City of Huntsville by the U.S. Department of the Treasury."
- B. Any publications produced with funds from this award or pertaining to projects or programs administered with funds from this award must be approved by the City prior to publication.

14. DEBTS OWED TO THE CITY

- A. Any funds paid to Subrecipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of its award from Treasury; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by the City shall constitute a debt to the City.
- B. Any debts determined to be owed the City must be paid promptly by Subrecipient.
- C. A debt is delinquent if it has not been paid by the date specified in the City's initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 13(a). The City will take any actions available to it to collect such a debt.

15. PROTECTIONS FOR WHISTLEBLOWERS

- A. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- B. The list of persons and entities referenced in the paragraph above includes the following:
- i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- C. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

16. INCREASING SEAT BELT USE IN THE UNITED STATES

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating Subrecipient-owned, rented, or personally-owned vehicles.

17. REDUCING TEXT MESSAGING WHILE DRIVING

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient is encouraged to adopt and enforce policies that ban text messaging while driving.

18. TERMINATION

- A. *For Cause.* The City may terminate this Agreement for cause immediately upon written notice to the Subrecipient. Cause can include misuse of funds, fraud, lack of compliance with applicable rules, laws, and regulations, failure to perform on time, and refusal by the Subrecipient to permit public access to any document, paper, letter, or other material subject to disclosure under Al. Code §36-25A-1, as amended.

- B. *For Convenience by the City.* The City may terminate this Agreement for convenience or when it determines, in its sole discretion, that continuing the Agreement would not produce beneficial results in line with further expenditures of funds, but providing the Subrecipient with 30 calendar days' prior written notice. The notice will state the effective date of the termination and the procedures for proper closeout of this Agreement.
- C. *For Convenience by the Parties.* The Parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of this Agreement.
- D. *Termination Procedures.* In the event this Agreement is terminated, the Subrecipient will not incur new obligations for the terminated portion of this Agreement after they have received the notification of termination, except as otherwise indicated in the notice. The Subrecipient will cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed, except as otherwise indicate in the notice. Termination will not relieve Subrecipient of liability to the City because of any breach of this Agreement by the Subrecipient. The City may, to the extent authorized by law, withhold payments to the Subrecipient for the purpose of set-off until the exact amount of damages due the City from the Subrecipient is determined.

19. EQUAL EMPLOYMENT OPPORTUNITY

To the extent this Agreement is a federally assisted construction contract as defined in 41 C.F.R. § 60-1.3, the Subrecipient agrees that during the performance of this Agreement:

- A. Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. Subrecipient will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee

or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- D. Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. Subrecipient will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. Subrecipient will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of the Subrecipient's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- H. Subrecipient will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (A) through (G) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Subrecipient will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The City further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the City so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The City agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The City further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the City agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the City under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from the City; and refer the case to the Department of Justice for appropriate legal proceedings.

20. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

To the extent this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, the following terms apply:

- A. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (A) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for

liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.

- C. Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.
- D. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (D) of this section.

21. COMPLIANCE WITH CLEAN AIR ACT AND CLEAN WATER ACT

- A. Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq.
- B. Subrecipient agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to Treasury and the appropriate Environmental Protection Agency Regional Office.
- C. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by the Federal Government.

22. SUSPENSION AND DEBARMENT

Federal regulations restrict the City from contracting with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities, where the contract is funded in whole or in part with federal funds. Accordingly, a contract or subcontract must not be made with any parties listed on the SAM Exclusions list. SAM Exclusions is the list maintained by the General Services Administration that contains the name of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under certain statutory or regulatory authority. The Subrecipient can verify its status and the status of its principals, affiliates, and subcontractors at www.SAM.gov.

- A. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. Subrecipient must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. Subrecipient must execute the certification attached hereto as **Exhibit B**. This certification is a material representation of fact relied upon by the City. If it is later determined that Subrecipient did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

23. BYRD ANTI-LOBBYING AMENDMENT

If funds transferred under this Agreement equal \$100,000 or more, Subrecipient shall file the required certification found at APPENDIX A, 44 C.F.R. PART 18 and attached hereto as **Exhibit C**. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

24. PROCUREMENT OF RECOVERED MATERIALS

- A. In the performance of this Agreement, the Subrecipient shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 - i. Competitively within a timeframe providing for compliance with the Agreement performance schedule;
 - ii. Meeting Contract performance requirements; or
 - iii. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.
- C. The Subrecipient also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

25. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

A. *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as indicated and/or specifically defined in section 889 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232). In the absence of an indicated meaning or definition in section 889 of NDAA FY 2019 or guidance from Treasury, Subrecipient may also look to FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), for guidance on these terms.

B. Prohibitions.

- i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- ii. Unless an exception in paragraph (C) of this clause applies, the Subrecipient and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Government to:
 - (a) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (b) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (c) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - (d) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

C. Exceptions.

- i. This clause does not prohibit contractors from providing—

- (a) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - (b) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- ii. By necessary implication and regulation, the prohibitions also do not apply to:
 - (a) Covered telecommunications equipment or services that:
 - 1. Are not used as a substantial or essential component of any system; and
 - 2. Are not used as critical technology of any system.
 - (b) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

D. Reporting requirement.

- i. In the event the Subrecipient identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Subrecipient is notified of such by a subcontractor at any tier or by any other source, the Subrecipient shall report the information in paragraph (D)(ii) of this clause to the City, unless elsewhere in this Agreement are established procedures for reporting the information.
- ii. The Subrecipient shall report the following information pursuant to paragraph (d)(1) of this clause:
 - (a) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (b) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

E. *Subcontracts*. The Subrecipient shall insert the substance of this clause, including this paragraph (E), in all subcontracts and other contractual instruments.

26. DOMESTIC PREFERENCES FOR PROCUREMENTS

A. As appropriate, and to the extent consistent with law, Subrecipient should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

B. For purposes of this clause:

- i. Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- ii. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

27. SIGNATURES

CITY OF HUNTSVILLE, ALABAMA

US SPACE AND ROCKET CENTER

Signature

Signature

Name

Name

Title

Title

Date

Date

Brenda D. Perez

Brenda D. Perez

CFD

11/5/22

EXHIBIT A: SCOPE OF SUBAWARD

Project No.	Project Title	Project Description	Project Start Date	Project End Date	Amount of Approved Funding
SLFRF-06	U.S. Space & Rocket Center's Restaffing Project	The U.S. Space & Rocket Center (the Center) will use ARPA – SLFRF funds from the City of Huntsville to continue its Restaffing Project which will increase local tourism revenue, resume full capacity for STEM programs that support the area's workforce development pipeline, and continue its work to showcase this region and its stellar quality of life to national and international media crews. The first goal of the grant is to return camps to 100% capacity by Spring 2022 through restaffing and preparing the Center for camp attendees. The second goal is to retain museum and camp staff during the off season to develop a new STEM curriculum. With adequate staff, the Center anticipates offering programs in the Fall 2022 and Winter 2023, which will enable the Center to generate enough revenue to retain those employees.	3/1/2022	9/30/2023	\$1,000,000

EXHIBIT B: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER-TIER COVERED TRANSACTIONS

“Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.” (2 CFR 200.212)

This certification is required by regulations implementing Executive Order 12549, Debarment and Suspension, for all lower-tier transactions meeting the threshold and tier requirements. (2 CFR 180.300)

Terms Defined

- *Nonprocurement Transaction:* A transaction under federal non-procurement programs, which can be either a primary covered transaction or a lower-tier covered transaction. (2 CFR 180.970)
- *Lower-Tier Covered Transaction:* (1) Any transaction between a participant and a person other than a procurement contract for goods or services, regardless of type, under a primary covered transaction; (2) any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed \$25,000; (3) any procurement contract for goods or services between a participant and a person under a covered transaction, regardless of amount
- *Participant:* Any person who submits a proposal for or who enters into a covered transaction, including an agent or representative of a participant. (2 CFR 180.980)
- *Principal:* An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or a consultant or other person, whether or not employed by the participant or paid with federal funds, who (1) is in a position to handle federal funds; (2) is in a position to influence or control the use of those funds; or (3) occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR 180.995)
- *System for Award Management (SAM) Exclusions:* The list maintained and disseminated by the General Services Administration (GSA) containing names and other information about persons who are ineligible. (2 CFR 180.945).
- *Debarment:* Action taken by a debarring official to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred. (2 CFR 180.925)
- *Suspension:* Action taken by a suspending official that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency

investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 CFR 180.1015)

- *Ineligible or Ineligibility:* A person or commodity is prohibited from covered transactions because of an exclusion or disqualification. (2 CFR 180.960)
- *Person:* Any individual, corporation, partnership, association, unit of government, or legal entity, however organized. (2 CFR 180.985)
- *Proposal:* A solicited or unsolicited bid, application, request, invitation to consider, or similar communication by or on behalf of a person seeking to participate or to receive a benefit, directly or indirectly, in or under a covered transaction.
- *Voluntary Exclusion:* A person's agreement to be excluded under the terms of a settlement between the person and one or more agencies. Voluntary exclusion must have governmentwide effect. (2 CFR 180.1020)
- *Voluntarily Excluded:* The status of a person who has agreed to a voluntary exclusion. (2 CFR 180.1020)

Instructions for Certification

1. By signing and submitting this proposal or agreement, the prospective lower-tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower-tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower-tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower-tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower-tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower-tier participant agrees by signing or certifying and submitting this proposal or agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower-tier participant further agrees by signing or certifying and submitting this proposal or agreement that it will include the clause titled Certification Regarding

Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower-Tier Covered Transactions, without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower-tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the non-procurement list.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower-tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—
Lower-Tier Covered Transactions**

1. The prospective lower-tier participant certifies, by signing or certifying and submitting this proposal or agreement, that neither it 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.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

U.S. Space & Rocket Center
Contractor Name

SLFRF - 06
Contract Number

Brenda D. Perez
Name

CFO
Title

Brenda D. Perez
Signature

1/5/22
Date

**EXHIBIT C: CERTIFICATION REGARDING LOBBYING FOR CONTRACTS,
GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 (as amended by the Lobbying Disclosure Act of 1995). 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.

CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

U.S. Space & Rocket Center
CONTRACTOR Name

Brenda D. Perez
Signature of Contractor's Authorized Official

Brenda D. Perez, CFO
Name and Title of Contractor's Authorized Official

1/5/22
Date

CITY OF HUNTSVILLE, ALABAMA
AMERICAN RESCUE PLAN ACT – CORONAVIRUS STATE AND LOCAL FISCAL
RECOVERY FUNDS
SUBRECIPIENT AGREEMENT

This Agreement between the City of Huntsville, a political subdivision of the State of Alabama (the “City”) and Huntsville Botanical Garden (the “Subrecipient”) shall be effective on the date signed by the City and the Subrecipient (the “Effective Date”). This Agreement shall apply to all funds provided by the City to the Subrecipient from the U.S. Department of the Treasury American Rescue Plan Act – Coronavirus State and Local Fiscal Recovery Funds.

RECITALS

WHEREAS, Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) (the “ARPA”), authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”).

WHEREAS, Treasury has allocated \$34,402,593 to the City as a “recipient”;

WHEREAS, funds awarded under the APRA-SLFRF may be used only for certain statutory eligible uses;

WHEREAS, Treasury’s interim final rule (“IFR”) contemplates that recipients like the City may transfer funds to entities (“subrecipients”) to carry out an eligible project or program on behalf of the recipient with the recipient’s Federal award funding;

WHEREAS, the subrecipient must comply with the statutory and regulatory requirements and the terms and conditions of the Federal award made to the recipient;

WHEREAS, the subrecipient must abide by the restrictions on use applicable to the recipient under the ARPA and other applicable law and program guidance;

NOW, THEREFORE, in consideration of the mutual promises and undertakings as contained in this Agreement, the sufficiency of which is hereby acknowledged by each party, the parties agree as follows:

1. USE OF FUNDS

- A. Subrecipient understands and agrees that the funds disbursed under this subaward may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- B. Subrecipient may only use the funds to carry out the eligible project or program on behalf of the City as described in **Exhibit A – Scope of Subaward**, which may be revised by the Parties in a signed writing without amendment to this Agreement.
- C. Subrecipient shall not engage in any project using this assistance unless it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. AWARD AMOUNT

- A. The amount of funding transferred to Subrecipient by the City for each eligible project or program is indicated on **Exhibit A – Scope of Subaward**, which may be revised by the Parties in a signed writing without amendment to this Agreement.
- B. Funding will be disbursed on a reimbursement basis according to expenditure reports submitted to the City monthly. Expenditure reports will be submitted to the Grants Manager no later than the 5th business day of the month. For months without applicable expenditures, a report showing no reimbursement request should still be submitted to the Grants Manager by the 5th business day of the month.

3. PERIOD OF PERFORMANCE

The period of performance for this subaward begins on the Effective Date and ends on December 31, 2026. As set forth in Treasury's implementing regulations, the funds may be used to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024, although funds may be expended through December 31, 2026. Any unused funds for a particular project must be returned to the City within 30 days of the project's end date, as indicate on **Exhibit A – Scope of Subaward**. All unused funds as of January 1, 2027 must be returned to the City by March 1, 2027. Subrecipient will be responsible to reimburse the City any funds used by the Subrecipient outside of the period of performance.

4. REPORTING

- A. Subrecipient agrees to comply with all reporting requirements established by Treasury as they relate to this award, including financial, performance, and compliance reporting as described in the latest version of *Coronavirus State and Local Fiscal Recovery Funds Guidance on Recipient Compliance and Reporting Responsibilities* published by Treasury and available at <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf> ("Treasury Reporting Guidance").
- B. Expenditures may be reported on a cash or accrual basis, as long as the methodology is disclosed and consistently applied.
- C. Reporting must be consistent with the definition of expenditures in 2 C.F.R. § 200.1.
- D. Subrecipient must appropriately maintain accounting records for compiling and reporting accurate, compliant financial data, in accordance with the appropriate accounting standards and principles.
- E. Subrecipient must establish controls to ensure completion and timely submission of all mandatory performance and/or compliance reporting.
- F. Subrecipient must provide the City with the information necessary for the City to produce and submit a quarterly Project and Expenditure Report to Treasury.
 - i. *Due Dates.* Project Expenditure Reports are due from the City to Treasury on October 31, January 31, April 30, and July 31, beginning October 31, 2021 through October 31, 2026, with a final report due March 31, 2027. In order for the City to meet these deadlines, Subrecipient must provide the required information to the

City for inclusion in the report no later than 15 calendar days prior to the City's deadline.

- ii. *Contents.* Subrecipient must provide information to the City as requested on all projects funded under this Agreement when requested and as part of quarterly and ad hoc reporting completed by the City. This information includes, but is not limited to:

- (a) Subrecipient identifying and demographic information (e.g., DUNS number and location).
- (b) Award number (e.g., Agreement number, Loan number).
- (c) Award date, type, amount, and description.
- (d) Primary place of performance.
- (e) Quarterly obligation and expenditure amount.
- (f) Project Name and Description
- (g) Additional programmatic performance indicators for select Expenditure Categories as indicated in Treasury's Reporting Guidance.

5. MAINTENANCE OF AND ACCESS TO RECORDS

- A. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- B. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of subrecipient in order to conduct audits or other investigations.
- C. Records shall be maintained by subrecipient for a period of five years after all funds have been expended or returned to Treasury, whichever is later.

6. AUDITS AND MONITORING

- A. In accounting for the receipt and expenditure of funds under this Agreement, the Subrecipient must follow Generally Accepted Accounting Principles ("GAAP"). As defined by 2 C.F.R. § 200.49, "GAAP has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB)."
- B. Any audit of the Subrecipient's performance under this Agreement will use Generally Accepted Government Auditing Standards ("GAGAS"). As defined by 2 C.F.R. § 200.50, "GAGAS, also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits."
- C. If an audit shows that all or any portion of the funds disbursed under this Agreement were not spent in accordance with the conditions of and strict compliance with this Agreement, the Subrecipient will be liable for reimbursement to the City of all such funds within 30 days after the City has notified the Subrecipient of such non-compliance.

- D. The Subrecipient must have all audits completed by an independent auditor. The audits must be received by the City no later than nine months from the end of the Subrecipient's fiscal year.
- E. Fund payments are considered to be federal financial assistance subject to the Single Audit Act and the related provisions of the Uniform Guidance (2 C.F.R. Part 200).
- F. In addition to reviews of audits conducted in accordance with subparagraphs A-E above, monitoring procedures may include, but not be limited to, on-site visits by City staff, limited scope audits, or other procedures. The Subrecipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the City. In the event that the City determines that a limited scope audit of the Subrecipient is appropriate, the Subrecipient agrees to comply with any additional instructions provided by the City to the Subrecipient regarding such audit.

7. PRE-AWARD COSTS

Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding under this Agreement.

8. CONFLICTS OF INTEREST

Subrecipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Subrecipients must disclose in writing to the City any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. COMPLIANCE WITH APPLICABLE LAW, REGULATIONS, POLICY, AND PROGRAM GUIDANCE

- A. Subrecipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- B. Federal regulations applicable to this funding include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- C. Statutes and regulations prohibiting discrimination applicable to this funding include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. REMEDIES

In the event of Subrecipient's noncompliance with this Agreement, section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, the City may impose additional conditions on the receipt of a subsequent tranche of future funds, if any, or take other available remedies, as the City deems appropriate. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment by the City.

11. HATCH ACT

Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. FALSE STATEMENTS

Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

13. PUBLICATIONS

- A. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to the City of Huntsville by the U.S. Department of the Treasury."
- B. Any publications produced with funds from this award or pertaining to projects or programs administered with funds from this award must be approved by the City prior to publication.

14. DEBTS OWED TO THE CITY

- A. Any funds paid to Subrecipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of its award from Treasury; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by the City shall constitute a debt to the City.
- B. Any debts determined to be owed the City must be paid promptly by Subrecipient.
- C. A debt is delinquent if it has not been paid by the date specified in the City's initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 13(a). The City will take any actions available to it to collect such a debt.

15. PROTECTIONS FOR WHISTLEBLOWERS

- A. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- B. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- C. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

16. INCREASING SEAT BELT USE IN THE UNITED STATES

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating Subrecipient-owned, rented, or personally-owned vehicles.

17. REDUCING TEXT MESSAGING WHILE DRIVING

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient is encouraged to adopt and enforce policies that ban text messaging while driving.

18. TERMINATION

- A. *For Cause.* The City may terminate this Agreement for cause immediately upon written notice to the Subrecipient. Cause can include misuse of funds, fraud, lack of compliance with applicable rules, laws, and regulations, failure to perform on time, and refusal by the Subrecipient to permit public access to any document, paper, letter, or other material subject to disclosure under Al. Code §36-25A-1, as amended.

- B. *For Convenience by the City.* The City may terminate this Agreement for convenience or when it determines, in its sole discretion, that continuing the Agreement would not produce beneficial results in line with further expenditures of funds, but providing the Subrecipient with 30 calendar days' prior written notice. The notice will state the effective date of the termination and the procedures for proper closeout of this Agreement.
- C. *For Convenience by the Parties.* The Parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of this Agreement.
- D. *Termination Procedures.* In the event this Agreement is terminated, the Subrecipient will not incur new obligations for the terminated portion of this Agreement after they have received the notification of termination, except as otherwise indicated in the notice. The Subrecipient will cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed, except as otherwise indicate in the notice. Termination will not relieve Subrecipient of liability to the City because of any breach of this Agreement by the Subrecipient. The City may, to the extent authorized by law, withhold payments to the Subrecipient for the purpose of set-off until the exact amount of damages due the City from the Subrecipient is determined.

19. EQUAL EMPLOYMENT OPPORTUNITY

To the extent this Agreement is a federally assisted construction contract as defined in 41 C.F.R. § 60-1.3, the Subrecipient agrees that during the performance of this Agreement:

- A. Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. Subrecipient will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee

or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- D. Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. Subrecipient will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. Subrecipient will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of the Subrecipient's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- H. Subrecipient will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (A) through (H) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Subrecipient will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The City further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the City so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The City agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The City further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the City agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the City under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from the City; and refer the case to the Department of Justice for appropriate legal proceedings.

20. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

To the extent this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, the following terms apply:

- A. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (A) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for

liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.

- C. Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.
- D. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (D) of this section.

21. COMPLIANCE WITH CLEAN AIR ACT AND CLEAN WATER ACT

- A. Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq.
- B. Subrecipient agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to Treasury and the appropriate Environmental Protection Agency Regional Office.
- C. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by the Federal Government.

22. SUSPENSION AND DEBARMENT

Federal regulations restrict the City from contracting with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities, where the contract is funded in whole or in part with federal funds. Accordingly, a contract or subcontract must not be made with any parties listed on the SAM Exclusions list. SAM Exclusions is the list maintained by the General Services Administration that contains the name of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under certain statutory or regulatory authority. The Subrecipient can verify its status and the status of its principals, affiliates, and subcontractors at www.SAM.gov.

- A. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. Subrecipient must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. Subrecipient must execute the certification attached hereto as **Exhibit B**. This certification is a material representation of fact relied upon by the City. If it is later determined that Subrecipient did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

23. BYRD ANTI-LOBBYING AMENDMENT

If funds transferred under this Agreement equal \$100,000 or more, Subrecipient shall file the required certification found at APPENDIX A, 44 C.F.R. PART 18 and attached hereto as **Exhibit C**. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

24. PROCUREMENT OF RECOVERED MATERIALS

- A. In the performance of this Agreement, the Subrecipient shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 - i. Competitively within a timeframe providing for compliance with the Agreement performance schedule;
 - ii. Meeting Contract performance requirements; or
 - iii. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.
- C. The Subrecipient also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

25. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

A. *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as indicated and/or specifically defined in section 889 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232). In the absence of an indicated meaning or definition in section 889 of NDAA FY 2019 or guidance from Treasury, Subrecipient may also look to FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), for guidance on these terms.

B. *Prohibitions.*

- i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- ii. Unless an exception in paragraph (C) of this clause applies, the Subrecipient and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Government to:
 - (a) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (b) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (c) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - (d) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

C. *Exceptions.*

- i. This clause does not prohibit contractors from providing—

- (a) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - (b) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- ii. By necessary implication and regulation, the prohibitions also do not apply to:
 - (a) Covered telecommunications equipment or services that:
 - 1. Are not used as a substantial or essential component of any system; and
 - 2. Are not used as critical technology of any system.
 - (b) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

D. Reporting requirement.

- i. In the event the Subrecipient identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Subrecipient is notified of such by a subcontractor at any tier or by any other source, the Subrecipient shall report the information in paragraph (D)(ii) of this clause to the City, unless elsewhere in this Agreement are established procedures for reporting the information.
- ii. The Subrecipient shall report the following information pursuant to paragraph (d)(1) of this clause:
 - (a) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (b) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

E. *Subcontracts*. The Subrecipient shall insert the substance of this clause, including this paragraph (E), in all subcontracts and other contractual instruments.

26. DOMESTIC PREFERENCES FOR PROCUREMENTS

A. As appropriate, and to the extent consistent with law, Subrecipient should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

B. For purposes of this clause:

- i. Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- ii. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

27. SIGNATURES

CITY OF HUNTSVILLE, ALABAMA

HUNTSVILLE BOTANICAL GARDEN

Signature

Signature



Name

Susan L. Wagner

Name

Title

Chief Executive Officer

Title

Date

January 10, 2022

Date

EXHIBIT A: SCOPE OF SUBAWARD

Project No.	Project Title	Project Description	Project Start Date	Project End Date	Amount of Approved Funding
SLFRF-07	Huntsville Botanical Garden Staffing Recovery program	The Huntsville Botanical Garden Staffing Recovery Program will address staffing challenges resulting from COVID-19 by funding two previously staffed key positions (Director of Hospitality Services, and Manager of STEM Curriculum and Programs, respectively). These positions are vital as the Garden rebuilds to pre-COVID hospitality and program levels and continues to advance its mission, while rebuilding the Summer STEM Internship Program. The Garden will also add an Operations Project Manager as a new position required to address the significant deferred maintenance backlog stemming from the pandemic and crucial preventative maintenance of the Garden's substantial physical infrastructure, in which the City of Huntsville is already a major investor. Funds will also allow the Garden to continue its outreach to communities and populations who have been disproportionately affected by the COVID-19 pandemic and its subsequent recovery/recession period.	12/31/2021	12/31/2024	\$550,000

EXHIBIT B: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER-TIER COVERED TRANSACTIONS

“Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.” (2 CFR 200.212)

This certification is required by regulations implementing Executive Order 12549, Debarment and Suspension, for all lower-tier transactions meeting the threshold and tier requirements. (2 CFR 180.300)

Terms Defined

- *Nonprocurement Transaction:* A transaction under federal non-procurement programs, which can be either a primary covered transaction or a lower-tier covered transaction. (2 CFR 180.970)
- *Lower-Tier Covered Transaction:* (1) Any transaction between a participant and a person other than a procurement contract for goods or services, regardless of type, under a primary covered transaction; (2) any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed \$25,000; (3) any procurement contract for goods or services between a participant and a person under a covered transaction, regardless of amount
- *Participant:* Any person who submits a proposal for or who enters into a covered transaction, including an agent or representative of a participant. (2 CFR 180.980)
- *Principal:* An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or a consultant or other person, whether or not employed by the participant or paid with federal funds, who (1) is in a position to handle federal funds; (2) is in a position to influence or control the use of those funds; or (3) occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR 180.995)
- *System for Award Management (SAM) Exclusions:* The list maintained and disseminated by the General Services Administration (GSA) containing names and other information about persons who are ineligible. (2 CFR 180.945).
- *Debarment:* Action taken by a debarring official to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred. (2 CFR 180.925)
- *Suspension:* Action taken by a suspending official that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition

Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 CFR 180.1015)

- *Ineligible or Ineligibility:* A person or commodity is prohibited from covered transactions because of an exclusion or disqualification. (2 CFR 180.960)
- *Person:* Any individual, corporation, partnership, association, unit of government, or legal entity, however organized. (2 CFR 180.985)
- *Proposal:* A solicited or unsolicited bid, application, request, invitation to consider, or similar communication by or on behalf of a person seeking to participate or to receive a benefit, directly or indirectly, in or under a covered transaction.
- *Voluntary Exclusion:* A person's agreement to be excluded under the terms of a settlement between the person and one or more agencies. Voluntary exclusion must have governmentwide effect. (2 CFR 180.1020)
- *Voluntarily Excluded:* The status of a person who has agreed to a voluntary exclusion. (2 CFR 180.1020)

Instructions for Certification

1. By signing and submitting this proposal or agreement, the prospective lower-tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower-tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower-tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower-tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower-tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower-tier participant agrees by signing or certifying and submitting this proposal or agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower-tier participant further agrees by signing or certifying and submitting this proposal or agreement that it will include the clause titled Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower-Tier Covered Transactions, without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower-tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the non-procurement list.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower-tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—
Lower-Tier Covered Transactions**


1. The prospective lower-tier participant certifies, by signing or certifying and submitting this proposal or agreement, that neither it 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.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

Huntsville Botanical Garden
Contractor Name

SLFRF-07
Contract Number

Susan L. Wagner
Name

Chief Executive Officer
Title


Signature

January 10, 2022
Date

**EXHIBIT C: CERTIFICATION REGARDING LOBBYING FOR CONTRACTS,
GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 (as amended by the Lobbying Disclosure Act of 1995). 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.

CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Huntsville Botanical Garden
CONTRACTOR Name
Susan L. Wagner
Signature of Contractor's Authorized Official
Susan L. Wagner, Chief Executive Officer
Name and Title of Contractor's Authorized Official

January 10, 2022
Date

CITY OF HUNTSVILLE, ALABAMA
AMERICAN RESCUE PLAN ACT – CORONAVIRUS STATE AND LOCAL FISCAL
RECOVERY FUNDS
SUBRECIPIENT AGREEMENT

This Agreement between the City of Huntsville, a political subdivision of the State of Alabama (the “City”) and Burritt on the Mountain (the “Subrecipient”) shall be effective on the date signed by the City and the Subrecipient (the “Effective Date”). This Agreement shall apply to all funds provided by the City to the Subrecipient from the U.S. Department of the Treasury American Rescue Plan Act – Coronavirus State and Local Fiscal Recovery Funds.

RECITALS .

WHEREAS, Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) (the “ARPA”), authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”).

WHEREAS, Treasury has allocated \$34,402,593 to the City as a “recipient”;

WHEREAS, funds awarded under the APRA-SLFRF may be used only for certain statutory eligible uses;

WHEREAS, Treasury’s interim final rule (“IFR”) contemplates that recipients like the City may transfer funds to entities (“subrecipients”) to carry out an eligible project or program on behalf of the recipient with the recipient’s Federal award funding;

WHEREAS, the subrecipient must comply with the statutory and regulatory requirements and the terms and conditions of the Federal award made to the recipient;

WHEREAS, the subrecipient must abide by the restrictions on use applicable to the recipient under the ARPA and other applicable law and program guidance;

NOW, THEREFORE, in consideration of the mutual promises and undertakings as contained in this Agreement, the sufficiency of which is hereby acknowledged by each party, the parties agree as follows:

1. USE OF FUNDS

- A. Subrecipient understands and agrees that the funds disbursed under this subaward may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- B. Subrecipient may only use the funds to carry out the eligible project or program on behalf of the City as described in **Exhibit A – Scope of Subaward**, which may be revised by the Parties in a signed writing without amendment to this Agreement.
- C. Subrecipient shall not engage in any project using this assistance unless it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. AWARD AMOUNT

- A. The amount of funding transferred to Subrecipient by the City for each eligible project or program is indicated on **Exhibit A – Scope of Subaward**, which may be revised by the Parties in a signed writing without amendment to this Agreement.
- B. Funding will be disbursed on a reimbursement basis according to expenditure reports submitted to the City monthly. Expenditure reports will be submitted to the Grants Manager no later than the 5th business day of the month. For months without applicable expenditures, a report showing no reimbursement request should still be submitted to the Grants Manager by the 5th business day of the month.

3. PERIOD OF PERFORMANCE

The period of performance for this subaward begins on the Effective Date and ends on December 31, 2026. As set forth in Treasury's implementing regulations, the funds may be used to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024, although funds may be expended through December 31, 2026. Any unused funds for a particular project must be returned to the City within 30 days of the project's end date, as indicate on **Exhibit A – Scope of Subaward**. All unused funds as of January 1, 2027 must be returned to the City by March 1, 2027. Subrecipient will be responsible to reimburse the City any funds used by the Subrecipient outside of the period of performance.

4. REPORTING

- A. Subrecipient agrees to comply with all reporting requirements established by Treasury as they relate to this award, including financial, performance, and compliance reporting as described in the latest version of *Coronavirus State and Local Fiscal Recovery Funds Guidance on Recipient Compliance and Reporting Responsibilities* published by Treasury and available at <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf> ("Treasury Reporting Guidance").
- B. Expenditures may be reported on a cash or accrual basis, as long as the methodology is disclosed and consistently applied.
- C. Reporting must be consistent with the definition of expenditures in 2 C.F.R. § 200.1.
- D. Subrecipient must appropriately maintain accounting records for compiling and reporting accurate, compliant financial data, in accordance with the appropriate accounting standards and principles.
- E. Subrecipient must establish controls to ensure completion and timely submission of all mandatory performance and/or compliance reporting.
- F. Subrecipient must provide the City with the information necessary for the City to produce and submit a quarterly Project and Expenditure Report to Treasury.
 - i. *Due Dates.* Project Expenditure Reports are due from the City to Treasury on October 31, January 31, April 30, and July 31, beginning October 31, 2021 through October 31, 2026, with a final report due March 31, 2027. In order for the City to meet these deadlines, Subrecipient must provide the required information to the

City for inclusion in the report no later than 15 calendar days prior to the City's deadline.

- ii. *Contents.* Subrecipient must provide information to the City as requested on all projects funded under this Agreement when requested and as part of quarterly and ad hoc reporting completed by the City. This information includes, but is not limited to:

- (a) Subrecipient identifying and demographic information (e.g., DUNS number and location).
- (b) Award number (e.g., Agreement number, Loan number).
- (c) Award date, type, amount, and description.
- (d) Primary place of performance.
- (e) Quarterly obligation and expenditure amount.
- (f) Project Name and Description
- (g) Additional programmatic performance indicators for select Expenditure Categories as indicated in Treasury's Reporting Guidance.

5. MAINTENANCE OF AND ACCESS TO RECORDS

- A. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- B. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of subrecipient in order to conduct audits or other investigations.
- C. Records shall be maintained by subrecipient for a period of five years after all funds have been expended or returned to Treasury, whichever is later.

6. AUDITS AND MONITORING

- A. In accounting for the receipt and expenditure of funds under this Agreement, the Subrecipient must follow Generally Accepted Accounting Principles ("GAAP"). As defined by 2 C.F.R. § 200.49, "GAAP has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB)."
- B. Any audit of the Subrecipient's performance under this Agreement will use Generally Accepted Government Auditing Standards ("GAGAS"). As defined by 2 C.F.R. § 200.50, "GAGAS, also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits."
- C. If an audit shows that all or any portion of the funds disbursed under this Agreement were not spent in accordance with the conditions of and strict compliance with this Agreement, the Subrecipient will be liable for reimbursement to the City of all such funds within 30 days after the City has notified the Subrecipient of such non-compliance.

- D. The Subrecipient must have all audits completed by an independent auditor. The audits must be received by the City no later than nine months from the end of the Subrecipient's fiscal year.
- E. Fund payments are considered to be federal financial assistance subject to the Single Audit Act and the related provisions of the Uniform Guidance (2 C.F.R. Part 200).
- F. In addition to reviews of audits conducted in accordance with subparagraphs A-E above, monitoring procedures may include, but not be limited to, on-site visits by City staff, limited scope audits, or other procedures. The Subrecipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the City. In the event that the City determines that a limited scope audit of the Subrecipient is appropriate, the Subrecipient agrees to comply with any additional instructions provided by the City to the Subrecipient regarding such audit.

7. PRE-AWARD COSTS

Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding under this Agreement.

8. CONFLICTS OF INTEREST

Subrecipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Subrecipients must disclose in writing to the City any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. COMPLIANCE WITH APPLICABLE LAW, REGULATIONS, POLICY, AND PROGRAM GUIDANCE

- A. Subrecipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- B. Federal regulations applicable to this funding include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- C. Statutes and regulations prohibiting discrimination applicable to this funding include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. REMEDIES

In the event of Subrecipient's noncompliance with this Agreement, section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, the City may impose additional conditions on the receipt of a subsequent tranche of future funds, if any, or take other available remedies, as the City deems appropriate. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment by the City.

11. HATCH ACT

Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. FALSE STATEMENTS

Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

13. PUBLICATIONS

- A. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to the City of Huntsville by the U.S. Department of the Treasury."
- B. Any publications produced with funds from this award or pertaining to projects or programs administered with funds from this award must be approved by the City prior to publication.

14. DEBTS OWED TO THE CITY

- A. Any funds paid to Subrecipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of its award from Treasury; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by the City shall constitute a debt to the City.
- B. Any debts determined to be owed the City must be paid promptly by Subrecipient.
- C. A debt is delinquent if it has not been paid by the date specified in the City's initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 13(a). The City will take any actions available to it to collect such a debt.

15. PROTECTIONS FOR WHISTLEBLOWERS

- A. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- B. The list of persons and entities referenced in the paragraph above includes the following:
- i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- C. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

16. INCREASING SEAT BELT USE IN THE UNITED STATES

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating Subrecipient-owned, rented, or personally-owned vehicles.

17. REDUCING TEXT MESSAGING WHILE DRIVING

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient is encouraged to adopt and enforce policies that ban text messaging while driving.

18. TERMINATION

- A. *For Cause.* The City may terminate this Agreement for cause immediately upon written notice to the Subrecipient. Cause can include misuse of funds, fraud, lack of compliance with applicable rules, laws, and regulations, failure to perform on time, and refusal by the Subrecipient to permit public access to any document, paper, letter, or other material subject to disclosure under Al. Code §36-25A-1, as amended.

- B. *For Convenience by the City.* The City may terminate this Agreement for convenience or when it determines, in its sole discretion, that continuing the Agreement would not produce beneficial results in line with further expenditures of funds, but providing the Subrecipient with 30 calendar days' prior written notice. The notice will state the effective date of the termination and the procedures for proper closeout of this Agreement.
- C. *For Convenience by the Parties.* The Parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of this Agreement.
- D. *Termination Procedures.* In the event this Agreement is terminated, the Subrecipient will not incur new obligations for the terminated portion of this Agreement after they have received the notification of termination, except as otherwise indicated in the notice. The Subrecipient will cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed, except as otherwise indicate in the notice. Termination will not relieve Subrecipient of liability to the City because of any breach of this Agreement by the Subrecipient. The City may, to the extent authorized by law, withhold payments to the Subrecipient for the purpose of set-off until the exact amount of damages due the City from the Subrecipient is determined.

19. EQUAL EMPLOYMENT OPPORTUNITY

To the extent this Agreement is a federally assisted construction contract as defined in 41 C.F.R. § 60-1.3, the Subrecipient agrees that during the performance of this Agreement:

- A. Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. Subrecipient will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee

or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- D. Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. Subrecipient will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. Subrecipient will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of the Subrecipient's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- H. Subrecipient will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (A) through (H) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Subrecipient will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The City further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the City so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The City agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The City further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the City agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the City under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from the City; and refer the case to the Department of Justice for appropriate legal proceedings.

20. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

To the extent this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, the following terms apply:

- A. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (A) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for

liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.

- C. Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.
- D. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (D) of this section.

21. COMPLIANCE WITH CLEAN AIR ACT AND CLEAN WATER ACT

- A. Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq.
- B. Subrecipient agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to Treasury and the appropriate Environmental Protection Agency Regional Office.
- C. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by the Federal Government.

22. SUSPENSION AND DEBARMENT

Federal regulations restrict the City from contracting with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities, where the contract is funded in whole or in part with federal funds. Accordingly, a contract or subcontract must not be made with any parties listed on the SAM Exclusions list. SAM Exclusions is the list maintained by the General Services Administration that contains the name of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under certain statutory or regulatory authority. The Subrecipient can verify its status and the status of its principals, affiliates, and subcontractors at www.SAM.gov.

- A. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. Subrecipient must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. Subrecipient must execute the certification attached hereto as **Exhibit B**. This certification is a material representation of fact relied upon by the City. If it is later determined that Subrecipient did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

23. BYRD ANTI-LOBBYING AMENDMENT

If funds transferred under this Agreement equal \$100,000 or more, Subrecipient shall file the required certification found at APPENDIX A, 44 C.F.R. PART 18 and attached hereto as **Exhibit C**. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

24. PROCUREMENT OF RECOVERED MATERIALS

- A. In the performance of this Agreement, the Subrecipient shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 - i. Competitively within a timeframe providing for compliance with the Agreement performance schedule;
 - ii. Meeting Contract performance requirements; or
 - iii. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.
- C. The Subrecipient also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

25. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

A. *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as indicated and/or specifically defined in section 889 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232). In the absence of an indicated meaning or definition in section 889 of NDAA FY 2019 or guidance from Treasury, Subrecipient may also look to FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), for guidance on these terms.

B. *Prohibitions.*

- i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- ii. Unless an exception in paragraph (C) of this clause applies, the Subrecipient and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Government to:
 - (a) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (b) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (c) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system;
or
 - (d) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

C. *Exceptions.*

- i. This clause does not prohibit contractors from providing—

- (a) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - (b) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- ii. By necessary implication and regulation, the prohibitions also do not apply to:
 - (a) Covered telecommunications equipment or services that:
 - 1. Are not used as a substantial or essential component of any system; and
 - 2. Are not used as critical technology of any system.
 - (b) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

D. Reporting requirement.

- i. In the event the Subrecipient identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Subrecipient is notified of such by a subcontractor at any tier or by any other source, the Subrecipient shall report the information in paragraph (D)(ii) of this clause to the City, unless elsewhere in this Agreement are established procedures for reporting the information.
- ii. The Subrecipient shall report the following information pursuant to paragraph (d)(1) of this clause:
 - (a) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (b) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

E. *Subcontracts*. The Subrecipient shall insert the substance of this clause, including this paragraph (E), in all subcontracts and other contractual instruments.

26. DOMESTIC PREFERENCES FOR PROCUREMENTS

- A. As appropriate, and to the extent consistent with law, Subrecipient should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.
- B. For purposes of this clause:
- i. Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - ii. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

27. SIGNATURES

CITY OF HUNTSVILLE, ALABAMA

BURRITT ON THE MOUNTAIN

Signature

Signature

Name

Name

Title

Title

Date

Date

Leslie Ecklund

Leslie Ecklund

CEO

1/24/22

EXHIBIT A: SCOPE OF SUBAWARD

Project No.	Project Title	Project Description	Project Start Date	Project End Date	Amount of Approved Funding
SLFRF-10	Deferred Collection Storage Project	Burritt on the Mountain will use the ARPA – SLFRF grant from the City of Huntsville to create a permanent collection storage for items out of rotation at the museum. The current value of these collections and items is approximately \$1.3 million, and a safe, climate-controlled facility will allow future generations the opportunity to learn from these parts of Huntsville's history. This project was needed before the public health emergency but was deferred due to loss of revenue from admission, event rentals, and field trips. This project will allow Burritt to reopen to full capacity by making available previously blocked areas of the house and museum. This new collection storage facility is what is required for Burritt on the Mountain to be accredited by the American Alliance of Museums.	1/31/2022	12/31/2024	\$650,000

EXHIBIT B: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER-TIER COVERED TRANSACTIONS

“Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.” (2 CFR 200.212)

This certification is required by regulations implementing Executive Order 12549, Debarment and Suspension, for all lower-tier transactions meeting the threshold and tier requirements. (2 CFR 180.300)

Terms Defined

- *Nonprocurement Transaction*: A transaction under federal non-procurement programs, which can be either a primary covered transaction or a lower-tier covered transaction. (2 CFR 180.970)
- *Lower-Tier Covered Transaction*: (1) Any transaction between a participant and a person other than a procurement contract for goods or services, regardless of type, under a primary covered transaction; (2) any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed \$25,000; (3) any procurement contract for goods or services between a participant and a person under a covered transaction, regardless of amount
- *Participant*: Any person who submits a proposal for or who enters into a covered transaction, including an agent or representative of a participant. (2 CFR 180.980)
- *Principal*: An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or a consultant or other person, whether or not employed by the participant or paid with federal funds, who (1) is in a position to handle federal funds; (2) is in a position to influence or control the use of those funds; or (3) occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR 180.995)
- *System for Award Management (SAM) Exclusions*: The list maintained and disseminated by the General Services Administration (GSA) containing names and other information about persons who are ineligible. (2 CFR 180.945).
- *Debarment*: Action taken by a debarring official to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred. (2 CFR 180.925)
- *Suspension*: Action taken by a suspending official that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition

Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 CFR 180.1015)

- *Ineligible or Ineligibility:* A person or commodity is prohibited from covered transactions because of an exclusion or disqualification. (2 CFR 180.960)
- *Person:* Any individual, corporation, partnership, association, unit of government, or legal entity, however organized. (2 CFR 180.985)
- *Proposal:* A solicited or unsolicited bid, application, request, invitation to consider, or similar communication by or on behalf of a person seeking to participate or to receive a benefit, directly or indirectly, in or under a covered transaction.
- *Voluntary Exclusion:* A person's agreement to be excluded under the terms of a settlement between the person and one or more agencies. Voluntary exclusion must have governmentwide effect. (2 CFR 180.1020)
- *Voluntarily Excluded:* The status of a person who has agreed to a voluntary exclusion. (2 CFR 180.1020)

Instructions for Certification

1. By signing and submitting this proposal or agreement, the prospective lower-tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower-tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower-tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower-tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower-tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower-tier participant agrees by signing or certifying and submitting this proposal or agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower-tier participant further agrees by signing or certifying and submitting this proposal or agreement that it will include the clause titled Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower-Tier Covered Transactions, without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower-tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the non-procurement list.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower-tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—
Lower-Tier Covered Transactions**

1. The prospective lower-tier participant certifies, by signing or certifying and submitting this proposal or agreement, that neither it 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.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

Burritt on the Mountain
Contractor Name

Leslie Ecklund

Name

Leslie Ecklund
Signature

Contract Number

CEO

Title

1/24/22
Date

**EXHIBIT C: CERTIFICATION REGARDING LOBBYING FOR CONTRACTS,
GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 (as amended by the Lobbying Disclosure Act of 1995). 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.

CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Burritt on the Mountain
CONTRACTOR Name
Leslie Ecklund
Signature of Contractor's Authorized Official
Leslie Ecklund CEO
Name and Title of Contractor's Authorized Official

1/24/22
Date