

**SAMPLE
SUBJECT TO REVIEW/UPDATE**

STATE OF ALABAMA) SUBAWARD AGREEMENT NO.: [INSERT]
MONTGOMERY, ALABAMA)

**SUBAWARD AGREEMENT
ALABAMA ANCHOR INSTITUTION/MIDDLE-MILE PROGRAM**

This Subaward Agreement (“Agreement”) is entered into by and between the **Alabama Department of Economic and Community Affairs** (“Department”) and [INSERT] (“Subrecipient”). This Agreement is subject to the following terms and conditions as well as Attachment A (Scope of Work), Attachment B (Project Budget), Attachment C (Reporting and Closeout Obligations), Attachment D (Certifications and Assurances), the Alabama Anchor Institution/Middle-Mile Program Application submitted by the Subrecipient (“Application”), the *Alabama Anchor Institution/Middle-Mile Program Application and Application Guide* (“Application Guide”), and the *Alabama Anchor Institution/Middle-Mile Program Guide* (“Program Guide”), each of which is hereby incorporated by reference as part of this Agreement.

Subrecipient Name: [INSERT]

**Subrecipient Unique
Entity Identifier Number:** [INSERT]

Federal Award Identification Number (“FAIN”): SLFRP2635

Federal Award Date: June 2, 2021

Subaward Period of Performance Start Date: [INSERT]

Subaward Period of Performance End Date: [INSERT]

Subaward Budget Start Date: [INSERT]

Subaward Budget End Date: [INSERT]

**Amount of Federal Funds Obligated by this Action
by the Pass-Through Entity to the Subrecipient:** [INSERT]

**Total Amount of Federal Funds Obligated to
the Subrecipient by the Pass-Through Entity
Including the Current Financial Obligation:** [INSERT]

**Total Amount of Federal Award Committed
to the Subrecipient by the Pass-Through Entity:** [INSERT]

Federal Award Project Description: To support the deployment of
middle-mile broadband
infrastructure to anchor

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institution facilities with an identified need for service and facilitate the deployment of last-mile broadband infrastructure in unserved areas of Alabama

**Name of Federal
Awarding Agency:**

U.S. Department of the Treasury

Pass-Through Entity:

**Alabama Department of Economic
and Community Affairs**

Contact Information for Awarding Official:

Kenneth W. Boswell, 334-242-5591

**Identification of Whether the Award is
Research and Development:**

No

Indirect Cost Rate for the Federal Award:

N/A

Assistance Listing Number and Name:

**21.027 – Coronavirus State and
Local Fiscal Recovery Funds**

1. **PURPOSE AND AUTHORITY:** The purpose of this Agreement is to implement the project proposal described in the Application entitled “[INSERT],” as set forth in summary detail in Attachment A (Scope of Work) and Attachment B (Project Budget) (together, the “Project”), in accordance with: (a) Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (“ARPA”); (b) 42 U.S.C. § 802; (c) 31 C.F.R. Part 35, Subpart A; (d) the Final Rule adopted for the ARPA Coronavirus State and Local Fiscal Recovery Funds, 87 Fed. Reg. 4338 (Jan. 27, 2022); (e) Ala. Act No. 2023-1; and (f) other applicable laws and guidance.

Through the Alabama Anchor Institution/Middle-Mile Program (“AIMM” or “AIMM Program”), the Project will make necessary investments in broadband infrastructure resulting in the deployment and operation of middle-mile broadband networks providing service to anchor institutions with an identified need for service and facilitating last-mile broadband deployment and operations in unserved areas, thereby supporting the improvement and expansion of broadband network access to the citizens of Alabama. The Project will be supported through a subaward under FAIN SLFRP2635 Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) for the period March 3, 2021 to December 31, 2024 (Assistance Listing No. 21.027), awarded to the State of Alabama by the U.S. Department of the Treasury (“Treasury”) on June 2, 2021, and subsequently delegated to the Department. As a recipient of federal ARPA funds, the Department must comply with and ensure subrecipients comply with applicable terms and conditions of the ARPA, regulations governing the expenditure of funds distributed from the ARPA, and interpretative guidance the Treasury has issued or will issue governing the expenditure of funds distributed from the ARPA.

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For any and all contracts or grants made by a non-federal entity such as the Department under a federal award, the non-federal entity must comply with and ensure subrecipients comply with 2 C.F.R. Part 200, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (“Uniform Administrative Requirements”), as applicable, which includes but is not limited to Subpart B, General Provisions; Subpart C, Pre-Federal Award Requirements and Contents of Federal Awards; Subpart D, Post Federal Award Requirements; Subpart E, Cost Principles; Subpart F, Audit Requirements; and all accompanying appendices. For any and all contracts or grants made by a non-federal entity under a federal award, federal law requires that certain provisions of this Agreement be included and adhered to as applicable and unless specifically excluded by other federal regulations.

2. **FUNDING:** In no event shall the total amount to be paid by the Department to the Subrecipient under this Agreement exceed **\$(INSERT)** (“Grant Amount”) for full and complete performance of the terms and conditions of this Agreement, unless there is an amendment to this Agreement signed by the Department and the Subrecipient in accordance with Section 35 (Amendments). In accordance with Treasury guidance and the Uniform Administrative Requirements, the Grant Amount shall be considered a fixed amount subaward.

Funding for the Project shall be in the form of payment of actual eligible expenses incurred by the Subrecipient for the Project through fixed progress payments, as specified in Section 4 (Payments). Subrecipient costs for the Project eligible for payment generally shall be limited to construction and construction-related costs of broadband infrastructure, in accordance with applicable law, the Program Guide, and Treasury and Department guidance. Subrecipient operating costs for the Project, including but not limited to short-term operating lease costs, are not eligible for payment. Subrecipient indirect costs are not eligible for payment. Any Subrecipient costs for the Project incurred before or after the Term of this Agreement specified in Section 3 (Term) are not eligible for payment without advance Department approval. The Grant Amount does not include research and development costs in accordance with 2 C.F.R. §§ 200.1, 200.332. Subrecipient costs must be allowable, necessary, reasonable, and allocable for the Project as well as adequately documented in accordance with this Agreement as well as applicable law, the Program Guide, and Treasury and Department guidance to be eligible for payment.

In the event the actual cost of completing the Project is less than the Total Project Cost specified in Attachment B (Project Budget), the Grant Amount shall be reduced proportionally to the extent the Match Amount specified in Attachment B is reduced. In accordance with the Application Guide, in no event shall the Grant Amount exceed \$30,000,000 and the Match Amount shall be at least twenty percent (20%) of the Total Project Cost specified in Attachment B.

3. **TERM:** This Agreement shall commence on **[INSERT]** and shall expire on **[INSERT]** (“Term”). If the Subrecipient demonstrates that the Project is progressing, it may request an extension of the Term for Project delays beyond its control. The Subrecipient shall submit all Term extension requests in writing to the Department no less than thirty (30) calendar days before the end of the Term. Grant of any Term extension request shall be at the Department’s

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sole discretion, shall not exceed the applicable period of performance set by federal law, and shall only take effect upon an amendment to this Agreement signed by the Department and the Subrecipient in accordance with Section 35 (Amendments).

The Subrecipient shall diligently pursue the implementation of the Project during the Term to ensure completion of the Project before the end of the Term, including all necessary engineering, permitting, make-ready, construction, and customer activations. The Subrecipient shall certify in writing to the Department that the Project reached completion by the end of the Term. The Subrecipient also shall submit all final invoices and other required documentation, demonstrating compliance with this Agreement and all reporting obligations, within thirty (30) calendar days of the submission of the Project completion certification or such other period as the Department may establish consistent with federal law. If the Subrecipient fails to complete the Project within the Term, including any Term extension, the Department may revoke this Agreement and suspend and/or recoup payments of the Grant Amount in accordance with this Agreement.

4. **PAYMENTS:** The Subrecipient shall receive the Grant Amount specified in Section 2 (Funding) in progress payments, subject to the Department's approval of Subrecipient payment requests for eligible expenses incurred submitted in accordance with this Agreement and the Program Guide. Such payments will be limited to actual costs incurred after review of evidence of costs incurred by the Department. The Subrecipient shall submit a request for payment for each progress payment installment with the Department, providing documentation demonstrating the progressive completion of the Project and supporting the claimed Subrecipient costs in the format specified by the Department. Such requests shall be subject to Department review and approval before any Grant Amount progress payment is made. If the required level of activity or effort was not carried out by the Subrecipient, the Grant Amount may be adjusted.

Each progress payment is contingent on the Subrecipient's compliance with the terms and conditions of this Agreement, including but not limited to the obligations described in Attachment C (Reporting and Closeout Obligations). The Subrecipient is responsible for accounting for its Project costs appropriately and for maintaining records demonstrating that such costs are eligible for payment. Except as otherwise provided in this Agreement, the Subrecipient is not required to comply with the cost principles and procurement practices of the Uniform Administrative Requirements in accordance with Treasury guidance. Grant Amount funds may not be used to cover costs that have been or will be reimbursed, or otherwise paid, by other federal or state funding sources. Any progress payments not expended for eligible Subrecipient costs by the end of the Term, including any Term extension, shall be returned by the Subrecipient to the Department. Consistent with federal law, the payment procedures described in this Agreement may be modified by the Department as part of the Department's ongoing monitoring and risk assessment of the Subrecipient.

5. **PROGRAM INCOME:** In accordance with Treasury guidance, income generated by the Subrecipient from the Project under this Agreement will not be considered program income and the Subrecipient may use such income without restriction. Income from infeasible rights

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of use and leases relating to broadband infrastructure also will not be considered program income.

6. **PROJECT NETWORK STANDARDS:** The Project network will meet industry standards for network design, construction, maintenance, and service, including the Fiber Construction Standards set forth in Appendix A of the Program Guide. In addition, the Subrecipient shall comply with the Project network access, construction, maintenance, labor, service level, and other commitments specified in the Application, including all Subrecipient commitments to support new and/or improved last-mile service in unserved areas of Alabama.
7. **ENVIRONMENTAL COMPLIANCE:** The Subrecipient and its contractors and subcontractors shall comply with all applicable federal, state, and local environmental laws. Generally, the National Environmental Policy Act, 42 U.S.C. § 4321 et seq. (“NEPA”), does not apply to Treasury’s administration of the SLFRF or projects funded by the AIMM Program. However, projects funded by the AIMM Program may still be subject to NEPA review if they are also funded by, require the approval of, or otherwise involve other federal programs or agencies. The Subrecipient and its contractors and subcontractors also shall comply with all applicable federal, state, and local historic preservation laws. Generally, Section 106 of the National Historic Preservation Act, 54 U.S.C. § 300101 et seq. (“NHPA”), does not apply to Treasury’s administration of the SLFRF or projects funded by the AIMM Program. However, projects funded by the AIMM Program may still be subject to Section 106 of the NHPA if they are also funded by, require the approval of, or otherwise involve other federal programs or agencies. The Subrecipient shall retain records, permits, and other documentation necessary to evidence compliance with all applicable environmental and historic preservation protections, and provide such documentation to the Treasury or the Department upon request.
8. **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:** The Subrecipient and any contractors or subcontractors shall comply with all applicable provisions of Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232. Unless otherwise excepted by law, the Subrecipient and any contractors or subcontractors shall not use the Grant Amount to: (a) procure or obtain; (b) extend or renew a contract to procure or obtain; or (c) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications and video surveillance services or equipment as a substantial or essential component of any system, or as critical technology as part of any system, as described in 2 C.F.R. §§ 200.216, 200.471.

In the event the Subrecipient becomes aware of any use of prohibited covered telecommunications and video surveillance services or equipment for the Project, it shall immediately notify the Department and provide any information about any mitigation actions undertaken by the Subrecipient and measures taken by the Subrecipient to prevent future use of prohibited covered telecommunications and video surveillance services or equipment. The Subrecipient shall not be paid for any costs to procure or obtain prohibited covered telecommunications and video surveillance services or equipment, and any payments to the Subrecipient related to such costs shall be subject to recoupment by the Department in accordance with this Agreement.

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9. **PROJECT SERVICE AFFORDABILITY PROVISIONS:** To the extent the Subrecipient provides service to households using AIMM-supported broadband infrastructure, the Subrecipient must, for as long as the AIMM-supported broadband infrastructure is in use, either participate in the Federal Communications Commission’s Affordable Connectivity Program (“ACP”) through the lifetime of the ACP or otherwise provide access to a broad-based affordability program to low-income consumers in the proposed service area of the broadband infrastructure that provides benefits to households commensurate with those provided under the ACP through the lifetime of the ACP upon Project completion. In accordance with existing Treasury guidance, to the extent the Subrecipient enters into agreements with last-mile service providers to use its AIMM-supported broadband infrastructure to provide service to households, the Subrecipient must require such service providers, for as long as they use the AIMM-supported broadband infrastructure, to either participate in the ACP through the lifetime of the ACP or otherwise provide access to a broad-based affordability program to low-income consumers in the proposed service area of the broadband infrastructure that provides benefits to households commensurate with those provided under the ACP through the lifetime of the ACP upon Project completion.

In the event the ACP expires and a replacement program is not designated by Treasury, the Department will provide additional guidance to the Subrecipient about any applicable project service affordability provisions for the Project.

10. **OWNERSHIP OF PROJECT PROPERTY AND PROPERTY STANDARDS:** In accordance with Treasury guidance, the federal interest in the real property or equipment acquired or improved under the federal award (i.e., the broadband infrastructure installed pursuant to this Agreement) (“Project Property”) will last until December 31, 2034 (“Federal Interest Period”). Title to Project Property vests in the Subrecipient, subject to the condition that, for the duration of the Federal Interest Period, the Subrecipient and any successors or transferees:

- (a) Must use the Project Property for the authorized purposes of the Project in the same manner as they use comparable real property and equipment within their networks in the ordinary course of their business, subject to the rights to disposition provided below;
- (b) Must continue to provide internet service to the service areas and at the standard initially agreed upon by the Department and the Subrecipient;
- (c) Must participate in federal programs that provide low-income consumers with subsidies on broadband internet access services, as applicable;
- (d) Must comply with the requirements of 2 C.F.R. § 200.310, which may be satisfied by adequate self-insurance;
- (e) Must comply with the use and management requirements for equipment in 2 C.F.R. §§ 200.313(c)(4), 200.313(d), which may be satisfied by applying the Subrecipient’s commercial practices for meeting such requirements in the normal course of business (e.g., commercial inventory controls, loss prevention procedures, etc.), provided that such inventory controls indicate the applicable federal interest;

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- (f) Must maintain records of real property that include an indication of the applicable federal interest;
- (g) May dispose of Project Property in the ordinary course of business when no longer needed to operate the network, such as in order to upgrade equipment and improve facilities, provided that at least the same level of service provided by the network is maintained and there is no material interruption to service and that such upgraded property is subject to the same requirements provided in Treasury guidance as other Project Property;
- (h) May otherwise sell or transfer Project Property only after provision of notice to Treasury that identifies the successor or transferee and after securing the agreement of the successor or transferee to comply with these requirements and the acknowledgement of the successor or transferee of the federal property interest; and
- (i) Must notify the Department and Treasury upon the filing of a petition under the Bankruptcy Code, whether voluntary or involuntary, with respect to the Subrecipient or its affiliates.

Pursuant to 2 C.F.R. § 200.316 and in recognition that federal broadband programs are being executed for the benefit of the public being served by the broadband infrastructure, for the duration of the Federal Interest Period, the Subrecipient must hold Project Property in trust for the beneficiaries of the Project.

The Subrecipient may encumber Project Property if Treasury receives a shared first lien position in the Project Property such that, if the Project Property were foreclosed upon and liquidated, Treasury would receive the portion of the fair market value of the property that is equal to Treasury's percentage contribution to the Project costs. Treasury will post standard forms of liens, covenants, and intercreditor agreements to implement this arrangement.

The Subrecipient must comply with 2 C.F.R. § 200.312 to the extent any federally-owned real property or equipment is used by the Subrecipient.

If the Subrecipient does not comply with the requirements in this section, it must request disposition instructions from Treasury pursuant to 2 C.F.R. § 200.311(c) or 2 C.F.R. § 200.313(e), as applicable.

Except as provided above, the property standards set forth in 2 C.F.R. §§ 200.311, 200.313–200.315 shall not apply.

11. **DEBARMENT AND SUSPENSION:** This Agreement is subject to and the Subrecipient shall comply with the debarment and suspension provisions set forth in 2 C.F.R. Part 180 and the Treasury's implementing regulations at 31 C.F.R. Part 19, as applicable. The Subrecipient is prohibited from using any contractor or subcontractor that has been debarred, suspended, or otherwise excluded from participation in federal assistance programs (Executive Orders 12549 and 12689).

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The Subrecipient shall require participants in lower tier covered transactions to include the certification on Governmentwide Debarment and Suspension (Non-Procurement) for it and its principals in any proposal submitted in connection with such lower tier covered transactions in accordance with 2 C.F.R. § 180.300. The Excluded Parties List System is available for access from the System for Award Management website at <https://www.sam.gov>.

The Subrecipient certifies, by entering into this Agreement, that neither it nor its principals nor any of its contractors, subcontractors, or affiliates are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency, or political subdivision of the State of Alabama. The term “principal” for purposes of this Agreement means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Subrecipient.

The Subrecipient certifies that it has verified and will verify the debarment and suspension status for all contractors and subcontractors receiving funds under this Agreement and shall be solely responsible for any recoupments or penalties that might arise from noncompliance. The Subrecipient shall immediately notify the Department if any contractor or subcontractor becomes debarred or suspended, and shall, at the Department’s request, take all steps required by the Department to terminate its contractual relationship with the contractor or subcontractor for work to be performed under this Agreement. If the Subrecipient fails to comply with the obligations in this section, the Department shall not make any further payments of the Grant Amount to the Subrecipient and the Department shall have no further obligations to the Subrecipient under this Agreement until such noncompliance is cured. Such action shall be separate from and in addition to any remedies the federal government may pursue.

12. **REPORTING:** The Subrecipient shall report to the Department on the progressive completion of the Project in accordance with Attachment C (Reporting and Closeout Obligations), the Program Guide, and such other requirements as may be established by the Treasury and the Department, including any updates thereto. If the Subrecipient fails to demonstrate progressive completion of the Project, the Department may revoke this Agreement and suspend and/or recoup payments of the Grant Amount in accordance with the Program Guide and this Agreement. In addition, the Subrecipient shall provide any information about the Project requested by the Department necessary to support compliance by the Department and the State of Alabama with any reporting, audit, or informational obligations required by the conditions of the ARPA funds delegated to the Department. The Subrecipient understands and agrees that the information it reports under this Agreement may be publicly disclosed in accordance with federal and state law. The Subrecipient further understands and agrees that the Subrecipient’s full compliance with the reporting and closeout obligations is a condition for the receipt of each progress payment of the Grant Amount under this Agreement. Consistent with federal law, the reporting and closeout obligations may be modified by the Department as part of the Department’s ongoing monitoring and risk assessment of the Subrecipient.
13. **ACCESS TO RECORDS AND RETENTION:** For the limited scope of this Agreement, the Treasury Office of Inspector General, the U.S. Government Accountability Office, the

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Pandemic Relief Accountability Committee, the Comptroller General of the United States, Treasury, the Director of the Department, the Chief Examiner of Public Accounts, or any of their duly authorized representatives shall have the right of access to any pertinent books, documents, papers, and records (electronic or otherwise) of the Subrecipient for the purpose of making audits, inspections, financial reviews, examinations, excerpts, transcripts, or other investigations. This right also includes timely and reasonable access to Subrecipient personnel for the purpose of interview and discussion related to such documents. This right of access is not limited to the required retention period, but shall last as long as the records are retained.

Records shall be kept for a period of six (6) years from the date all of the Grant Amount funds have been paid to the Subrecipient or returned in accordance with this Agreement, or any longer retention period required by law; provided, however, that if any litigation, claim, or audit is started before the expiration of the retention period herein, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved. Wherever practicable, Subrecipient records should be collected, transmitted, and stored in open and machine-readable formats.

14. **TERMINATION:** In addition to the other provisions regarding termination herein, the following provisions apply to termination under this Agreement, whether termination by the Department or by the Subrecipient. The performance of work under this Agreement may be terminated in whole or in part for the following circumstances:

Termination for Convenience. This Agreement may be terminated by either party with thirty (30) calendar days written notice. Said notice shall specify the reasons for requesting such termination. In the event of termination for convenience by either the Department or the Subrecipient, senior officials of both parties shall meet and engage in good faith discussions regarding the termination conditions, including but not limited to any amendments to this Agreement necessary to closeout the Project and settle the disposition of Project Property, in accordance with applicable law and guidance and in consultation with the Treasury, where appropriate.

Termination for Cause. If, through any cause, the Subrecipient shall fail to fulfill in a timely manner its obligations under this Agreement, or if the Subrecipient shall violate any of the covenants, agreements, or stipulations of this Agreement, and such failure or violation is not corrected within fifteen (15) calendar days after such notice is given by the Department to the Subrecipient, the Department shall thereupon have the right to immediately terminate or suspend this Agreement by giving written notice to the Subrecipient of such termination or suspension and specifying the effective date thereof.

In the event of termination, for either convenience or cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, computer tapes, computer programs, and reports prepared by the Subrecipient under this Agreement shall, at the option of the Department, and if in accordance with applicable state and federal regulations, become the property of the Department.

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Notwithstanding the above, the Subrecipient shall not be relieved of liability to the Department for damages sustained by the Department by virtue of any breach of the Agreement by the Subrecipient and the Department may withhold any payments to the Subrecipient for the purpose of setoff until such time as the exact amount of damages due to the Department from the Subrecipient is determined.

A clause addressing termination for cause and convenience must be included in all contracts in excess of \$10,000.

15. HEARING ON APPEAL: The Subrecipient shall have the right to appeal any determination to terminate made by the Department; however, if the Subrecipient has failed to submit its appeal, in writing, within ten (10) calendar days from written notice of the termination and/or has failed to request and receive approval from the Department for extension of such, then the Subrecipient shall have no further right of appeal.

A hearing shall be conducted at the Department's offices in Montgomery, Alabama, or any other appropriate location at the Department's discretion, with a written notification of the time, place, and subject matter provided by the Department to the Subrecipient.

16. IMMUNITY AND DISPUTE RESOLUTION: The parties to this Agreement recognize and acknowledge that the Department is an instrumentality of the State of Alabama and, as such, is immune from suit pursuant to Ala. Const. art. I, § 14. It is further acknowledged and agreed that none of the provisions and conditions of this Agreement shall be deemed to be or construed to be a waiver by the Department of such Constitutional immunity.

In the event of any dispute between the parties, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail, and the dispute involves the payment of money, a party's sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama.

For any and all other disputes arising under the terms of this Agreement which are not resolved by negotiation, the parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing where appropriate, mediators selected from the roster of mediators maintained by the Center for Dispute Resolution of the Alabama State Bar.

17. MERIT SYSTEM EXCLUSION: The Subrecipient is not to be considered a merit system employee and is not entitled to any benefits of the Alabama State Merit System.
18. MANDATORY DISCLOSURES: Pursuant to 2 C.F.R. § 200.113, the Subrecipient shall disclose, in a timely manner, in writing to the Treasury or the Department all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. The Subrecipient also shall comply with all applicable provisions of 2 C.F.R. Part 200, Appendix XII, which is hereby incorporated by reference.

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19. NOT TO CONSTITUTE A DEBT OF THE STATE: It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Ala. Const. art. XI, § 213.
20. CONFLICTING PROVISION: If any provision of this Agreement shall contravene any law or Constitutional provision or amendment, either now in effect or which may, during the course of this Agreement, be enacted, then that conflicting provision in the Agreement shall be deemed null and void.
21. DISCLAIMER: The Department specifically denies liability for any claim arising out of any act or omission by any person or agency receiving funds from the Department whether by contract, grant, loan, or by any other means.

No recipient, subrecipient, contractor, subcontractor, or agency performing services under any agreement, contract, grant, or any other understanding, oral or written, other than an actual employee of the Department, shall be considered an agent or employee of the State of Alabama, the Department, or any division thereof. The State of Alabama, the Department, and their agents and employees assume no liability to any recipient, subrecipient, contractor, subcontractor, or agency, or any third party, for any damages to property, both real and personal, or personal injuries, including death, arising out of or in any way connected with the acts or omissions of any recipient, subrecipient, contractor, subcontractor, or agency, or any other person.

22. ASSIGNABILITY: The Subrecipient shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of the Department thereto. Any assignment made by the Subrecipient in violation of this section shall be void.
23. CONTINGENCY CLAUSE: It is expressly understood and mutually agreed that any Department commitment of funds herein shall be contingent upon receipt and availability by the Department of funds under the program for which this Agreement is made. As this Agreement involves federal funds, the Grant Amount will be adjusted by the amount of any federal rescissions and/or deferrals.

Payments made by the Department under the terms of this Agreement shall not constitute final approval of documents submitted by the Subrecipient or of procedures used in formulating requests for payment to the Subrecipient.

24. CONFLICT OF INTEREST: A conflict of interest, real or apparent, will arise when any of the following has a financial or other interest in the firm or organization selected for an award: (a) the individual, (b) any member of the individual's immediate family, (c) the individual's partner, or (d) an organization which employs or is about to employ any of the above. The Subrecipient certifies by signing this Agreement that no person who presently performs functions, duties, or responsibilities in connection with the Department of grant-funded projects or programs has any personal and/or financial interest, direct or indirect, in this Agreement nor will the Subrecipient hire any person having such conflicting interest. The

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Subrecipient further certifies that it will maintain a written code of standards governing the performance of persons engaged in the selection, award, and administration of contracts and subawards. The Subrecipient shall disclose in writing any potential conflict of interest relating to the Project to the Treasury or the Department in accordance with 2 C.F.R. § 200.112.

25. **AUDIT PROCEDURES:** All subrecipients of federal funds must follow the Audit Requirements in the Uniform Administrative Requirements (2 C.F.R. Part 200, Subpart F), as applicable. Non-profit subrecipients that expend \$750,000 or more during their fiscal year in federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 C.F.R. Part 200. All entities that have a single audit must submit the reporting package and data collection form to the Federal Audit Clearinghouse in accordance with 2 C.F.R. § 200.512. Additionally, if any subrecipient receives more than \$500,000, collectively, in State General Fund appropriations in its fiscal year from the Department, it must have an audit in accordance with Government Auditing Standards (the Yellow Book) and Generally Accepted Auditing Standards established by the American Institute of Certified Public Accountants.

Under federal law and in accordance with Treasury guidance, for-profit subrecipients are not subject to the audit obligations established by 2 C.F.R. Part 200, Subpart F, including those set forth in 2 C.F.R. § 200.501. However, all subrecipients are subject to the terms and conditions of the federal award between the Treasury and the Department and, pursuant to 2 C.F.R. § 200.501(h), the Department has an obligation to ensure compliance by for-profit subrecipients. Under that provision, methods to ensure compliance for federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits.

Nothing contained in this Agreement shall be construed to mean that the Treasury or the Department cannot utilize their auditors regarding audits of federal and Department funds, and the Subrecipient agrees to cooperate with the Treasury and the Department with respect to any audit concerning this Agreement. Audits of this nature shall be planned and carried out in such a way as to avoid duplication or not exceed applicable audit coverage limits.

Copies of all required audits must be submitted to the Department and the Alabama Department of Examiners of Public Accounts. Copies may be transmitted by email or traditional mail, at the following addresses:

audit@adeca.alabama.gov

Alabama Department of Economic and
Community Affairs
ATTENTION: Chief Auditor
401 Adams Avenue
P.O. Box 5690
Montgomery, AL 36103-5690

central.records@examiners.alabama.gov

Alabama Department of Examiners of
Public Accounts
ATTENTION: Audit Report Repository

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P.O. Box 302251
Montgomery, AL 36130-2251

26. **AUDIT EXCEPTIONS/UNRESOLVED QUESTIONED COSTS/OUTSTANDING DEBTS:**
The Subrecipient certifies by signing this Agreement that it does not have any unresolved audit exceptions, unresolved questioned costs, or finding of fiscal inadequacy as a result of project monitoring. It further certifies that no money is owed by the Subrecipient to any division of the Department or to the federal government under any program where it has not arranged a repayment plan.

27. **SUSPENSION OF PAYMENTS:** In addition to the provisions provided herein, payments under this Agreement may be suspended in the event that there is an outstanding audit exception for the Subrecipient under any program administered by any division of the Department, or in the event there is an amount owing by the Subrecipient to any division of the Department, or an amount owing by the Subrecipient to the federal government under any program administered by any division of the Department that is not received in a reasonable and timely manner.

Should the Subrecipient incur an unresolved audit exception or have unresolved questioned costs or finding of fiscal inadequacy as a result of any project monitoring by any division of the Department, then the Department shall not enter into any other contract, agreement, grant, etc., with said Subrecipient until the audit exception or questioned cost or finding of fiscal inadequacy has been resolved. The Department shall not enter into another contract, agreement, grant, etc., with any individual, agency, company, or government under any program administered by any division of the Department that has not arranged a repayment schedule.

28. **RECOUPMENT OF PAYMENTS:** In addition to the provisions provided herein, in the event the State of Alabama is required to repay ARPA funds delegated to the Department as a result of the Subrecipient's noncompliance with the terms and conditions of this Agreement or any applicable law, regulation, or guidance governing the expenditure of funds distributed from the ARPA, the Department shall have the right to recoup such repayments from the Subrecipient in the amount attributable to the Subrecipient's noncompliance without offset, including by reducing or withholding future progress payments. To the extent permitted by law, the Department shall provide the Subrecipient with written notice of such noncompliance and allow the Subrecipient fifteen (15) calendar days to correct or otherwise cure such noncompliance before seeking recoupment. Any dispute regarding recoupment of payments made under this Agreement shall be subject to the provisions of Section 16 (Immunity and Dispute Resolution) or such other procedures as the parties may mutually agree to in writing or as established by law.

The Department reserves all rights under federal and state law regarding the recoupment of payments made under this Agreement, and the waiver or failure of the Department to exercise any right of recoupment in any respect provided for in this Agreement shall not be deemed a waiver of any further right under this Agreement or a waiver of the ability to exercise the same right on a different occasion. Nothing in this Agreement shall limit the authority of the

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Treasury or the Department to enforce conditions, address violations, or take enforcement action for noncompliance, including, to the extent applicable, the remedies prescribed in 2 C.F.R. §§ 200.208, 200.339, 200.345.

29. **DISCLOSURE STATEMENT:** Unless otherwise exempt under Ala. Code § 41-16-82, a disclosure statement must be submitted to the Department for any and all proposals, bids, contracts, or grant proposals in excess of \$5,000.
30. **PUBLICATION:** This Agreement and the Application are subject to public records requests in accordance with the Alabama Open Records Law, Ala. Code § 36-12-40, and other applicable laws. The Department reserves the right to publicly announce this Agreement and discuss the Project in any promotional material, statement, document, press release or broadcast. Any publications produced with funds from the Grant Amount must display the following language, as applicable: “This project [is being] [was] supported, in whole or in part, by federal award number SLFRP2635 awarded to the State of Alabama by the U.S. Department of the Treasury.” The Subrecipient agrees to comply with any guidance or requirements issued by the Treasury or the Department regarding any signage or customer outreach materials related to the Project.
31. **DISCRIMINATION PROHIBITED:** The Subrecipient shall be in compliance with all federal, state, and local laws related to nondiscrimination and shall provide all required assurances. No person shall be denied employment, or otherwise discriminated against, on the basis of race, religion, color, national origin, age, sex, gender identity, sexual orientation, handicap, or limited English proficiency, in connection with this Agreement.

The Subrecipient and any subgrantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Treasury’s Title VI regulations, 31 C.F.R. Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also includes protection to persons with “Limited English Proficiency” in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Treasury’s Title VI regulations, 31 C.F.R. Part 22, and herein incorporated by reference and made a part of this Agreement.

The Subrecipient shall comply with the following specific assurances of compliance with civil rights requirements required by the Treasury as a condition of receipt of federal assistance:

- (a) Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal funds, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Treasury Title VI regulations at 31 C.F.R. Part 22 and other pertinent executive orders such as Executive Order 13166; directives; circulars; policies; memoranda and/or guidance documents.

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- (b) Subrecipient acknowledges that Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (“LEP”). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Treasury’s implementing regulations. Accordingly, the Subrecipient shall initiate reasonable steps, or comply with the Treasury’s directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient’s programs, services, and activities.
- (c) Subrecipient agrees to consider the need for language services for LEP persons during development of applicable budgets and when conducting programs, services, and activities. As a resource, the Treasury has published its LEP guidance at 70 FR 6067. For more information on LEP, please visit <http://www.lep.gov>.
- (d) Subrecipient acknowledges and agrees that compliance with this assurance constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient’s successors, transferees, and assignees for the period in which such assistance is provided.

The Subrecipient also shall not deny benefits or services, or otherwise discriminate, in accordance with the following authorities, as applicable: (a) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; (b) Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., and the Treasury’s implementing regulations, 31 C.F.R. Part 28; (c) Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq., and the Treasury’s implementing regulations, 31 C.F.R. Part 23; and (d) Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.

The Subrecipient shall ensure that all contractors and subcontractors for the Project comply with all applicable nondiscrimination requirements. In accordance with federal law, including but not limited to 28 C.F.R. § 42.406 and 31 C.F.R. § 22.6, the Subrecipient shall provide any documentation or assurances that the Treasury or the Department may require demonstrating its compliance with such nondiscrimination requirements.

32. **PROJECT ADMINISTRATION COMPLIANCE:** In addition to the other obligations set forth in this Agreement, the Subrecipient and any contractors or subcontractors shall administer the Project in accordance with the Uniform Administrative Requirements and the following provisions, to the extent applicable and unless excluded by other federal laws or by the Treasury:

A. **EQUAL EMPLOYMENT OPPORTUNITY:** In accordance with 41 C.F.R. § 60-1.4(b), Executive Order 11246 (as amended by Executive Order 11375), and implementing regulations at 41 C.F.R. Part 60, for any federally assisted construction contract as defined

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by 41 C.F.R. § 60-1.3, contractors, during the performance of this Agreement, hereby agree as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor 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.
- (2) The contractor 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.
- (3) The contractor 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.
- (4) The contractor 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.
- (5) The contractor 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.
- (6) The contractor 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 its 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.

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- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this Agreement or contract or with any of the said rules, regulations, or orders, this Agreement 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.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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. The contractor 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 Subrecipient 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 Subrecipient 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 Subrecipient 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 to 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 Subrecipient 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 Subrecipient 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

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extending any further assistance to the Subrecipient under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such Subrecipient; and refer the case to the Department of Justice for appropriate legal proceedings.

- B. COPELAND “ANTI-KICKBACK” ACT: In the event the Grant Amount is for an amount which exceeds \$2,000 and is a prime construction contract, the Subrecipient or contractor shall comply with the Copeland “Anti-Kickback” Act, 40 U.S.C. § 3145, as supplemented by Department of Labor regulations (29 C.F.R. Part 3), which prohibits a subrecipient or contractor from inducing any person employed in the construction, completion, or repair of a public work to give up any compensation to which he or she is entitled to receive. In the event of a suspected or reported violation of the Copeland “Anti-Kickback” Act, the Department shall report such violation to the federal awarding agency.
- C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT: In the event the Grant Amount is for an amount in excess of \$100,000 and the Project involves the employment of mechanics or laborers, the Subrecipient or contractor shall comply with the Contract Work Hours and Safety Standards Act, 40 U.S.C. §§ 3701–08, specifically 40 U.S.C. §§ 3702, 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Said Act includes provisions which provide that a contractor must compute the wages of mechanics and laborers on the basis of a standard 40-hour work week. If an employee works in excess of 40 hours during a work week, the employee must be compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours. Further, neither a laborer nor a mechanic can be required to work in unsanitary, hazardous, or dangerous conditions. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT: If the Agreement meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the Department or Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Department or Subrecipient must comply with the requirements of 37 C.F.R. Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- E. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT: In the event the Grant Amount is for an amount in excess of \$150,000, the Subrecipient or contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, 42 U.S.C. §§ 7401–7671q, and the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251–1387. The Department shall report any suspected or reported violation to the federal awarding agency and to the Environmental Protection Agency (“EPA”).

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- F. **LOBBYING:** In the event the Grant Amount is for an amount exceeding \$100,000, the Subrecipient or contractor shall comply with the Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as well as the lobbying restrictions contained in 31 C.F.R. Part 21, and shall file the required certification. 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 an 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 or 31 C.F.R. Part 21. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award by filing the required disclosure. Such disclosures are forwarded from tier to tier up to the non-federal award.
- G. **DRUG-FREE WORKPLACE REQUIREMENTS:** The Subrecipient or contractor shall comply with all applicable provisions of Title V, Subtitle D of Pub. L. No. 100-690 or Pub. L. No. 111-350 (41 U.S.C. § 8101 et seq.), the Drug-Free Workplace Act of 1988, and 31 C.F.R. Part 20, including by maintaining a drug-free workplace and publishing a statement informing employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and establishing the actions that will be taken against employees violating these prohibitions. Failure to comply with these requirements may be cause for debarment.
- H. **UNIVERSAL IDENTIFIER AND SYSTEM FOR AWARD MANAGEMENT (“SAM”):** The Subrecipient shall comply with all applicable provisions of 2 C.F.R. Part 25, including the award term set forth in Appendix A to 2 C.F.R. Part 25, which is hereby incorporated by reference. The Subrecipient shall provide the Department with its Unique Entity Identifier (“UEI”) obtained from SAM. No entity may receive a subaward from the Department until the entity has provided its UEI to the Department. The Subrecipient shall maintain an active and current SAM registration with all required information at all times during which it has an active federal award or an application or plan under consideration by a federal awarding agency. The Subrecipient also shall review and update its information in the SAM database on an annual basis from the date of initial registration or subsequent updates to ensure it is current, accurate, and complete.
- I. **REPORTING SUBAWARD AND EXECUTIVE COMPENSATION INFORMATION:** The Subrecipient shall comply with all applicable provisions of 2 C.F.R. Part 170, including the award term set forth in Appendix A to 2 C.F.R. Part 170, which is hereby incorporated by reference. Subject to any exceptions, the Subrecipient must have the necessary processes and systems in place to comply with any applicable reporting requirements.
- J. **POLITICAL ACTIVITY:** The Subrecipient shall comply with all applicable provisions of the Hatch Act, 5 U.S.C. § 1501 et seq., regarding political activity by certain state and local employees. None of the funds, materials, property, or services contributed by the Subrecipient or the Department under this Agreement shall be used for any partisan political activity or to further the election or defeat of any candidate in public office.

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- K. SOLICITATION OF SMALL AND MINORITY BUSINESSES, WOMEN’S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS: In accordance with 2 C.F.R. § 200.321, if the Subrecipient intends to let any subcontracts under this Agreement, it shall: (a) place qualified small and minority businesses and women’s business enterprises on solicitation lists; (b) assure that small and minority businesses and women’s business enterprises are solicited whenever they are potential sources; (c) divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women’s business enterprises; (d) establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women’s business enterprises; and (e) use the services and assistance, as appropriate, of such organizations as the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and the Department.
- L. DOMESTIC PREFERENCES FOR PROCUREMENTS: As appropriate and to the extent practicable and consistent with applicable law, the Subrecipient or contractor will provide a preference for the procurement, purchase, acquisition, or use of goods, products, or materials produced in the United States as described in 2 C.F.R. § 200.322 and Executive Order 14005. If applicable, the requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this Agreement.
- M. PROCUREMENT OF RECOVERED MATERIALS: 2 C.F.R. § 200.323 provides that the Department and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- N. PROTECTION FOR WHISTLEBLOWERS: This Agreement is subject to the whistleblower protections afforded by 41 U.S.C. § 4712. Generally, this law provides that an employee or contractor (including subcontractors) of a non-federal entity may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information to any of the list of persons or entities provided below that they reasonably believe 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.

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The list of persons and entities referenced in the paragraph above includes the following: (a) a member of Congress or a representative of a committee of Congress; (b) an Inspector General; (c) the U.S. Government Accountability Office; (d) a Treasury employee responsible for contract or grant oversight or management; (e) an authorized official of the Department of Justice or other law enforcement agency; (f) a court or grand jury; and/or (g) a management official or other employee of the Department, Subrecipient, contractor, subcontractor, or other entity who has the responsibility to investigate, discover, or address misconduct. Non-federal entities and contractors under federal awards and subawards must inform their employees in writing of the rights and remedies provided under 41 U.S.C. § 4712 in the predominant native language of the workforce.

- O. HUMAN TRAFFICKING PROVISIONS: This Agreement is subject to the applicable requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, codified in 22 U.S.C. § 7104, and the applicable provisions of 2 C.F.R. Part 175.
- P. INCREASING SEAT BELT USE IN THE UNITED STATES: Pursuant to Executive Order 13043, the Department encourages the Subrecipient and its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.
- Q. REDUCING TEXT MESSAGING WHILE DRIVING: Pursuant to Executive Order 13513, the Department encourages the Subrecipient and its employees and contractors to adopt and enforce policies that ban text messaging while driving and establish workplace safety policies to decrease accidents caused by distracted drivers.

33. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS: In addition to the provisions provided herein, the Subrecipient shall be responsible for complying with any and all other applicable laws, ordinances, codes, executive orders, and regulations of the federal, state, and local governments, and shall be solely responsible for any recoupments or penalties that might arise from such noncompliance. Such compliance includes but is not limited to any federal, state, and local procurement, competitive bidding, public works, public meeting, permitting, environmental, historic preservation, land use, property standards, labor, nondiscrimination, or reporting requirements as well as applicable provisions of the ARPA, 31 C.F.R. Part 35, Subpart A, Uniform Administrative Requirements, and current and future regulations and interpretative guidance issued by the Treasury or the Department related to the ARPA. It is the responsibility of the Subrecipient to become familiar with these requirements, and the Department assumes no liability to the Subrecipient for any damages arising out of or in any way connected with the Subrecipient's noncompliance with laws, ordinances, codes, executive orders, and regulations of the federal, state, and local governments.

In compliance with Ala. Act No. 2016-312, the Subrecipient hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

In compliance with Ala. Act No. 2023-409, by signing this Agreement, Subrecipient provides written verification that Subrecipient, without violating controlling law or regulation, does not

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and will not, during the term of the Agreement engage in economic boycotts as the term “economic boycott” is defined in Section 1 of the Act.

By signing this Agreement, the contracting parties affirm, for the duration of the Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

34. FALSE STATEMENTS: The Subrecipient understands that making false statements or claims in connection with this Agreement is a violation of 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.
35. AMENDMENTS: The Subrecipient may request amendments to various portions of this Agreement, including amendments to Attachment A (Scope of Work) and Attachment B (Project Budget). All requests for amendments must be submitted in writing to the Department and be approved by the Department in writing prior to implementation. Any changes to the Grant Amount or Match Amount set forth in Attachment B must be made in the form of an amendment to this Agreement. The Department reserves the right to amend the terms of this Agreement if required by federal or state law without the Subrecipient’s prior consent, with notice of the amendment timely provided by the Department to the Subrecipient.

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IN WITNESS WHEREOF, THE DEPARTMENT AND THE SUBRECIPIENT HAVE EXECUTED THIS AGREEMENT AS EVIDENCED BY THE SIGNATURES BELOW:

**Alabama Department of Economic
and Community Affairs**

[INSERT]

Kenneth W. Boswell, Director Date

Authorized Official Date

Title

This Agreement has been reviewed for content and legal form, and complies with all applicable laws, rules, and regulations of the State of Alabama governing these matters.

Unique Entity Identifier

Tax ID Number

J. Bradford Currier, Legal Counsel

Contact Person Name

Contact Person Phone Number

Contact Person Email Address

Contact Mailing Address

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Disclaimer

This project is being supported, in whole or in part, by federal award number SLFRP2635 awarded to the State of Alabama by the U.S. Department of the Treasury.