

## GRANT AGREEMENT

### Missouri ARPA Industrial Site Development Grant Program

This Grant Agreement ("Agreement") is entered into by and between the Department of Economic Development, an executive branch agency of the State of Missouri ("DED"), and Grantee (together with DED a "Party" or collectively the "Parties").

#### 1. IDENTIFYING INFORMATION

A field with an asterisk (\*) is a defined term in this Agreement.

GRANTEE*	PROJECT NAME
City of Independence	EastGate Commerce Center
STATE OF ORGANIZATION	TYPE OF ENTITY
Missouri	Municipality
EIN	SAM.GOV UNIQUE ENTITY IDENTIFIER
446000190	U5W1BFU54PJ3
FEDERAL AWARD ID NUMBER	CFDA NUMBER AND NAME1111
SLFRP4542	21.027 Coronavirus State Fiscal Recovery Fund
MAXIMUM GRANT AMOUNT*	COST SHARING RATIO*
\$ 5,000,000.00	1:1 (Program Funds:Local Match or Private Investment)
	MO CONTRACT NUMBER
	35613987
DATE OF AWARD*	PERIOD OF PERFORMANCE*
May 5, 2023	March 3, 2021 through September 30, 2026
NOTICE TO GRANTEE*	NOTICE TO DED*
Attn: Adam Norris Title: Deputy City Manager Street: 111 E. Maple Avenue Independence, MO 64050 Phone: 816-325-7099 Email: <a href="mailto:anorris@indepmo.org">anorris@indepmo.org</a>	Department of Economic Development Attn: Bradley Clark Director of New Programs Federal Initiatives Mail: PO Box 1157 Jefferson City, MO 65102 Physical: 301 W. High Street, Suite 720 Jefferson City, MO 65101 Phone: 573/395-6055 Email: <a href="mailto:Bradley.Clark@ded.mo.gov">Bradley.Clark@ded.mo.gov</a>

## 2. RECITALS

- 2.1. The federal American Rescue Plan Act of 2021 ("ARPA") (Pub. L. 117-2) established the Coronavirus State Fiscal Recovery Fund ("SFRF") ([42 U.S.C. § 802](#)), and appropriated \$195.3 billion to the U.S. Department of the Treasury ("Treasury") for payments to the states to respond to the Coronavirus Disease 2019 ("COVID-19") public health emergency or for various purposes, including "for the provision of government services to the extent of the reduction in revenue of such State due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the State prior to the emergency" ("Revenue Replacement Funds").
- 2.2. The SFRF is further implemented by Treasury through regulations ([31 CFR part 35](#)) and other guidance.
- 2.3. The State of Missouri ("State") entered into an agreement with Treasury regarding the State's share of SFRF funding, including the Revenue Replacement Funds ("Treasury-State Grant Agreement").
- 2.4. The SFRF award to the State is over \$2.5 billion (separate from local government allocations).
- 2.5. The Missouri General Assembly appropriated, and the Governor approved, \$75,000,000 in SFRF funds to DED for "grants to political subdivisions for an Industrial Site Development Program" with a local match requirement, setting aside amounts based on project acreage, for State Fiscal Year 2023 (July 1, 2022 – June 30, 2023) (House Bill 3020, § 20.070, 2022). The funding is reappropriated for FY24 by House Bill 20 (§ 20.070, 2023). Though appropriated from a "Health and Economic Impacts Fund", the State has converted the funding for this item to Revenue Replacement Funds.
- 2.6. DED established the Missouri ARPA Industrial Site Development Grant Program, a competitive grant program ("Program"), to provide federal financial assistance for communities in the State to develop shovel-ready industrial sites to support business attraction and expansion.
- 2.7. DED issued guidelines for the Program on December 7, 2022.
- 2.8. From December 21, 2022 to February 21, 2023, DED accepted applications from interested applicants.
- 2.9. Grantee submitted an application for an industrial site development project, and DED approved the project for funding.
- 2.10. The Parties wish to set forth their mutual expectations and obligations with respect to DED's Grant to Grantee, and agree as follows:

### 3. DEFINITIONS

3.1. As used in this Agreement, capitalized terms have the meanings set forth in the introductory clause, Section 1 (terms followed by an asterisk), Section 2 of this Agreement, and as follows:

- (a) "Allowable Costs" has the meaning set forth in Section 6 of this Agreement.
- (b) "Cost Sharing Ratio" means the amount of Local Match or Private Investment that Grantee must demonstrate to DED to receive payment of an amount of Program Funds, expressed as a ratio of dollars of Program Funds for each dollar of Local Match.

For this Grant, the Cost Sharing Ratio is set forth in Section 1 of this Agreement. Cost Sharing Ratio is only for the purposes of payment rate of Program Funds, and does not alter the Maximum Grant Amount or Grantee's Local Match or Private Investment obligation.

- (c) "Local Match or Private Investment" is the amount of funds for the Project that are not Program Funds, as described in the Program Guidelines, and as set forth in Grantee's Application, which may be modified by Grantee's Final Project Budget, which is in Exhibit 3 to this Agreement. Although Treasury does not have a match requirement, the General Assembly included it in the appropriation, and it is in the Program Guidelines.
- (d) "Program Funds" means the Federal Financial Assistance Grantee has or may receive from DED under this Agreement, which must not exceed the Maximum Grant Amount in Section 1 of this Agreement. Program Funds consist of SFRF Revenue Replacement Funds.
- (e) "Program Guidelines" means the document attached as Exhibit 1 to this Agreement, titled "Program Guidelines, Industrial Site Development Grant Program".
- (f) "Project" means the industrial site development project as set forth in Grantee's Application, further identified by the Project Name in Section 1 of this Agreement.
- (g) "Request for Program Funds" means any DED form, whether paper or electronic, by which Grantee requests payment from the State/DED from Program Funds by providing required information and supporting documentation.
- (h) "RSMo" means the Revised Statutes of Missouri.
- (i) "Grant" is the Program Funds to be provided to Grantee as described in the contract documents set forth in Section 4 of this Agreement.
- (j) "Grantee" means the entity identified in Section 1 of this Agreement.

- (k) "Grantee's Application", means the application form and supporting documentation received by DED from Grantee for the Program by which Grantee requested an award of federal financial assistance, further identified based on the Project Name specified in Section 1 of this Agreement.
- (l) "Treasury" means the U.S. Department of the Treasury, which is the awarding federal agency as that term is defined in 2 CFR 200.1.
- (m) "Treasury-State Grant Agreement" means the SFRF grant agreement described in Section 2.3 of this Agreement and is the document attached as Exhibit 2 to this Agreement,
- (n) "Uniform Guidance" means [2 CFR part 200](#), Uniform Administrative Requirements, Cost Principles, and Audit Requirements, adopted by Treasury pursuant to 2 CFR 1000.10.

#### **4. THE CONTRACT DOCUMENTS**

- 4.1. The contract between the Parties with respect to the grant of Program Funds to Grantee shall consist of:
  - (a) This Agreement, which includes the Program Guidelines (Exhibit 1), the Treasury-State Grant Agreement (Exhibit 2); and Grantee's Final Project Budget (Exhibit 3); and
  - (b) Grantee's Application, incorporated by reference as if attached to or fully set forth in this Agreement.

#### **5. GRANTEE'S OBLIGATIONS**

- 5.1. In entering into this Agreement, Grantee certifies that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the Project in compliance with this Agreement.
- 5.2. In addition to federal and state laws, regulations, and executive orders as set forth elsewhere in this Agreement, all of Grantee's activities under this Grant must comply with all requirements applicable to Revenue Replacement Funds<sup>1</sup> in:
  - (a) [42 U.S.C. § 802](#) (codification of SFRF from ARPA);
  - (b) Treasury SFRF regulations at [31 CFR part 35](#);
  - (c) Supplementary Information to the SFRF Final Rule, [87 F.R. 4338-4446](#);
  - (d) Treasury SFRF guidance documents:
    - i. "[Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds](#)", Version 5.1 issued by Treasury on June 6, 2023, as may be amended from time to time;

---

<sup>1</sup> This funding source is frequently referred to in Federal guidance as the "revenue loss eligible use category".

- ii. "[Coronavirus State and Local Fiscal Recovery Funds Final Rule Frequently Asked Questions](#)", most recently updated on April 10, 2023, as may be amended from time to time;
- iii. "[Project and Expenditure Report User Guide, State and Local Fiscal Recovery Funds](#)", Version 4.0 issued by Treasury on October 12, 2022, as may be amended from time to time; and
- iv. Any other guidance issued by Treasury regarding the SFRF.

- (e) The Treasury-State Grant Agreement (Exhibit 2); and
- (f) Program Guidelines (Exhibit 1).

- 5.3. Grantee must complete the Project by the end of the Period of Performance set forth in Section 1 of this Agreement.
- 5.4. Grantee may use Program Funds only to carry out the activities for the Project as set forth in Grantee's Application and for no other purpose.
- 5.5. Grantee may only be reimbursed by DED with Program Funds for Allowable Costs.
- 5.6. Any publications produced with funds from this Grant must display the following language: "This product [is being] [was] supported, in whole or in part, by federal award number SLFRP4542 awarded to the State of Missouri by the U.S. Department of the Treasury."

## **6. ALLOWABLE COSTS**

- 6.1. Grantee shall only receive payment from DED for costs that are determined to be allowable by DED, based on the following:
  - (a) The provisions of Subpart E of the Uniform Guidance (Cost Principles) that Treasury has made applicable to Revenue Replacement Funds<sup>2</sup>:
    - (i) 2 CFR 200.400(a) - (c), and (e) (Policy guide);
    - (ii) 2 CFR 200.403(a), (c), (d), (g), and (h) (Factors affecting allowability of costs); and
    - (iii) 2 CFR 200.404(e) (Reasonable costs);
  - (b) The cost must be incurred by Grantee during the Period of Performance and must be submitted to DED for payment before the end of the Period of Performance;
  - (c) The cost must be included in the Grantee's Final Project Budget (Exhibit 3);
  - (d) Grant administration costs will be Allowable Costs only if included in Grantee's Application and in Grantee's Final Project Budget (Exhibit 3), and such costs must not exceed the maximum amount as set forth in the Program Guidelines.
- 6.2. Allowable costs exclude:

---

<sup>2</sup> [Treasury FAQs](#) 13.15 and 13.16.

- (a) Costs incurred by Grantee outside of the Period of Performance, except for Grant administrative costs incurred relating to close-out of an award;
- (b) Costs that will be paid for by other federal, state, or local funding;
- (c) Costs as set forth in the Program Guidelines as an ineligible cost; and
- (d) Costs that are not allowable in applying the provisions of Subpart E of the Uniform Guidance, Cost Principles, as set forth in Section 6.1 (a) of this Agreement.

## **7. LOCAL MATCH OR PRIVATE INVESTMENT**

- (a) Grantee's Application, as modified by Grantee's Final Project Budget (Exhibit 3), includes a Local Match or Private Investment commitment. Grantee must meet the Local Match or Private Investment as set forth in this Agreement.
- (b) Treasury has no match requirements under SFRF. The Uniform Guidance regarding cost sharing (2 CFR 200.306) is inapplicable to Revenue Replacement Funds. Neither Party intends for the Local Match or Private Investment to be considered voluntary committed cost sharing under the Uniform Guidance and therefore Local Match or Private Investment is not subject to any of the cost principles of subpart E of the Uniform Guidance unless specified in this Agreement.
- (c) Grantee's Local Match or Private Investment must be incurred during the Period of Performance.
- (d) Grantee's failure to meet its Local Match or Private Investment obligation may result in DED assigning specific award conditions or taking other action as authorized in Section 14 of this Agreement.
- (e) Grantee must create and maintain sufficient records demonstrating that it is meeting or has met its Local Match or Private Investment obligation, to facilitate questions and audits.
- (f) Grantee must submit records to DED showing how it has met its Local Match or Private Investment according to the Cost Sharing Ratio, in order to receive payment under Section 8 of this Agreement.

## **8. PROGRAM FUNDS PAYMENT**

- 8.1. Grantee will receive no Program Funds from DED until it has successfully registered for and received:
  - (a) A SAM.gov Unique Entity Identifier and provided the number to DED; and
  - (b) A vendor number from Missouri's SAM II vendor registration system.

- 8.2. Grantee may submit Requests for Program Funds to DED with all necessary supporting documentation, including invoices, by using an electronic interface designated by DED, which will require Grantee to have the ability to upload electronic copies of documents.
- (a) Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly):
- i. Invoice/reference number (assigned by Grantee);
  - ii. Invoice date;
  - iii. Invoice period (to which the reimbursement request is applicable);
  - iv. MO Contract Number (from Section 1 of this Agreement);
  - v. Recipient/Pass-through Entity: State of Missouri, Department of Economic Development;
  - vi. Grantee name;
  - vii. Grantee remittance address;
  - viii. Grantee contact for invoice questions (name, phone, and email, if available); and
  - ix. Itemization of payment requested for the invoice period detailing, at minimum, all of the following:
    - a. The amount requested by Grant budget line-item;
    - b. The amount paid by Grant budget line-item to date;
    - c. The total amount paid under this Agreement to date; and
    - d. The total amount requested (all line-items) for the invoice period;
- (b) Grantee has agreed to a Local Match or Private Investment through this Agreement, as described in Section 7. With each Request for Program Funds to DED, Grantee must submit documents enabling DED to ensure it is paying Grantee with Program Funds according to the Cost Sharing Ratio in Section 1 of this Agreement. For example, if the Cost Sharing Ratio is 1:1, for every dollar requested in Program Funds, Grantee must demonstrate to DED that it (or a third party if applicable) has incurred one dollar in Local Match or Private Investment;
- i. Upon written request from Grantee explaining mitigating circumstances for its inability to demonstrate the 1:1 Cost Sharing Ratio, DED may, in its reasonably exercised discretion, pay Grantee ARPA Program Funds for certain expenses at a lower ratio (e.g., 1:2), with the agreement that Grantee will subsequently have a higher cost sharing ratio applied (e.g., 2:1) until the average ratio returns to the 1:1 ratio. The Parties shall memorialize any Cost Sharing Ratio exception in a writing signed by the Parties.

- 8.3. Requests for Program Funds must be submitted only by a person authorized to submit such a request according to Grantee's internal control processes. A form will be provided by DED for Grantee to designate who is authorized to submit Requests for Program Funds.
- 8.4. Grantee shall submit Requests for Program Funds no more than once a month, unless the amount exceeds \$10,000.
- 8.5. Requests for Program Funds can be of two types:
- (a) Reimbursement of Costs Paid. The cost reimbursement method of payment consists of the payment of Program Funds to the Grantee based on actual expenditures for which the Grantee paid.
    - i. Supporting documentation may include invoices, paid bills, purchase vouchers, payrolls, copies of checks, contractor pay applications, etc.
    - ii. All vouchers/invoices should be on contractor's/vendors' letterhead.
    - iii. Source documentation should explain the basis of the costs incurred and the actual dates of the expenditure.
    - iv. Reimbursement of costs paid is the preferred method of payment of Funds by DED.
  - (b) Advance Payment. The Grantee may request Program Funds for incurred costs that the Grantee is unable to pay in advance of receiving Program Funds from DED.
    - i. Supporting documentation includes invoices or similar documentation. Grantee must explain in its Request for Program Funds why it cannot proceed with the reimbursement of costs method.
    - ii. During monitoring by DED, the Grantee must provide supporting documentation that the incurred costs were paid within three business days of receipt of Program Funds by DED (the "Three-Day Rule"). Documents of this include bank statements or cancelled checks.
  - (c) Grantee may use both types of Request for Program Funds, depending on the costs at issue.
- 8.6. If Grantee's budget includes grant administration costs, such costs shall not exceed the amounts in the Program Guidelines (the lower of 4% of the grant or \$100,000).
- (a) Grantee's grant administration costs shall be paid by DED as a set percentage of each Request for Program Funds.
- 8.7. Upon review and approval of Grantee's Request for Program Funds, DED shall pay Grantee's Allowable Costs with Program Funds, not to exceed the Maximum Grant Amount in Section 1 of this Agreement.



- 8.8. Grantee must submit its final Request for Program Funds to DED no later than the end of the Period of Performance. DED will not reimburse a Request for Program Funds received after this date.
- 8.9. DED is not liable for any of Grantee's obligations, expenditures, or commitments in any amount in excess of the Maximum Grant Amount in Section 1 of this Agreement.
- 8.10. Any payments to Grantee will be subject to reduction for amounts included in any invoice or payment that are determined by DED, on the basis of audits or monitoring, to constitute disallowed costs as set forth in this Agreement.
- 8.11. An initial payment by DED will not be construed as a final determination by DED that the costs are Allowable Costs.
- 8.12. If total payments to Grantee under this Agreement exceed the Maximum Grant Amount, Grantee must refund the excess amount to DED.
- 8.13. As provided in the Treasury-State Grant Agreement, any funds paid to the Grantee (1) in excess of the amount to which Grantee is finally determined to be authorized to retain under the terms of this Grant; (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 42 U.S.C. § 802(e) and have not been repaid by the State shall constitute a debt owed by the State to the federal government.
  - (a) In such instance, the funds constituting the State's debt to the federal government shall also constitute Grantee's debt to the State. Debts owed by Grantee to the State must be paid promptly by Grantee to the State. A debt owed to the State by Grantee under this Agreement is delinquent if it has not been paid by the date specified in the State's initial demand for payment, unless other satisfactory arrangements have been made or if Grantee knowingly or improperly retains funds that are a debt as defined in this Section 8.13.
  - (b) The State will take any actions available to it to collect such a debt, including but not limited to actions available to it under Section 14 of this Agreement. The rights of the State as expressed in this Section 8.13 are in addition to, and do not imply the exclusion of, any other rights the State may have under applicable law to collect a debt or seek damages from Grantee.

## **9. REPORTING**

- 9.1. Grantee agrees to comply with any reporting obligations established by Treasury or DED, as it relates to this Grant. DED/the State must report to Treasury regarding how Revenue Replacement Funds are allocated to government services. These reporting requirements are also to ensure the Project is proceeding as planned (according to budget and timeline).

9.2. **Quarterly Project and Expenditure Reports**

- (a) DED/the State must submit quarterly project and expenditure reports (“Quarterly Reports”) to Treasury.
- (b) Grantee agrees to provide DED with the data, information, and documents set forth in Section 9.2(e) of this Agreement on the following dates each year: March 1, June 1, September 1, and December 1.
- (c) Grantee agrees to provide the data, information, and documents for the Quarterly Reports in a format designated by DED, which is expected to be using the Submittable® platform similar to how Grantee applied for the Program.
- (d) Grantee agrees that if Treasury modifies its quarterly project and expenditure reporting requirements under SFRF Revenue Replacement Funds, Grantee will provide additional reporting required by Treasury of DED/the State for the Project.
- (e) Grantee agrees to provide the following information to DED/the State for the Quarterly Reports:

(1)	Project name, basic description, project expenditure category
(2)	Project completion status (not started, less than 50% complete, 50% or more complete, completed)
(3)	Project obligations and expenditures (current period and cumulative)
(4)	Total approved/adopted budget for Project (all sources)
(5)	For construction projects: (a) Projected and actual construction start date (b) Projected and actual construction completion date
(6)	Other information as reasonably required by DED
(7)	Any other information required by Treasury

9.3. **Annual Recovery Plan Performance Report.**

- (a) DED/the State must submit Recovery Plan Performance Reports annually covering each July 1-June 30 fiscal year for 2022 through 2026. Those reports are due to Treasury by the July 31 following the end of the applicable fiscal year. The final Recovery Plan Performance Report (July 1, 2026-Dec. 31, 2026) is due to Treasury April 30, 2027. The annual reports required are:
- (b) Information about the contents of the Recovery Plan Performance Report are in the [SFRF Compliance and Reporting Guidance](#), pp. 34-40, in Treasury’s [Recovery Plan Reporting User Guide](#) (Version 2.0, July 1, 2022) and Treasury has a suggested template (for the State) at the [SFRF Compliance and Reporting webpage](#) titled “Recovery Plan Template”.

- (c) In order for DED/the State to be able to timely file its Annual Performance Reports with Treasury, Grantee agrees to provide DED/the State with any required data, information, and documents to be included in the Annual Performance Reports no later than February 28, 2027.
- (d) DED will make all efforts to use the Quarterly Reports to create the Annual Performance Reports in lieu of potentially duplicative reporting, but reserves the right to request updated information if necessary to comply with Treasury's requirements.

9.4. Per 31 CFR 35.4, Treasury may request other additional information, in addition to regular reporting as may be necessary or appropriate, including as may be necessary to prevent evasions of the requirements of 31 CFR 35.1 to 35.12. Grantee agrees to cooperate with DED/the State and provide any information requested by Treasury.

## **10. MONITORING AND CLOSEOUT**

10.1. DED will monitor the Project to evaluate Grantee's compliance with Federal statutes, regulations and the terms of this Agreement, and will take prompt action when instances of noncompliance are identified.

- (a) Monitoring and oversight may be in the form of site visits or desk reviews. DED will notify Grantee in advance of any site visits.

10.2. Grantee must submit to DED all Project closeout documents no later than sixty (60) days after the end of the Period of Performance so that DED can submit its closeout documents to Treasury, as set forth in 2 CFR 200.344. The Parties hereby agree that the provisions of 2 CFR 200.344 will apply to DED's closeout of this Grant, as if Grantee were a subrecipient.

10.3. The Parties hereby agree that Grantee shall have continuing responsibilities as set forth in 2 CFR 200.345 as if Grantee were a subrecipient.

## **11. RECORD RETENTION AND ACCESS**

11.1. Grantee must establish and maintain records, including financial documents, sufficient to enable DED to determine whether Grantee has complied with the terms of this Agreement, and to assist DED in meeting its recordkeeping requirements. Such records may include, but are not limited to:

- (a) Records documenting compliance with 42 U.S.C. § 802, Treasury SFRF regulations at 31 CFR part 35; Supplementary Information to the Final SFRF Rule, 87 F.R. 4338-4446; Treasury Guidance as described in Sections 5.2(d) of this Agreement, and other terms of this Agreement (2 CFR 200.302(a));

- (b) Records sufficient to permit, as stated in 2 CFR 200.302(a):

- i. The preparation of reports required by general and program-specific terms;

- ii. The tracing of funds to a level of expenditures adequate to establish that such funds have been used according to Federal statutes, regulations, and the terms of this Agreement; and
  - (c) Records allowing DED to establish and demonstrate that the requirements of 2 CFR 200.302(b) are met with respect to the Project.
- 11.2. Grantee must retain all of its records relating to this Grant, including supporting documentation, for five (5) years from the date of DED's closeout of this Grant, unless a longer period is required as set forth in the exceptions in 2 CFR 200.334.
- 11.3. Grantee must give the State, DED, Treasury, Treasury's Office of the Inspector General, the Government Accountability Office, the Missouri State Auditor, and their authorized representatives, access to any records (electronic and otherwise) of Grantee related to this Grant in order to conduct inspections, audits, or other investigations. Grantee must also give timely and reasonable access to its personnel for the purpose of interview and discussion related to such records.

## **12. ADDITIONAL PASS-THROUGH REQUIREMENTS**

- 12.1. This Agreement is subject to the following provisions of the Uniform Guidance:
- (d) Subparts A, B, and C;
  - (e) The following regulations in Subpart D, Post Federal Award Requirements:
    - (i) 200.300 Statutory and national policy requirements;
    - (ii) 200.302 Financial management;
    - (iii) 200.303 Internal controls;
    - (iv) 200.328 Financial reporting;
    - (v) 200.329 Monitoring and reporting program performance;
    - (vi) Record Retention and Access (2 CFR §§ 200.334 – 200.338); and
    - (vii) 200.346 Collection of amounts due;
  - (f) The regulations in Subpart E, Costs Principles, as set forth in Section 6.1 (a) of this Agreement; and
  - (g) Subpart F, Audit Requirements, implementing the Single Audit Act.
- 12.2. Pursuant to the Treasury-State Grant Agreement, the following federal laws and regulations apply to this Grant:
- (h) Universal Identifier and System for Award Management ("SAM"), [2 CFR part 25](#), pursuant to which the award term set forth at [Appendix A to 2 CFR part 25](#) is hereby incorporated by reference;
  - (i) Reporting Grant and Executive Compensation Information, [2 CFR part 170](#), pursuant to which the award term set forth at [Appendix A to 2 CFR part 170](#) is hereby incorporated by reference;

- (j) OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement), [2 CFR part 180](#), and Treasury's implementing regulation at [31 CFR part 19](#), including both the requirement to comply with [31 CFR part 19's subpart C](#) as a condition of participation in this transaction, and the requirement to pass the requirement to comply with that subpart to each person with whom the participant enters into a covered transaction at the next lower tier;
  - i. Grantee hereby reaffirms its statements in the "Certification Regarding Debarment and Suspension" submitted with Grantee's Application.
- (k) Recipient Integrity and Performance Matters, pursuant to which the award term set forth at [2 CFR part 200, Appendix XII](#), is hereby incorporated by reference;
- (l) Government-wide Requirements for Drug-Free Workplace, [31 CFR part 20](#);
- (m) New Restrictions on Lobbying, [31 CFR part 21](#);

If the Maximum Grant Amount in Section 1 of this Agreement exceeds \$100,000, Grantee certifies, to the best of its knowledge and belief, that:

- i. No Federal appropriated funds have been paid or will be paid, by or on behalf of Grantee, 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;
- ii. 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 Grantee shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- iii. Grantee must require that 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 Grantees 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 section 1352, title 31, U.S. Code. 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.

- (n) Uniform Relocation Assistance and Real Property Acquisitions Act of 1970, as amended ([42 U.S.C. §§ 4601–4655](#)) and implementing regulations;
- (o) Federal statutes, regulations, and federal executive orders prohibiting discrimination applicable to this Grant include, without limitation, the following:
  - i. Title VI of the Civil Rights Act of 1964, as amended ([42 U.S.C. §§ 2000d et seq.](#)) and Treasury's implementing regulations at [31 CFR part 22](#), and the government-wide regulations contained in [28 CFR part 42](#), subparts C and F, 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, as amended ([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; and
  - iv. The Age Discrimination Act of 1975, as amended ([42 U.S.C. §§ 6101-6107](#)) and Treasury's implementing regulations at [31 CFR 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.

12.3. Pursuant to the Treasury-State Grant Agreement, as a condition of receiving ARPA federal financial assistance, Grantee provides the following assurances:

- (a) Grantee ensures its current and future compliance with applicable provisions of 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 Treasury Title VI regulations at 31 CFR part 22 and other pertinent executive orders such as federal Executive Order 13166; directives; circulars; policies; memoranda and/or guidance documents.

- (b) Grantee acknowledges that [federal 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"). Grantee 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 Treasury's implementing regulations. Accordingly, Grantee must initiate reasonable steps, or comply with Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Grantee 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 Grantee's programs, services, and activities.
- (c) Grantee 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, Treasury has published its LEP guidance at 70 FR 6067. For more information on LEP, please visit <http://www.lep.gov>.
- (d) Grantee acknowledges and agrees that compliance with this assurance constitutes a condition of continued receipt of federal financial assistance and is binding upon Grantee and Grantee's successors, transferees, and assignees for the period in which such assistance is provided.
- (e) Grantee acknowledges and agrees that it must require any contractors, subcontractors, successors, transferees, and assignees to comply with the assurances in (a) through (d) above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Grantee and any contractor, subcontractor, successor, transferee, and assignee:

*The contractors, subcontractors, successors, transferees, and assignees 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 Department of the Treasury's Title VI regulations, 31 CFR 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 Department of the Treasury's Title VI regulations 31*

*CFR part 22, and herein incorporated by reference and made a part of this agreement.*

- (f) Grantee understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of Treasury, this assurance obligates the Grantee, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Grantee for the period during which it retains ownership or possession of the property.
  - (g) Grantee shall cooperate in any enforcement or compliance review activities by Treasury or the State of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. That is, Grantee shall comply with information requests, on-site compliance review, and reporting requirements.
  - (h) Grantee must maintain and provide to applicants, beneficiaries, their representatives, or any other party requesting the same, information on how to file a Title VI complaint of discrimination with the State.
  - (i) Grantee must provide to the State documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between Grantee and the administrative agency that makes any such finding. If Grantee settles a case or matter alleging such discrimination, Grantee must provide to the State documentation of the settlement. If Grantee has not been the subject of any court or administrative agency finding of discrimination, Grantee shall so state.
  - (j) The United States of America has the right to seek judicial enforcement of the terms of this assurance Section 12.3 and nothing in this Section 12.3 alters or limits the federal enforcement measures that the United States may take in order to address violations of this Section 12.3 or applicable federal law.
- 12.4. Grantee agrees to comply, if applicable, with requirements of the Hatch Act (5 U.S.C. §§ [1501–1508](#) and [7324–7326](#)), which limits 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.



- 12.5. Grantee understands that making false statements or claims in connection with this Grant 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.
- 12.6. Pursuant to the Treasury-State Grant Agreement, and federal Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Grantee should encourage 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.
- 12.7. Pursuant to the Treasury-State Grant Agreement, and federal Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), the State encourages the Grantee to adopt and enforce policies that ban text messaging while driving.
- 12.8. Grantee must provide for compliance with the applicable requirements of the laws, regulations, and Treasury guidance in Section 5.2 of this Agreement, and with other applicable federal statutes, regulations, and executive orders by other parties in any agreements it enters into with other parties relating to this Grant.
- 12.9. In the Treasury-State Grant Agreement, Treasury provides that the United States expressly disclaims any and all responsibility or liability to the State or third persons for the actions of the State or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this Grant or any other losses resulting in any way from the performance of this Grant or any contract or subcontract under this Grant. Furthermore, in the Treasury-State Grant Agreement, Treasury also states that the acceptance of the award by the State does not in any way establish an agency relationship between the United States and the State. This disclaimer applies with equal force to this Grant.
- 12.10. In accordance with [41 U.S.C. § 4712](#), Grantee 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.

The list of persons and entities referenced in the statement above includes the following:

- (a) A member of Congress or a representative of a committee of Congress;
- (b) An Inspector General;
- (c) The 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;
- (g) A management official or other employee of the State, DED, or the Grantee who has the responsibility to investigate, discover, or address misconduct.

Grantee must inform its employees in writing of the rights and remedies provided under this Section 12.10, in the predominant native language of the workforce.

### **13. EFFECTIVE DATE AND TERMINATION**

- 13.1. This Agreement shall become effective upon the last signature after full execution by both Parties.
- 13.2. This Agreement shall terminate automatically 60 days after DED completes closeout of this Grant.
- 13.3. Upon termination, Sections 1, 2, 3, 4, 11, 14, and 15.5(g) of this Agreement shall survive and continue in force.

### **14. DEFAULT AND REMEDIES**

- 14.1. Grantee's knowing misrepresentation of a material fact to DED, whether in Grantee's Application, this Agreement, a Request for Program Funds, or in any communication or document in connection with the Program, is a default event, in which case DED may cancel this Grant, and Grantee shall have no right or claim to this Grant and shall forfeit and repay the Program Funds received by Grantee under this Grant, plus any program income attributable to the Program Funds.
  - (a) For the purposes of this Section 14.1 of this Agreement, "knowing" means Grantee's shareholders, directors, officers, and other employees know or should have known, after reasonable investigation.
- 14.2. Grantee's failure to perform the work in accordance with the terms of this Agreement, maintain satisfactory performance as determined by DED, or otherwise comply with the terms of this Agreement is a default event, in which case DED may take one or more of the following actions:
  - (a) The imposition of additional award conditions in accordance with 2 CFR 200.208 (Specific conditions), if necessary to cure a default event under this Agreement;
  - (b) Temporarily withholding Program Funds pending the correction of the deficiency;
  - (c) The disallowance of costs and the establishment of an accounts receivable;

- (d) Restricting Grantee to receiving Program Funds only through a cost reimbursement method, as described in Section 8.5(a) of this Agreement;
  - (e) Wholly or partially suspending or terminating the Grant and this Agreement;
  - (f) Require Grantee to return to DED any Program Funds used for ineligible purposes or unallowable costs;
  - (g) Initiating suspension or debarment proceedings in accordance with 2 CFR parts 180 and 1326; and
  - (h) Such other remedies as may be legally available.
- 14.3. DED shall give written notice to Grantee as set forth in Notice to Grantee in Section 1 of this Agreement, in writing, if DED takes any of the actions in Section 14.2 of this Agreement, describing the basis for any action, and the effective date(s) of any action.
- 14.4. Costs to the Grantee resulting from financial obligations incurred by Grantee during a suspension or after termination of this Grant are not allowable costs unless DED expressly authorizes them in the notice of suspension or termination or subsequently. However, costs during suspension or after termination are allowable if:
- (a) The costs result from financial obligations which were properly incurred by the non-Federal entity before the effective date of suspension or termination, are not in anticipation of it; and
  - (b) The costs would be allowable if the Federal award was not suspended or expired normally at the end of the period of performance in which the termination takes effect.

## 15. STANDARD TERMS

- 15.1. **Federal Laws and Regulations.** This Agreement is subject to the laws and regulations of the United States. Grantee must comply with all applicable requirements of all Federal laws, regulations, executive orders, and policies governing the Program in addition to those specifically stated in this Agreement.
- 15.2. **State Laws and Regulations.** This Agreement is subject to the laws and regulations of the State of Missouri. Grantee must comply with all applicable requirements of all Missouri laws, regulations, executive orders, and policies governing the Program in addition to those specifically stated in this Agreement.
- 15.3. **Ongoing Representations.** All statements and representations by Grantee in Grantee's Application, this Agreement, any Request for Program Funds, or in any other writing delivered in connection with the performance of the Grant or this Agreement, shall survive the signing and delivery thereof and shall be continuing representations unless and until revised by Grantee in a writing delivered to DED.

- 15.4. **Grantee Status.** Grantee shall not represent Grantee or Grantee's employees to be employees of DED or the State.
- 15.5. **IRC 501(c) Grantees.** If Grantee is an entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code of 1986, as amended:
- (a) Grantee understands and agrees that in the course of performing the Project, including reporting on the Project and in the State's/DED's monitoring of the Project, it will provide information to the State, DED, their employees and officials, just as any non-IRC 501(c) Grantee would.
  - (b) Grantee understands that this information may include "personal information" as that term is defined in [§ 105.1500 RSMo](#) ("Personal Information"),
  - (c) Grantee represents that it voluntarily applied for this Program with the understanding that it may need to provide Personal Information not only in Grantee's Application, but also from time-to-time in the course of the Project due to reporting on and monitoring of the Grant, just as any non-IRC 501(c) Grantee would.
  - (d) Grantee hereby waives any right it may have under § 105.1500 RSMo to claim that the State, DED, their employees and officials are requiring or otherwise compelling Applicant to release any such information.
  - (e) Grantee further understands that the State and DED may retain records received from Grantee that contain personal information, and that the State, DED, and their employees and officials may, just as they would with any non-IRC 501(c) Grantee, share the records, including Grantee's Application, with contractors and members of any review or advisory committee for the following purposes:
    - i. Determining eligibility and qualifications of applicants;
    - ii. Scoring applications;
    - iii. Ranking applications;
    - iv. Reviewing and advising on recommended awards;
    - v. Conducting risk assessments on awarded projects; and
    - vi. Monitoring and conducting closeout on awarded projects.
  - (f) Grantee further understands that members of the Missouri General Assembly may request information regarding the Program, including applicants, applications, and other information that may include Personal Information.
  - (g) Grantee hereby waives any right it may have under § 105.1500 RSMo to claim that the State, DED, their employees and officials, in releasing information as described in Sections 15.5(e) and (f), are releasing, publicizing, or otherwise publicly disclosing Personal Information.

- 15.6. **Grantee's Vendors, Contractors, and Subcontractors**
- (a) Grantee shall not enter into a contract with any vendor, contractor, or subcontractor that is suspended or debarred by the State (check <https://purch.oa.mo.gov/media/pdf/suspendeddebarred-vendors> and <https://oa.mo.gov/facilities/project-management/debarred-contractors>).
  - (b) Grantee must ensure that its vendors, contractors, or subcontractors that are required to register with the Missouri Secretary of State are registered and in good standing with the State of Missouri by checking the entity on the [Missouri Secretary of State's business entity search](#) or by requiring a copy of a certificate of good standing.
- 15.7. **Authorized Employees – Federal Law.** Grantee must comply with the Immigration Reform and Control Act, 8 U.S.C. § 1324a *et seq.*, which prohibits employers from hiring and employing an individual for employment in the U.S. knowing that the individual is not authorized with respect to such employment.
- 15.8. **Authorized Employees – Missouri Law.** Pursuant to § 285.530.1 RSMo, Grantee must not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri.
- (c) Grantee submitted with an Affidavit and the Employment Eligibility Verification Program ("E-Verify") Memorandum of Understanding that it will use for employees with Grantee's Application to DED.
  - (d) Grantee hereby reaffirms its enrollment and participation in E-Verify with respect to the employees working in connection with this Agreement.
- 15.9. **Funds Availability.** Funding for this Agreement must be appropriated by the Missouri General Assembly and approved by the Governor for each fiscal year in which Grantee submits Requests for Program Funds to DED. Therefore, this Agreement shall not be binding upon DED for any period in which funds have not been appropriated or approved, and DED shall not be liable for any damages or costs, including attorney's fees, associated with cancellation caused by such unavailability of funds.
- 15.10. **Notices.** All instructions, notices, consents, demands, or other communications required or contemplated by this Agreement shall be in writing and addressed as set forth in Notice to Grantee and Notice to DED in Section 1 of this Agreement.
- (a) Notwithstanding Section 15.11 of this Agreement to the contrary, DED and Grantee may from time to time designate, unilaterally and by written notice given under this Section to the other, additional or substitute contact information.
  - (b) All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation of receipt, whichever occurs first.

- 15.11. **Amendments.** This Agreement may be amended, supplemented, reduced, or superseded only by a writing executed by the Parties.
- 15.12. **Interpretation.** In this Agreement, unless the context otherwise reasonably requires:
- (a) Headings are for reference purposes only and shall not alter the interpretation of this Agreement;
  - (b) Words importing the singular may include the plural and vice versa, as reasonably required by context;
  - (c) References to any document include references to such document as amended, novated, supplemented, varied, or replaced from time to time;
  - (d) References to a statute, regulation, federal notice, or executive order means such statute, regulation, federal notice, or executive order as amended from time to time; and
  - (e) References to a party to this Agreement includes that Party's legal successors (including but not limited to executors and administrators) and permitted assigns.
- 15.13. **Governing Law.** The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Missouri.
- 15.14. **Consent to Jurisdiction.** Any legal action or proceeding with respect to this Agreement shall be brought in the courts of the State of Missouri in Cole County, Missouri, and by signing and delivering this Agreement to DED, Grantee hereby voluntarily and irrevocably accepts, generally and unconditionally, to the personal jurisdiction of the aforesaid court.
- 15.15. **No Assignment.** Grantee shall not assign, including by merger (if Grantee is the disappearing entity), consolidation, dissolution, or operation of law, any of its rights or obligations under this Agreement, except with the prior written consent of DED. Any purported transfer in violation of this Section 15.15 will be void.
- 15.16. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective authorized successors and assigns.
- 15.17. **No Third Party Beneficiaries.** This Agreement does not contemplate any third-party beneficiaries, nor shall it be construed to create any legal right nor authorize a cause of action by any person who is not a Party.
- 15.18. **Severability.** If any provision of this Agreement is found to be invalid or unenforceable, the validity and enforceability of the remaining provisions shall not be affected.
- 15.19. **Legal Capacity.** The signatories to this Agreement on behalf of the Parties represent that they have full capacity and authorization to sign this Agreement and bind their respective Parties.

- 15.20. **No Violation of other Contracts.** The signing, delivery, and performance of this Agreement by Grantee will not violate, conflict with, require consent under, or result in any breach or default under the provisions of any material contract or agreement to which Grantee is a party.
- 15.21. **Licenses, Permits, and Approvals.** Grantee has obtained, or is capable of obtaining, all material licenses, authorizations, approvals, consents, or permits required by applicable laws to conduct its business generally and to perform its obligations under this Agreement.
- 15.22. **Counterparts.** This Agreement may be signed by the Parties in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 15.23. **Electronic Signatures.** The Parties agree that electronic signatures, whether digital or encrypted, of the Parties are intended to authenticate this writing and have the same force and effect as a wet signature. Delivery of a copy of this Agreement or any amendment to this Agreement bearing a wet or electronic signature by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing a wet or electronic signature.
- 15.24. **Electronic Documents.** Any document generated by the Parties with respect to this Agreement, including this Agreement, may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. Neither Party will object to the admissibility of such images as evidence in any proceeding on account of having been stored electronically.

## 16. ENTIRE AGREEMENT

- 16.1. This Agreement constitutes the entire understanding between the Parties with respect to the subject matter of this Agreement and supersedes all other agreements, whether written or oral, between the Parties.

*[The remainder of this page is intentionally blank. Signature page follows.]*

**Department of Economic Development**

By:

\_\_\_\_\_  
Michelle Hataway, Acting Director

\_\_\_\_\_  
Date signed

**Grantee**

By:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Title

\_\_\_\_\_  
Date signed

Approved as to Form (if applicable)

\_\_\_\_\_  
City Attorney, or designee



## **Exhibits**

- Exhibit 1      Program Guidelines
- Exhibit 2      Treasury-State Grant Agreement
- Exhibit 3      Grantee's Final Project Budget