

**FIRST AMENDMENT TO THE SERVICE PROVIDER CONTRACT
FOR
COMMUNITY HEALTH AND HUMAN SERVICES**

**CITY OF FLAGSTAFF
and
UNITED WAY OF NORTHERN ARIZONA**

THIS FIRST AMENDMENT to the Contract dated September 3, 2019, and subsequent Contract Extensions ("First Amendment") is made between the City of Flagstaff ("City"), a municipal corporation with offices at 211 W. Aspen Avenue, Flagstaff, Coconino County, Arizona 86001, and United Way of Northern Arizona ("Provider"), a corporation with an office at 1515 E. Cedar Avenue, Suite D-1, Flagstaff, Arizona 86001, effective as of the date written below.

RECITALS

A. On September 3, 2019, the City entered into a Contract with Provider ("2019 Contract") wherein the City made available to Provider a sum of money to provide financial assistance to non-profit organizations for Community Health and Human Services to primarily low- and moderate-income residents of the City; and

B. Throughout the term of the Contract and the two (2) subsequent Contract Extensions, Provider has satisfactorily distributed the social service contributions that the City had made available; and

C. The City is a recipient of certain funds through the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021), which authorizes the U.S. Department of the Treasury ("Treasury") to make payments from the Coronavirus Local Fiscal Recovery Fund ("Local Recovery Funds"); and

D. The distribution of Local Recovery Funds is guided by the Treasury Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 ("Uniform Guidance") which allows the City to work with entities to administer the Local Recovery Funds; and

E. The City wishes to delegate certain program administration and monitoring responsibilities to Provider for the pass-through distribution to other non-profit organizations of **seven hundred thousand dollars (\$700,000)** and to compensate Provider with a payment of **eighty-four thousand dollars (\$84,000)** for a total distribution to Provider of **seven-hundred eighty-four thousand dollars (\$784,000)** pursuant to the Uniform Guidance regarding the allocation of the Local Recovery Funds reserved to respond to the COVID-19 public health emergency or its negative economic impacts for City-wide local service agencies.

For the reasons recited above, and in consideration of the mutual covenants contained in the Contract and First Amendment, the City and Provider agree as follows:

SECTION 1, SCOPE OF WORK, is amended to include the following language:

1. Scope of Work: Provider shall provide the services generally described as follows:
 - 1.1 Scope of Work for the 2019 Contract: **Community Health and Human Services, via a social service contribution from the City of Flagstaff** and as more specifically described in the Scope of Work attached hereto as Exhibit A.
 - 1.2 Scope of Work for the First Amendment: Provide services, such as issue Notice of Funding Announcements to eligible non-profits, evaluate proposals, award applicants, submit required reporting, oversee, and monitor awarded applicants **via a social service contribution from the City of Flagstaff from a portion of the Local Recovery Funds received by the City** and as more specifically described in the First Amendment to the Scope of Work attached hereto as Exhibit D.

SECTION 3, STANDARD TERMS AND CONDITIONS, is amended to include the following language:

3. Terms and Conditions:
 - 3.1 Standard Terms and Conditions: The City of Flagstaff Standard Terms and Conditions, attached to the 2019 Contract as Exhibit B, are hereby incorporated by reference and shall apply to performance of the 2019 Contract and First Amendment, except to the extent modified in Exhibit A.
 - 3.2 Special Terms and Conditions: The City of Flagstaff Special Terms and Conditions, attached to the First Amendment as Exhibit E, are hereby incorporated by reference and shall apply to the performance of the 2019 Contract and First Amendment, except to the extent modified in Exhibit A.

SECTION 5, CITY REPRESENTATIVE, is amended to include the following language:

5. City Representative:
 - 5.1 City Representative for the 2019 Contract: The City Representative for the 2019 Contract is Rick Tadder, Management Services Director, or his designee. All communications to the City regarding the 2019 Contract shall be through the City Representative. City Representative is responsible for bringing any request for a contract amendment or price adjustment to the attention of the Procurement Director.
 - 5.2 City Representative for First Amendment: The City Representative for the First Amendment is Stacey Brechler-Knaggs, Grants and Contracts Manager, or her designee. All communications to the City regarding the First Amendment shall be through the City Representative. City Representative is responsible for bringing any request for a contract amendment or price adjustment to the attention of the Procurement Director.

SECTION 10, COMPENSATION, is amended to include the following language:

10. Compensation:

- 10.1 Compensation for Services Performed Under the 2019 Contract: Provider shall be paid \$363,750.00 plus compensation agreed upon in subsequent extensions for satisfactory performance of the work in accordance with the Compensation Schedule attached hereto as part of Exhibit A.
- 10.2 Compensation for Services Performed Under the First Amendment: Provider shall be paid a twelve percent (12%) administrative fee in the amount of eighty-four thousand dollars (\$84,000) for satisfactory performance of the work on a reimbursement basis in accordance with federal law and the Compensation Schedule attached hereto as part of Exhibit D.

SECTION 15, INSURANCE, is amended to include the following language:

Standard Insurance Requirements, Exhibit C:

3. Minimum Scope and Limits of Insurance.

d. Workers' Compensation and Employer's Liability

Workers' Compensation	Statutory
Employer's Liability: Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

SECTION 17, NOTICE, is amended to include the following language:

Any notice concerning the First Amendment shall be in writing and sent by certified mail and email as follows:

City of Flagstaff

Stacey Brechler-Knaggs
Grants Administrator
211 W. Aspen Ave.
Flagstaff, AZ 86001
(928) 213-2227
sknaggs@flagstaffaz.gov

United Way of Arizona

Carol Dykes
President and CEO
1515 E. Cedar Ave., Suite D-1
Flagstaff, AZ 86004
cdykes@nazunitedway.org

Copy to:

Patrick Brown, C.P.M., CPPB
Purchasing Director
211 W. Aspen Ave.
Flagstaff, AZ 86001
pbrown@flagstaffaz.gov

SECTION 19, EXHIBITS, is added to include the following language:

Exhibit A to the 2019 Contract:	Scope of Work/Fee Schedule
Exhibit B to the 2019 Contract:	City of Flagstaff Standard Terms and Conditions
Exhibit C to the 2019 Contract:	City of Flagstaff Standard Insurance Requirements
Exhibit D to the First Amendment:	Amended Scope of Work/Fee Schedule
Exhibit E to the First Amendment:	City of Flagstaff Special Terms and Conditions
Exhibit F to the First Amendment:	Payment Request
Exhibit G to the First Amendment:	Category Specific Reporting Requirements
Exhibit H to the First Amendment:	Performance Report
Exhibit I to the First Amendment:	Grant Provisions

Terms and conditions in the Contract as amended that are unchanged by this First Amendment will remain in full force and effect.

IN WITNESS WHEREOF, the parties acknowledge that they have read, understand, approve, and accept all of the provisions of this Contract and the attached Exhibits.

DATED this _____ day of _____, 20____.

City of Flagstaff

United Way of Northern Arizona

Greg Clifton, City Manager

Carol Dykes, President and CEO

Attest:

Attest:

City Clerk

Corporate Secretary

Approved as to form:

City Attorney

**EXHIBIT A
SCOPE OF WORK/FEE SCHEDULE**

Scope of Work:

- 1) Identify community health and human services critical needs and opportunities and provide the City funds for them through a fair process.**

Dialogue and data collection shall occur on an on-going basis with social services providers. Provider shall:

- Conduct email surveys with partner agencies to determine the effect of the changing economic conditions on clients and demand for services;
- Conduct three (3) face to face meetings with executives and senior staff from health and human service agencies to discuss needs and opportunities;
- Sponsor a community forum on poverty with the Arizona Community Action Association, and Coconino County to assess needs and assets of our community's ability to respond to the increasing numbers of low-income residents; and
- Routinely discuss findings from data collection and dialogue with business and civic leaders to understand health and human services needs in relation to their knowledge of community conditions.

These communication methods or similar ones shall be maintained on an on-going basis.

Additionally, Provider staff shall participate in a variety of organizations to facilitate the transfer of knowledge and build understanding of trends, best practices and opportunities in health and human services.

Provider shall coordinate with Launch Flagstaff under the collective impact for services, planning, and collaboration in the respective areas cradle to career.

- 2) Ensure funds are used effectively and specifically for the intended low and moderate income populations.**

Each spring, the Provider's board and staff shall recruit volunteers from among donors, campaign volunteers, corporate and community leaders to determine how the City of Flagstaff funds should be disbursed. Teams of volunteers headed by a member of the Provider's board review applications and conduct site visits. Each applicant is expected to document how its services impact the lives of the people who participate in its programs.

These volunteers have an interest in community social services, have an ability to read and interpret program/services information and are willing to commit the time necessary to do the best job possible. Volunteers are required to become knowledgeable regarding Provider's community investment process by attending a training session, become knowledgeable regarding agencies assigned to them, and specifics of programs for which funds are requested (each volunteer is asked to review five proposals' narratives and fiscal reports as well as complete a rating sheet), attend all meetings of their assigned team, recommend funding levels to Provider's board and ensure that community investment decisions are based on information provided within submitted proposals and site visits.

Volunteers shall evaluate the written proposal on key areas: Alignment with funding priorities (funding priorities are set by the Board based on community assessments), ability to display quantitative and qualitative outcomes that address how community conditions or individual clients conditions have changed in the current year due to program(s)/service(s) delivered,

goals and outcome objectives, budget narrative, logic model and inclusion of all required materials. Provider's staff shall audit applications to ensure compliance and volunteers shall be asked to bring their own experiences to the review process. A CPA or a person with expertise in fiscal management shall review fiscal components of the application. Review teams shall then recommend allocation amounts for each applicant to the Provider's Board of Directors

Final allocation decisions shall be made by the Provider's Board of Directors. The Board shall take into consideration the committee recommendations. A senior member of the City of Flagstaff staff shall hold a position on the Board of Directors and assume a leadership role with the community review team.

Provider shall work in collaboration with service providers, local government, health and education leaders that have successfully established or supported new programs or addressed system-wide responses to specific population needs. Provider shall lead an effort to better understand the needs and impact of this population, as well as potential models utilized in other communities, to address chronic alcoholism.

Provider shall work from an asset or strength-based model, meaning the Provider believes in working from strengths and that rarely can a single entity solve problems. To this end, as gaps in service become evident, Provider shall work with its partners, Community Initiative Councils, businesses and civic leaders to identify existing resources to meet needs. Provider, in collaboration with The Financial Stability Partnership (FSP), shall identify services for newly unemployed, people who have never had to access help before as an emerging need. Provider shall create resource lists and develop distribution methods. Provider shall provide the resource list to human resource personnel for the City of Flagstaff and other alliance members to ensure that employees targeted for lay-offs or furloughs received information about available social services.

3) Use City funds to leverage additional resources to provide enhanced and substantially similar benefit.

Three levels of review shall occur for each entity that is funded as follows:

- 1) compliance with non-profit organizational and fiscal requirements (990 tax filing, annual audit, non-profit status)
- 2) site visits by community review teams to see the program operations and meet the executive level staff and key board members
- 3) programmatic reports documenting services provided

Each organization shall provide the following:

A single Application Cover Sheet, Amount(s) Requested Form, Budget Narrative, Patriot Act Compliance Form, Certification of Non-Discrimination Form, Audit, and 990 Tax Return are required for funding source:

- **Application Cover Sheet** – Please utilize provided Application Cover Sheet. Signatures and printed names of Board President and Executive Director/CEO are required.
- **Amount(s) Requested Form** - Indicate amount for City of Flagstaff Funds being requested.
 - ◆ Computation of Administrative/Fund Raising Expenses.
- **Budget Narrative** - The purpose of a budget narrative is to provide more clarity and detail on various budget line items for which funds are being requested. The budget narrative

should explain criteria used to compute budget figures. Tie budget narrative with projected outcomes within Logic Models. Complete Budget Narrative For Amount(s) Requested Form.

- **USA Patriot Act Annual Compliance Form**
- **Certification of Non-Discrimination in Services and Employment Form**
- **Audit** - Most recent independent certified public accountant's ***Audit Report*** for agency **with Auditor's management letter**. Auditor's Recommendations to Board of Directors. *(If Management Letter was not issued, a letter from the Auditor stating no Management Letter was issued **MUST BE SUBMITTED**).*
 - **GAAP and GAAS** - The Agency listed in this application accounts for its funds in accordance with generally accepted accounting principles (GAAP) and was audited in accordance with generally accepted auditing standards (GAAS) by an independent certified public accountant in the immediately preceding year.
 - **OMB 133 Audit**: (Single Audit Act) \$500,000 or more expenditures of Federal funds. Fiscal and program compliance tested. More testing required. Opinion letter addresses Internal Controls. Management Letter provides suggestions.
 - **Regular Audit**: Review of fiscal documentation and records. No Opinion Letter on Internal Controls. Management Letter with suggestions is written. Required based on partner's budget/revenues of \$100,000 and above.
 - **Reviewed Financial Statement**: Tests numbers and ratios. Required based on partner's budget/revenues of \$25,000 - \$100,000.
 - **Compilation**: Pulls fiscal records and converts into Generally Accepted Accounting Procedures (GAAP) with disclosures/notes. Required based on partner's budget/revenues below \$25,000.
 - **IRS 990 Tax Return** – Must be from the same calendar year/fiscal year as audit (organizations which are not required to submit a Form 990 must complete the first two pages of a 990 for UWNA), accounting method **must be accrual**; including signatures in the box marked "Signature of Officer." The preparer's signature alone is **not** sufficient. Dates of the Form 990 **must match** dates of annual audit and both cannot be older than 18 months.
 - **New applicants to Successful Provider** - If this is the first year an agency is applying for any funds through , the following are required:
 - Copy of most recent **IRS determination letter** (501c3).
 - **Current Year's Budget** (the year agency is currently in) for entire agency as approved by agency's Board of Directors.
 - A list of agency's **Board of Directors and Advisory Board** (if agency is an affiliate of a statewide organization) with the following required information:
 - Mailing addresses and telephone numbers for each member. Just the agency's address and phone number are unacceptable.
 - Indicate offices currently held by each member.
 - Terms of office – beginning and ending dates (month, day, and year). If your agency does not have term limits, attach a copy of Bylaws stating this fact.
 - A list of dates of Board of Directors meetings held within the past 12 months. Indicate meetings at which a quorum was present.

- o Provide times and locations with an exact address of each Board meeting.

Each spring the Provider shall release a request for proposal for City of Flagstaff funding. All Community Health and Human Service agencies serving Flagstaff residents shall be invited to participate through public notification in the Arizona Daily Sun. Provider partners shall be invited to participate through their annual provider application for funds. Previous year's applicants shall be notified via email and Provider staff shall be available via phone/email for questions and concerns. Provider shall require that each applicant provide a logic model explaining how City of Flagstaff funding was utilized by the agency in the previous calendar year. Provider shall ask for quantitative and qualitative outcomes that address how the agency is changing community conditions including: locations/ neighborhoods served, demographics of those served (local residents or transient populations), and how has this service changed community conditions.

Provider shall also require that each applicant provide goals and objectives for the current calendar year. This component shall include broad statements of intent (goals) with measurable, time-specific outcomes (objectives) that directly link with identified problem/needs addressed through City of Flagstaff funds. Goals shall be general statements of long-range benefits that reflect what changes are desired within a targeted population or community area. Outcome objectives shall be specific, quantified statements of expected outcomes of the service. These performance measures shall describe events that can be realistically achieved with available resources.

And finally, Provider shall require that each applicant complete a logic model for the current year in which they are requesting funding. The logic model shall describe how the proposed service(s)/program is/are compatible with funding priorities. Program goals shall describe any changes in condition, knowledge, attitude or skill as a result of the proposed service. Project/service measurement tools and evaluative methods shall accurately track stated outcome objectives. Logic models shall display: Needs, Process, Outcome, Service Area (Education, Income and Health), Evaluation, and requested Budget to accomplish stated Outcome.

Provider shall provide training to applicants. Each year Provider shall assess the most important topics by evaluating where Provider weaknesses in previous year's applications or a significant change in non-profit management standards. All training provided shall include: Outcome measurement, logic models, Sarbanes Oxley for non-profits, and the new 990.

- **Award Program**

- A. Provider shall send application materials to service providers who received funds from the last City allocation cycle, as well as, any other qualified interested service providers.
- B. Provider shall appoint a review committee composed of Flagstaff area residents and one (1) member appointed by the City which will review funding requests programmatically, financially and administratively, taking into account Community Health and Human Service needs, availability of similar services from other sources.
- C. Provider shall provide written notification to the City of recommended allocations approved by the Provider's Board of Directors.
- D. Provider shall be responsible for notifying organizations of reporting requirements and payment schedules.

- E. Provider shall disburse all approved allocations and otherwise administer all funds covered by this Agreement, while monitoring funded programs and finances, and shall submit an annual report to the City on the status of these programs.
- F. The City shall appoint one (1) professional staff member to serve as a staff liaison to the Provider's Allocation Committee.

4) Ensure sufficient data collection and reporting is available to document the community benefits and both agency and client eligibility. Provide an annual report to the City including process, methodology, leverage and benefits provided.

City funds:

- Shall be directly matched by other funders (private, state and federal) to bring services to Flagstaff residents
- Shall be directly matched with in-kind contributions of volunteers, facilities and other goods and services
- Shall be combined with Provider funds to have a greater impact
- Shall be combined with Coconino County funds to have greater impact
- Shall support a strong Provider, thus bringing Flagstaff the added value of an organization dedicated to improving lives, mobilizing communities and improving community conditions

Provider shall continue to seek opportunities to maximize the impact of City funds by working with partners who can attract multiple funding sources and have the capability to expand the number and quality of services by using volunteers and in-kind resources to stretch funding.

Provider shall conduct an annual audit that documents the total dollars raised, sources of funds and amount used for administration. These audited figures shall be reported to the community by the Provider in its annual report. Additionally, Provider shall have fiduciary reporting oversight and responsibility, where the audited financials, tax returns, volunteer hours tracked by provider, leveraged dollars, and community initiative outcomes are reviewed to aid in maintaining high level of transparency and accountability.

Annually, Provider shall provide a report to the City Council on the use of the Social Services funds. Leveraged dollars and resources shall be reported to the Council at the same time.

On an annual basis each organization that receives funding shall provide:

Quantitative and qualitative outcomes that address how the agency is changing community conditions or individual lives including: locations/ neighborhoods served, type of services provided, number of people served, demographics of those served (local residents or transient populations), and how has this service changed community conditions.

Provider shall compile these individual agency reports into a summary report for the City Council. Annually, Provider shall provide a report to the City Council on the use of the Social Services funds. Leveraged dollars and resources shall be reported to the Council at the same time. Additionally, there are currently four City of Flagstaff employees and the Mayor of Flagstaff on the Provider's Board of Directors; these individuals shall be kept abreast of leveraging activities on an on-going basis.

Provider shall adhere to a document retention policy in accordance with Sarbanes Oxley recommendations for non-profit organizations. All documents associated with this contract shall be maintained in accordance with the document retention policy which assures that the City of Flagstaff would have access to any requested materials for a multi-year period.

FEE SCHEDULE:

The City hereby agrees to award funds in the amount of \$293,750 to Provider as approved, subject to the conditions imposed by the City Council (hereinafter referred to as the "Council") and such funds shall be used exclusively for the purpose of assisting non-taxing entities located within the jurisdictional boundaries of the City, in providing Community Health and Human Services to Flagstaff area residents and travelers and payment of compensation for services. Community Health and Human Services may include, but not necessarily limited to: early childhood education, temporary assistance, transportation assistance, crisis shelters, victim assistance, substance abuse programs, and assistance to the elderly.

1. COMPENSATION

A. The total funds awarded to Provider in the amount of \$363,750 shall be broken out as follows:

Direct Services:	\$312,688
Administrative Fee:	<u>\$ 51,062</u>
	\$363,750

2. DISBURSEMENT OF FUNDS

- A. The City shall disburse to Provider its annual allocation award in two equal installments no later than July 15, and December 15 of each year, and Provider shall bill the City as needed for the administrative fee.
- B. Provider shall charge no more than fifteen percent (15%) of the total funds available for allocation as an administrative fee for the monitoring and administration of this program. Provider may earn interest on the total disbursement amount, which shall be credited against amounts owed by the City to Provider for its administrative fee. Provider shall include in its annual report to the City the actual administrative costs incurred by them and all interest earned on the total disbursement amount.
- C. Provider shall assume total fiscal responsibility for all of the funds made available for allocation by the City under this program.

3. CRITERIA AND PROCEDURES

- A. In order to be eligible for City funds under this program, each service provider shall be a non-taxing entity located within the jurisdictional boundaries of the City of Flagstaff, and shall provide direct Community Health and Human Services to primarily low and moderate income residents of Flagstaff and the contiguous Coconino County area, and to travelers to Flagstaff who are in need of emergency service assistance.
- B. Each service provider shall be legally qualified as a non-profit corporation under the law. Each service provider shall obtain a ruling from the United States Treasury Department that it is not a private foundation and that it is exempt from payment of income tax, and that gifts to it are deductible for income tax purposes. A copy of such ruling shall be submitted to the Provider and/or the City.
- C. Each service provider shall have clear purposes and functions which designate it as a voluntary health and human service organization.
- D. Each service provider shall maintain a board of directors or governing body that consists of volunteers, who make policy decisions, represents diversity of our community; and meets at least quarterly. Members of the volunteer governance structure should not receive

financial compensation from the agency they oversee. This requirement precludes an agency's executive director and professional staff from serving on its board of directors.

- E. If the service provider operates under religious auspices, it shall clearly separate its budget and financial reporting for support of City-funded programs from its religious programs.
- F. Each service provider shall maintain full fiduciary responsibility for the Agency, including, but not limited to, managing the organization in full compliance with all Generally Accepted Accounting Principles, and conducting an annual audit. Organizations with an annual budget of less than \$100,000 may request a waiver from Provider for the annual audit requirement. Appropriate documentation shall be required if such a waiver is granted.
- G. Any service provider that employs staff shall demonstrate that overhead expenses are held to a minimum and that all possible use is made of volunteer personnel.
- H. Funding provided by the City may be limited to expenses related directly to service provision, and may exclude funding of capital expenses, debt services, fund raising costs, or building of reserves.
- I. Each service provider shall use City-provided funds only for the provision of services for which such funds are allocated by Provider.
- J. Each service provider shall provide prompt written notification to Provider of any programmatic, fiscal, staff or board issues that may have an impact on the agency operations.

**EXHIBIT B
CITY OF FLAGSTAFF
STANDARD TERMS AND CONDITIONS**

IN GENERAL

1. **NOTICE TO PROCEED:** Contractor shall not commence performance until after City has issued a Notice to Proceed.
2. **LICENSES AND PERMITS:** Contractor its expense shall maintain current federal, state, and local licenses, permits and approvals required for performance of the Contract, and provide copies to City upon request.
3. **COMPLIANCE WITH LAWS:** Contractor shall comply with all applicable federal, state and local laws, regulations, standards, codes and ordinances in performance of this Contract.
4. **NON-EXCLUSIVE:** Unless expressly provided otherwise in the Contract, this Contract is non-exclusive and the City reserves the right to contract with others for materials or services.

PAYMENT

5. **INVOICES:** A separate invoice shall be issued for each shipment and each job completed. Invoices shall include the Contract and/or Purchase Order number, and dates when goods were shipped or work performed. Invoices shall be sent within 30 days following performance. Payment will only be made for satisfactory materials and/or services received and accepted by City.
6. **LATE INVOICES:** The City may deduct up to 10% of the payment price for late invoices. The City operates on a fiscal year budget, from July 1 through the following June 30. Except in unusual circumstances, which are not due to the fault of Contractor, City will not honor any invoices or claims submitted after August 15 for materials or services supplied in the prior fiscal year.
7. **TAXES:** Contractor shall be responsible for payment of all taxes including federal, state, and local taxes related to or arising out of Contractor's performance of this Contract. Such taxes include but are not limited to federal and state income tax, social security tax, unemployment insurance taxes, transaction privilege taxes, use taxes, and any other taxes or business license fees as required.

Exception: The City will pay any taxes which are specifically identified as a line item dollar amount in the Contractor's bid, proposal, or quote, and which were considered and approved by the City as part of the Contract award process. In this event, taxes shall be identified as a separate line item in Contractor's invoices.
8. **FEDERAL EXCISE TAXES:** The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request.

SERVICES

9. **INDEPENDENT CONTRACTOR:** Contractor shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue

Code, Immigration and Naturalization Act; Arizona revenue and taxation, workers' compensation, and unemployment insurance laws.

INSPECTION, RECORDS, ADMINISTRATION

- 10. RECORDS:** The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five (5) years after completion of the Contract.
- 11. RIGHT TO INSPECT BUSINESS:** The City shall have the right to inspect the place of business of the Contractor or its subcontractor during regular business hours at reasonable times, to the extent necessary to confirm Contract performance.
- 12. PUBLIC RECORDS:** This Contract and any related materials are a matter of public record and subject to disclosure pursuant to Arizona Public Records Law, A.R.S. § 39-121 et seq. If Contractor has clearly marked its proprietary information as "confidential", the City will endeavor to notify Contractor prior to release of such information.
- 13. CONTRACT ADMINISTRATION:** Contractor will be required to participate in the City's Contract Administration Process. Contractor will be closely monitored for contract compliance and will be required to promptly correct any deficiencies.

INDEMNIFICATION, INSURANCE

- 14. GENERAL INDEMNIFICATION:** Contractor shall indemnify, defend and hold harmless the City, its council, boards and commissions, officers, employees from all losses, claims, suits, payments and judgments, demands, expenses, attorney's fees or actions of any kind resulting from personal injury to any person, including employees, subcontractors or agents of Contractor or damages to any property arising or alleged to have arisen out of the negligent performance of the Contract, except any such injury or damages arising out of the sole negligence of the City, its officers, agents or employees. This indemnification provision shall survive termination or expiration of the Contract. This indemnification clause shall not apply, if a different indemnification clause is included in the City's Specific Terms and Conditions.
- 15. INSURANCE:** Contractor shall maintain all insurance coverage required by the City, including public liability and worker's compensation.
- 16. INTELLECTUAL PROPERTY INDEMNIFICATION:** Contractor shall indemnify and hold harmless the City against any liability, including costs and expenses, for infringement of any patent, trademark or copyright or other proprietary rights of any third parties arising out of contract performance or use by the City of materials furnished or work performed under this Contract. Contractor shall promptly assume full responsibility for the defense of any suit or proceeding which is, has been, or may be brought against the City and its agents for alleged infringement, or alleged unfair competition resulting from similarity in design, trademark or appearance of goods, and indemnify the City against any and all expenses, losses, royalties, profits and damages, attorneys fees and costs resulting from such proceedings or settlement thereof. This indemnification shall survive termination or expiration of the Contract.

CONTRACT CHANGES

- 17. PRICE INCREASES:** Except as expressly provided for in the Contract, no price increases will be approved.

18. **COMPLETE AGREEMENT:** The Contract is intended to be the complete and final agreement of the parties.
19. **AMENDMENTS:** This Contract may be amended by written agreement of the parties.
20. **SEVERABILITY:** If any term or provision of this Contract is found by a court of competent jurisdiction to be illegal or unenforceable, then such term or provision is deemed deleted, and the remainder of this Contract shall remain in full force and effect.
21. **NO WAIVER:** Each party has the right insist upon strict performance of the Contract, and the prior failure of a party to insist upon strict performance, or a delay in any exercise of any right or remedy, or acceptance of materials or services, shall not be deemed a waiver of any right to insist upon strict performance.
22. **ASSIGNMENT:** This Contract may be assigned by Contractor with prior written consent of the City, which will not be unreasonably withheld. Any assignment without such consent shall be null and void. Unless expressly provided for in a separately executed Consent to Assignment, no assignment shall relieve Contractor (Assignor) from any of its obligations and liabilities under the Contract with respect to City. The Purchasing Director shall have authority to consent to an assignment on behalf of City.
23. **BINDING EFFECT:** This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns.

EMPLOYEES AND SUBCONTRACTORS

24. **SUBCONTRACTING:** Contractor may subcontract work in whole or in part with the City's advance written consent. City reserves the right to withhold consent if subcontractor is deemed irresponsible and/or subcontracting may negatively affect performance. All subcontracts shall comply with the underlying Contract. Contractor is responsible for Contract performance whether or not subcontractors are used.
25. **NONDISCRIMINATION:** Contractor shall not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, disability, genetic information, veteran's status, pregnancy, familial status and represents and warrants that it complies with all applicable federal, state and local laws and executive orders regarding employment. In addition, any Contractor located within City of Flagstaff limits shall comply with the City Code, Chapter 14-02 Civil Rights which also prohibits discrimination based on sexual orientation, or gender identity or expression.
26. **DRUG FREE WORKPLACE:** The City has adopted a Drug Free Workplace policy for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and programs. Contractor personnel shall abstain from use or possession of illegal drugs while engaged in performance of this Contract.
27. **IMMIGRATION LAWS:** Pursuant to A.R.S. § 41-4401, Contractor hereby warrants to the City that the Contractor and each of its subcontractors will comply with, and are contractually obligated to comply with, all State and Federal Immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A) (hereinafter "Contractor Immigration Warranty"). A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the City. The City retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on this Contract to ensure

compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any such inspections. The City may, at its sole discretion, conduct random verification of the employment records of the Contractor and any subcontractors to ensure compliance with Contractor's Immigration Warranty. Contractor agrees to assist the City in regard to any random verification performed. Neither Contractor nor any subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if Contractor or subcontractor if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A).

DEFAULT AND TERMINATION

- 28. TERMINATION FOR DEFAULT:** Prior to terminating this Contract for a material breach, the non-defaulting party shall give the defaulting party written notice and reasonable opportunity to cure the default, not to exceed thirty (30) days unless a longer period of time is granted by the non-defaulting party in writing. In the event the breach is not timely cured, or in the event of a series of repeated breaches the non-defaulting party may elect to terminate Contract by written notice to Contractor, which shall be effective upon receipt. In the event of default, the parties may execute all remedies available at law in addition Contract remedies provided for herein.
- 29. CITY REMEDIES:** In the event of Contractor's default, City may obtain required materials and/or services from a substitute contractor, and Contractor shall be liable to the City to pay for the costs of such substitute service. City may deduct or offset the cost of substitute service from any balance due to Contractor, and/or seek recovery of the costs of substitute service against any performance security, and/or collect any liquidated damages provided for in the Contract. Remedies herein are not exclusive.
- 30. CONTRACTOR REMEDIES:** In the event of City's default, Contractor may pursue all remedies available at law, except as provided for herein.
- 31. SPECIAL DAMAGES:** In the event of default, neither party shall be liable for incidental, special, or consequential damages.
- 32. TERMINATION FOR NONAPPROPRIATION OF FUNDS:** The City may terminate all or a portion of this Contract due to budget constraints and non-appropriation of funds for the following fiscal year, without penalty or liability to Contractor.
- 33. TERMINATION FOR CONVENIENCE:** Unless expressly provided for otherwise in the Contract, this Contract may be terminated in whole or part by the City for convenience upon thirty (30) days written notice, without further penalty or liability to Contractor. If this Contract is terminated, City shall be liable only for payment for satisfactory materials and/or services received and accepted by City before the effective date of termination.
- 34. TERMINATION DUE TO INSOLVENCY:** If Contractor becomes a debtor in a bankruptcy proceeding, or a reorganization, dissolution or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of Contractor under federal bankruptcy law or any state insolvency law, Contractor shall immediately provide the City with a written notice thereof. The City may terminate this Contract, and Contractor is deemed in default, at any time if the Contractor becomes insolvent, or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's ability to perform under the Contract.

35. **PAYMENT UPON TERMINATION:** Upon termination of this Contract, City will pay Contractor for satisfactory performance up until the effective date of termination. City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.
36. **CANCELLATION FOR GRATUITIES:** The City may cancel this Contract at any time, without penalty or further liability to Contractor, if City determines that Contractor has given or offered to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant ("Gratuities") in connection with award or performance of the Contract.
37. **CANCELLATION FOR CONFLICT OF INTEREST (A.R.S. § 38-511):** The City may cancel this Contract within three (3) years after its execution, without penalty or further liability to Contractor.

MISCELLANEOUS

38. **ADVERTISING:** Contractor shall not advertise or publish information concerning its Contract with City, without the prior written consent of the City.
39. **NOTICES:** All notices given pursuant to this Contract shall be delivered at the addresses as specified in the Contract or updated by Notice to the other party. Notices may be: (a) personally delivered, with receipt effective upon personal delivery; (b) sent via certified mail, postage prepaid, with receipt deemed effective four (4) days after being sent; (c) or sent by overnight courier, with receipt deemed effective two (2) days after being sent. Notice may be sent by email as a secondary form of notice.
40. **THIRD PARTY BENEFICIARIES:** This Contract is intended for the exclusive benefit of the parties. Nothing herein is intended to create any rights or responsibilities to third parties.
41. **GOVERNING LAW:** This Contract shall be construed in accordance with the laws of Arizona.
42. **FORUM:** In the event of litigation relating to this Contract, any action at law or in equity shall be filed in Coconino County, Arizona.
43. **ATTORNEYS FEES:** If any action at law or in equity is necessary to enforce the terms of this Contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, professional fees and expenses.

**EXHIBIT C
CITY OF FLAGSTAFF
STANDARD INSURANCE REQUIREMENTS**

1. In General. Contractor shall maintain insurance against claims for injury to persons or damage to property, arising from performance of or in connection with this Contract by the Contractor, its agents, representatives, employees or contractors.
2. Requirement to Procure and Maintain. Each insurance policy required by this Contract shall be in effect at, or before, commencement of work under this Contract and shall remain in effect until all Contractor's obligations under this Contract have been met, including any warranty periods. The Contractor's failure to maintain the insurance policies as required by this Contract or to provide timely evidence of renewal will be considered a material breach of this Contract.
3. Minimum Scope and Limits of Insurance. The following insurance requirements are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The City does not represent or warrant that the minimum limits set forth in this Contract are sufficient to protect the Contractor from liabilities that might arise out of this Contract, and Contractor is free to purchase such additional insurance as Contractor may determine is necessary.

Contractor shall provide coverage at least as broad and with limits not less than those stated below.

a. Commercial General Liability - Occurrence Form

General Aggregate	\$2,000,000
Products/Completed Operations	\$1,000,000
Each Occurrence	\$1,000,000

b. Umbrella Coverage \$2,000,000

c. Automobile Liability –
Any Automobile or Owned, Hired
and Non-owned Vehicles
Combined Single Limit Per Accident
for Bodily Injury & Property Damage \$1,000,000

d. Workers' Compensation and Employer's Liability

Workers' Compensation	Statutory
Employer's Liability: Each Accident	\$500,000
Disease - Each Employee	\$500,000
Disease - Policy Limit	\$500,000

[OPTION: e. Professional Liability \$1,000,000

4. Self-Insured Retention. Any self-insured retentions must be declared to and approved by the City. If not approved, the City may require that the insurer reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and volunteers. Contractor shall be solely responsible for any self-insured retention amounts. City at its option may require Contractor to secure payment of such self-insured retention by a surety bond or irrevocable and unconditional letter of credit.

5. Other Insurance Requirements. The policies shall contain, or be endorsed to contain, the following provisions:
- a. Additional Insured. In Commercial General Liability and Automobile Liability Coverages, the City of Flagstaff, its officers, officials, agents and employees shall be named and endorsed as additional insureds with respect to liability arising out of this Contract and activities performed by or on behalf of the Contractor, including products and completed operations of the Contractor, and automobiles owned, leased, hired or borrowed by the Contractor.
 - b. Broad Form. The Contractor's insurance shall contain broad form contractual liability coverage.
 - c. Primary Insurance. The Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, agents and employees, shall be in excess of the coverage of the Contractor's insurance and shall not contribute to it.
 - d. Each Insured. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - e. Not Limited. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
 - f. Waiver of Subrogation. The policies shall contain a waiver of subrogation against the City, its officers, officials, agents and employees for losses arising from work performed by Contractor for the City.
6. Notice of Cancellation. Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, cancelled, reduced in coverage or in limits unless prior written notice has been given to the City. Notices required by this section shall be sent directly to the Buyer listed in the original Solicitation and shall reference the Contract Number:
- Attention: Rick Compau, Purchasing Director
Purchasing Department
City of Flagstaff,
211 W. Aspen Avenue
Flagstaff, Arizona 86001
7. Acceptability of Insurers. Contractor shall place insurance hereunder with insurers duly licensed or approved unlicensed companies in the State of Arizona and with a "Best's" rating of not less than A: VII. The City does not represent or warrant that the above required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
8. Certificates of Insurance. The Contractor shall furnish the City with certificates of insurance (ACORD form) as required by this Contract. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the certificate of insurance. The City program/contract number and program description shall be noted on the certificates of insurance. The City must receive and approve all certificates of insurance and endorsements before the Contractor commences work.

9. Policies. The City reserves the right to require, and receive within ten (10) days, complete, certified copies of all insurance policies and endorsements required by this Contract at any time. The City shall not be obligated, however, to review any insurance policies or to advise Contractor of any deficiencies in such policies and endorsements. The City's receipt of Contractor's policies or endorsements shall not relieve Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Contractor's obligations under this Contract.

10. Modifications. Any modification or variation from the insurance requirements in this Contract must have the prior approval of the City's Attorney's Office in consultation with the City's Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment but may be made by their handwritten revision and notation to the foregoing insurance requirements.

EXHIBIT D

FIRST AMENDMENT TO THE SCOPE OF WORK

United Way of Northern Arizona (UWNA)

UWNA on behalf of the City of Flagstaff will administer the American Rescue Plan Act (ARPA), Coronavirus Local Fiscal Recovery Federal and Non-Federal Funds. UWNA will provide services, such as issue Notice of Funding Announcements to eligible non-profits, evaluate proposals, award applicants, submit required reporting, oversee, and monitor awarded applicants.

Overview – This program intent is to respond to the economic and public health impacts of COVID-19 and to assist to contain impacts on community, residents, and businesses. The Local Recovery Funds ensure that local governments have the resources needed to fight the pandemic, sustain, and strengthen the economic recovery, maintain vital public services, and make investments that support long-term growth, opportunity, and equity.

2: NEGATIVE ECONOMIC IMPACTS

Assistance to Nonprofits – Nonprofits have faced significant challenges due to the pandemic's increased demand for services and changing operational needs, as well as declines in revenue sources such as donations and fees. Nonprofits eligible for assistance are those that experienced negative economic impacts or disproportionate impacts of the pandemic and meet the definition of "nonprofit" – specifically that are 501(c)(3) or 501(c)(19) tax-exempt organizations.

2.10 – Aid to non-profits – Food, \$300,000 (non-federal funds)

Eligible Use: Response to the negative economic impacts that were experienced by those impacted as a result of the pandemic.

2.10 – Aid to non-profits – Other, \$150,000 (non-federal funds)

Eligible Use: Response to the negative economic impacts of the pandemic, for disproportionately impacted communities.

Examples that could be considered:

- ✓ Decreased revenue (e.g., from donations and fees)
- ✓ Financial insecurity
- ✓ Increased costs (e.g., uncompensated increases in service need)
- ✓ Capacity to weather financial hardship
- ✓ Challenges covering payroll, rent or mortgage, and other operating costs
- ✓ Mitigate financial hardship
- ✓ Technical assistance or other services that mitigate negative economic impacts of the pandemic

3: SERVICES TO DISPROPORTIONATELY IMPACTED COMMUNITIES

3.1 – Education Assistance – Early Learning, \$250,000 (federal funds)

Eligible Use: Early learning services, addressing the impacts of lost instructional time for K-12 students, assistance to high-poverty school districts to advance equitable funding across districts and geographies, and educational and evidence-based services to address the academic, social, emotional, and mental health needs of students. Addressing the many dimensions of resource equity – including equitable and adequate school funding; access to a well-rounded education; well-prepared, effective, and diverse educators and staff; and integrated support services-can also begin to mitigate the impact of COVID-19 on schools and students and can close long-standing gaps in educational opportunity.

Increasing resources for high-poverty school districts, educational services like tutoring or afterschool programs, summer education and enrichment programs, and supports for students' social, emotional, and mental health needs.

Improvements or new construction of schools and other educational facilities or equipment are eligible capital expenditures.

7: ADMINISTRATION (COMPENSATION)

7.1 – Administration - \$84,000 (12%) (non-federal funds)

Eligible Use: Costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements. Costs must be reasonable and allocable as outlined in 2 CFR § 200.404 and 2 CFR § 200.405. Both direct and indirect costs are eligible as long as they are accorded consistent treatment per 2 CFR § 200.403. Direct costs are those that are identified specifically as costs of implementing the program objectives, such as contract support, materials, and supplies for the project. Indirect costs are general overhead costs of an organization.

EXHIBIT E

CITY OF FLAGSTAFF SPECIAL TERMS AND CONDITIONS

1. COMPENSATION ON A REIMBURSEMENT BASIS
 - 1.1 Payment by the City to United Way of Northern Arizona (“Provider”) for services and other expenses related to the administration of the Local Recovery Funds will be provided on a reimbursement basis. Reimbursement may be requested as frequently as monthly, but not less than quarterly. Reimbursement will be paid in dollar amounts approved by the City for completed work.
 - 1.2 A non-profit recipient of Local Recovery Funds can submit reimbursement requests to the Provider on a monthly, quarterly, or a one-time/final reimbursement request. The financial and performance reporting terms are to be coordinated with the Provider.
 - 1.3 To request reimbursements, the Provider shall submit a Payment Request, attached as Exhibit F and incorporated by reference in the Contract. The Provider must submit a final reimbursement request for expenses received and invoiced prior to the end of the termination of the Contract no more than forty-five (45) days after the end of the Contract. Requests for reimbursement received later than the forty-five (45) days after the Contract termination will not be paid. The final reimbursement request as submitted shall be marked FINAL. All reports shall be submitted to the contact persons as described in the Notice Section of the Contract. Final payment invoices must be received no later than sixty (60) days after completion of the Scope of Work or Contract time-period, whichever comes first. No payments shall be made on invoices received after that date.
2. ADMINISTRATIVE REQUIREMENTS
 - 2.1 Accounting. The Provider shall comply with the requirements and standards of Office of Management and Budget (OMB) and guidance in subparts A through F of 2 CFR part 200 and shall adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred. The Provider's financial management system shall include, at a minimum, accurate, current, and complete disclosures of expenditures of the Local Recovery Funds; records which adequately identify the source and application of Local Recovery Funds provided for financially assisted activities; effective control over and accountability for Local Recovery Funds, real and personal property, and other assets; comparison of actual outlays with budgeted amounts; and records supported by source documentation. The Provider shall maintain Local Recovery Funds received under this Contract in separate ledger accounts and not mix funds with other sources; manage funds according to applicable federal regulations for administrative requirements, cost principles, and audits; and maintain adequate business systems to comply with federal requirements. The business systems that must be maintained are: Financial Managements, Procurement, Personnel, Property, and Travel. A system is adequate if it is written, followed consistently (it applies to similar items), and consistently applied

(it applies to all sources of funds).

- 2.2 Procurement. The Provider shall procure all materials, property, or services in accordance with the requirements of the Uniform Guidance and 2 CFR § 200.317 through 2 CFR § 200.327. The Provider's procurement outreach and documentation shall be governed by the price limits set forth in the Procurement Code, notwithstanding OMB Circular A-110. All procurement undertakings must make an effort to utilize Minority and Women Owned Business Enterprises. The Provider shall maintain an inventory of all equipment, furniture, and non-expendable personal property purchased with Local Recovery Funds.
- 2.3 Internal Controls. The City will evaluate the Provider to determine if there is a risk that the Provider will not comply with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate Subrecipient monitoring including the factors listed in 2 CFR § 200.331(b)(1-4). The Provider will operate according to a written set of policies and procedures that define staff qualifications and duties, lines of authority, separation of functions, and access to assets and sensitive documents. Included in these policies and procedures will be written accounting procedures for approving and recording transactions and the control of cash receipts, disbursements, and cash balances. The Provider's financial policies and lines of authority shall be reviewed during monitoring visits defined in this Contract.
- 2.4 Monitoring. The City shall monitor the use of the Local Recovery Funds, including reviewing financial and programmatic reports provided by the Provider. The City shall follow-up and ensure that the Provider takes timely and appropriate action on all deficiencies pertaining to the federal award detected through audits, on-site reviews, and other means. The City shall issue a management decision for audit findings pertaining to the Local Recovery Funds provided to the Provider from the City as required by 2 CFR § 200.521, "Management decision." The Provider agrees to cooperate and provide all information necessary for the City to monitor the Provider periodically to ensure compliance with this Contract, compliance with federal regulations and laws, fiscal responsibility, adequate performance, and any other item of concern relating to the use of Local Recovery Funds and the provisions defined in this Contract, including by permitting the pass-through entity and auditors to have access to the Subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of 2 CFR § 200.300, "Statutory and national policy requirements," 2 CFR § 200.309, "Modifications to period of performance," 2 CFR § 200.331, "Subrecipient and contractor determinations," and Subpart F, "Audit Requirements." The monitoring will take the form of at least one site visit of the Provider's place of business and/or construction site and other various requests for information. During the term of this Contract, the Provider shall be monitored periodically by the City, both programmatically and financially, to ensure that the program's goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria, are being met. Monitoring will be accomplished through a combination of office-based reviews and onsite monitoring visits. Monitoring can involve aspects of the work involved under this contract including but not limited to the review and analysis of the financial, programmatic, performance, and administrative issues relative to each program, and will identify areas where technical assistance and other support may be

needed. All on-site monitoring shall take place during normal business hours, upon advance written notice, on dates and at times as mutually agreed upon by the Provider and the City.

- 2.5 Documentation, Record-Keeping, and Other Requirements Specific to Expenditure Categories. The Provider shall maintain all records required by federal and state law that are pertinent to the activities to be funded under this Contract. Such records shall include but not be limited to:
- 2.5.1 All additional reporting requirements specific to the categories as identified by Treasury attached as Exhibit G and incorporated by reference in this Contract;
 - 2.5.2 Records providing a full description of each activity undertaken;
 - 2.5.3 Records demonstrating that each activity undertaken meets one of the Expenditure Categories identified in the U.S. Department of Treasury Compliance and Reporting Guidance, Appendix 1: Expenditure Categories;
 - 2.5.4 Records required to determine the eligibility of activities;
 - 2.5.5 Records required to document the acquisition, improvement, use, or disposition of real property acquired or improved with Local Recovery Funds;
 - 2.5.6 Financial records as required by 2 CFR Part 200 Performance and Financial Monitoring and Reporting, Sections 200.328, 329, and 331; and
 - 2.5.7 Other records necessary to document compliance with 2 CFR Part 200 Performance and Financial Monitoring and Reporting, Sections 200.328, 329, and 331.
- 2.6 Records Retention. The Provider will retain all records pursuant to the City's record retention policy and federal requirements, whichever period is longer. Records must be retained longer if any litigation, claim, or audit is started before the expiration of the record retention period. Other extensions to the record retention period may apply as specified in 2 CFR § 200.333.
- 2.7 Client Data. The Provider shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, ethnicity, special needs, family size, elderly status, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.
- 2.8 Disclosure. The Provider understands that client information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or the Provider's responsibilities with respect to services provided under this Contract, is prohibited by Arizona State law unless written consent is obtained from such

person receiving service and, in the case of a minor, that of a responsible parent or guardian.

- 2.9 Audits and Inspections. All of the Provider's records with respect to any matters covered by this Contract shall be made available to the City, grantor agency, their designees, or the Federal Government (including but not limited to Treasury, the Comptroller General of the United States, or any of their duly authorized representatives), unless otherwise protected by law, at any time during normal business hours, as often as the City or grantor agency deems necessary until all required records are turned over to the City of Flagstaff to audit, examine, and make excerpts or transcripts of all relevant data, provided. Any deficiencies noted in audit reports must be fully cleared by the Provider within thirty (30) days after receipt by the Provider. Failure of the Provider to comply with the above audit requirements will constitute a violation of this Contract and may result in the withholding of future payments. The Provider agrees to have an annual Provider financial audit conducted in accordance with current City policy and, as applicable, subject to the Single Audit act of 1984 and all relevant OMB guidance, including, 2 CFR § 200, Subpart F, "Audit requirements." The Provider will conduct an annual audit conducted in accordance with 2 CFR § 200, Subpart F, "Audit requirements," if the Provider expends more than seven-hundred fifty thousand dollars (\$750,000) from federal awards, in compliance with the Federal Single Audit Act (31 U.S.C. par. 7501-7507), as amended by the Single Audit Act Amendments of 1996 (P.L. 104 to 156).
- 2.10 Monthly/Quarterly Reports to City. During the entire Contract period, the Provider shall prepare and provide the City monthly or quarterly reports by submitting the Performance Report attached as Exhibit H and incorporated by reference in this Contract. If the scope of the Project has been fully completed and implemented, and there will be no further updates, then the quarterly programmatic report for the month in which the Project was completed will be sufficient as the final report. The report should be marked as final and should be inclusive of all necessary and pertinent information regarding the Project as deemed necessary by the City. Notwithstanding anything to the contrary, the Provider shall not be required to provide any of the Provider's confidential or proprietary information in reports provided to the City, including without limitation, any information regarding research collaborators, research plans, or any data, results, or other information resulting from the Provider's performance of research or any other activities relating thereto. The Provider agrees to submit other reports and records as may be required by the City from time to time, which are related to the implementation of the Project, adherence to the Contract, and adherence to federal, state, and local laws and regulations.
- 2.11 Close-Out Report. The Provider is responsible for the close out of the Local Recovery Funds. The Provider's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to, making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records. The City will send the Provider written notification that a Close-Out Report is due when one of the following contractual

obligations have been met, and the Provider shall submit the Close-Out Report attached in that letter within sixty (60) days of receiving this notification:

2.11.1 The Recovery Funds have been expended and the Scope of Work has been completed;

2.11.2 The Contract period has expired; or

2.11.3 The Scope of Work has been completed.

2.12 Subrecipient Obligations. The Provider shall perform all obligations required of subrecipients under the rules governing Recovery Funds.

3. ACKNOWLEDGEMENT

The Provider shall acknowledge during the term of the Contract the contribution of the City of Flagstaff Recovery Funds toward the Project in all instances where the Project is advertised. All activities, facilities, and items utilized pursuant to this Contract shall be prominently labeled as receiving Local Recovery Funds. In addition, the Provider will include a reference to the support provided herein in all publications made possible with Local Recovery Funds made available under this Contract.

4. COMPLIANCE WITH ALL LAWS

4.1 The Provider shall comply with the Grant Provisions for the U.S Department of Treasury, American Rescue Plan Act, Coronavirus State and Local Fiscal Recovery Funds, attached as Exhibit I and incorporated by reference in this Contract.

4.2 The Provider shall carry out its responsibilities in compliance with the requirements of Executive Order 11063, as amended by Executive Order 12259; Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the prohibitions against age discrimination under the Age Discrimination Act of 1975 (42 U.S.C. § 6101-07); and the prohibitions against discrimination against handicapped individuals under Section 504 of the Rehabilitation Act of 1973 (19 U.S.C. § 794).

4.3 The Provider shall comply, as applicable, with the requirements of the Davis-Bacon Act (40 U.S.C. § 276a-276a-5), as supplemented by Department of Labor regulations (29 CFR Part 5); and comply with Sections 103 and 107 of the Agreement Work Hours and Safety Standards Act (40 U.S.C. § 327-330), as supplemented by Department of Labor regulations (29 CFR Part 5).

4.4 The Provider shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations. (41 CFR chapter 60).

4.5 The Provider agrees to comply with the Copeland "Anti-Kick Back" Act (18 U.S.C. § 874), as supplemented in Department of Labor regulations (29 CFR part 3).

- 4.6 The Provider agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368m Executive Order 11738), and Environmental Protection Contract regulations (40 CFR part 15).
- 4.7 The Provider agrees to comply with all applicable standards, orders, or regulations issued under Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification.
- 4.8 The Provider agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act as amended. Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency.
- 4.9 The Provider agrees to comply, as applicable, with 2 CFR part 200, Uniform Administrative Requirements, Cost Principle, and Audit Requirement for Federal Awards.

5. CERTIFICATION OF COMPLETION

Upon satisfactory completion of the Close-Out Report and submission of all required documentation, the City shall provide the Provider with a letter that certifies completion. The certification is conclusive determination that the Provider has satisfactorily completed its contractual obligations. The City shall not unreasonably withhold such certification.

CITY OF FLAGSTAFF - REQUEST FOR PAYMENT AMERICAN RESCUE PLAN ACT (ARPA) CORONAVIRUS LOCAL FISCAL RECOVERY FUNDS (CLFRF)	PO #: Date:
PROJECT NAME:	Inv #:

I. IDENTIFICATION

1. Vendor Number:	3. Project Number:	4. Request Number:	5. Amount Requested:
2. Vendor Name:			\$0.00
		Fiscal Year - _____	\$ _____
		Period Covered _____	
		Fiscal Year - _____	\$ _____
		Period Covered _____	

II. STATUS OF FUNDS

Expenditures						
PO Line #	(1) Project #	(2) Activity Name	(3) Application Budget	(4) Previous Expenditures	(5) Current Requested Amount	(6) Balance
						0.00
						0.00
						0.00
(7) TOTALS			\$0.00	\$0.00	\$0.00	\$0.00

III. CERTIFICATION

I (we) certify that this Request for Payment has been drawn in accordance with the terms and conditions of the Contract cited above.

Date:	Signature:	Title:
Date:	Signature:	Title:
FOR CITY USE ONLY		
GRANTS AND CONTRACTS MANAGER: <input type="checkbox"/> Requested Amount Approved <input type="checkbox"/> Requested Amount Decreased		PROJECT MANAGER: Approved: Yes <input type="checkbox"/> No <input type="checkbox"/>
BY: STACEY BRECHLER-KNAGGS	DATE	BY: DATE

CITY OF FLAGSTAFF
ARPA - CORONAVIRUS LOCAL FISCAL RECOVERY FUNDS

PUBLIC HEALTH & NEGATIVE ECONOMIC IMPACT CATEGORIES 1.1 - 2.37

SUBRECIPIENT: _____

PROJECT TITLE: _____

PROJECT NUMBER: _____

REPORTING PERIOD: _____

REPORT NUMBER: _____

NATIONAL CENTER FOR EDUCATION STATISTICS (NCES) SCHOOL ID OR DISTRICT ID: _____

What population(s) does this project primarily serve? Please select up to three (3) impacted or disproportionately impacted communities below:

IMPACTED COMMUNITIES:

_____ Low- or moderate-income households or populations*

_____ Households that experienced unemployment

_____ Households that experienced increased food or housing insecurity

_____ Households that qualify for certain federal programs**

_____ For services to address lost instructional time in K-12 schools: any student that lost access to in-person instruction for a significant period of time

_____ Other households or populations that experienced a negative economic impact of the pandemic other than those listed above (please specify):

DISPROPORTIONATELY IMPACTED COMMUNITIES:

_____ Low-income households and populations***

_____ Households and populations residing in Qualified Census Tracts

_____ Households that qualify for certain federal programs****

_____ Households receiving services provided by Tribal governments

_____ Households residing in the U.S. territories or receiving services from these governments

_____ For services to address educational disparities, Title I eligible schools*****

_____ Other households or populations that experienced a disproportionate negative economic impact of the pandemic other than those listed above (please specify):

PUBLIC HEALTH & NEGATIVE ECONOMIC IMPACT CATEGORIES 1.1 - 3.5

Please provide a brief description of structure and objectives of assistance program(s), including public health or negative economic impact experienced:

Please provide a brief description of how your project is related, reasonable, and proportional to a public health or negative economic impact of COVID-19:

* Low- or moderate-income households and communities are those with income at or below 300% of the Federal Poverty Guidelines for the size of the household based on the most recently published poverty guidelines by the Department of Health and Human Services (HHS), or income at or below 65% of the Area Median Income for the county and size of household based on the most recently published data by the Department of Housing and Urban Development (HUD).

** For Impacted households, these programs are Children's Health Insurance Program ("CHIP"); Childcare Subsidies through the Child Care and Development Fund ("CCDF") Program; Medicaid; National Housing Trust Fund ("HTF"), for affordable housing programs only; Home Investment Partnerships Program ("HOME"), for affordable housing programs only.

*** Low-income households and communities are those with income at or below 185% of the Federal Poverty Guidelines for the size of the household based on the most recently published poverty guidelines by HHS or income at or below 40% of Area Median Income for its county and size of household based on the most recently published data by HUD.

**** For Disproportionately Impacted households, these programs are Temporary Assistance for Needy Families ("TANF"), Supplemental Nutrition Assistance Program ("SNAP"), Free- and Reduced-Priced Lunch ("NSLP") and/or School Breakfast Programs ("SBP"), Medicare Part D Low-IncomeSubsidies, Supplemental Security Income ("SSI"), Head Start, Special Supplemental Nutrition Program for Women, Infants, and Children ("WIC"), Section 8 Vouchers, Low-Income Home Energy Assistance Program ("LIHEAP"), and Pell Grants.

***** For educational services and other efforts to address educational disparities, Treasury will recognize Title I eligible schools as disproportionately impacted and responsive services that support the school generally or support the whole school service as eligible. "Title I eligible schools" means schools eligible to receive services under section 1113 of Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 6313), including schools served under section 1113(b)(1)(C) of that Act.

CITY OF FLAGSTAFF
ARPA - CORONAVIRUS LOCAL FISCAL RECOVERY FUNDS

EVIDENCE-BASED INTERVENTION REPORT

SUBRECIPIENT: _____

PROJECT TITLE: _____ **PROJECT NUMBER:** _____

REPORTING PERIOD: _____ **REPORT NUMBER:** _____

FUNDS ALLOCATED TO EVIDENCE-BASED INTERVENTIONS:

1. Please describe the obstacle(s) being addressed: _____

2. Please describe the goal(s) set for this project: _____

3. Please describe the method(s) used to reach the goal(s): _____

4. Please describe the outcome of the project so far: _____

CITY OF FLAGSTAFF
ARPA - CORONAVIRUS LOCAL FISCAL RECOVERY FUNDS

PERFORMANCE REPORT

CONTRACTOR/SUBRECIPIENT: _____	DUNS NUMBER: _____
CONTACT NAME: _____	EMAIL ADDRESS: _____
ADDRESS: _____	PHONE NUMBER: _____
TOTAL AWARD AMOUNT: _____	EXPENDITURE CATEGORY: _____
PROJECT TITLE: _____	PROJECT NUMBER: _____
START DATE: _____	EXPIRATION DATE: _____
BRIEF PROJECT SUMMARY: _____	

REPORTING PERIOD (MM/YY - MM/YY): _____

PERCENTAGE OF PROJECT COMPLETENESS: _____

SUMMARY OF THIS PERIOD'S PROGRESS: _____

SUMMARY OF ACTIVITIES PLANNED FOR NEXT PERIOD: _____

CERTIFIED BY: _____	LIST OF ATTACHMENTS, IF APPLICABLE: (ie. Additional reports, photos, etc)
SIGNATURE _____	_____
DATE _____	_____
NAME AND TITLE _____	_____



GRANT PROVISIONS

Sponsor: City of Flagstaff

Funding Agency: U.S. Department of the Treasury

Grant Project Title: American Rescue Plan Act (ARPA)
Coronavirus State and Local Fiscal
Recovery Funds

Grant Number: ARPA-LRF-6321

FEDERAL - GRANT PROVISIONS

The Contractor and its Subcontractor shall comply with the following grant provisions;

Applicable Laws

Compliance with all applicable Federal, State, and Local laws and regulations.

Awards to debarred and suspended parties

The City will not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Orders 12549 and 12689, ``Debarment and Suspension."

Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

(1) The Contractor will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

Equal Employment Opportunity

Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)

Clean Water and Air Act

Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)

Energy Policy and Conservation Act

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

Resource Conservation and Recovery Act

Compliance with the Resource Conservation and Recovery Act (RCRA) requires federal agencies to assess the impact that debris, debris removal, hazardous wastes, and hazardous waste clean-up projects will have on air and water quality and take actions to prevent degradation. RCRA gives EPA the authority to control hazardous waste from the "cradle-to-grave" to facilities that generate hazardous materials and sets forth a framework for the management of non-hazardous waste (42 USC, 6901).

Conflicts of Interest

The City (grantee) and Contractor (subgrantees) will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

Copyrights

Reports, maps or other documents produced in whole or in part are works for hire and shall not be the subject of any application for copyright by or on behalf of the Contractor or its Subcontractor. The Contractor shall advise the City or its designee at the time of delivery of any copyrighted or copyrightable work furnished under this Agreement, or any adversely held copyrighted or copyrightable material incorporated in any such work and of any invasion of the right of privacy therein contained.

Patent Fees and Royalties

Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device that is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in Funding Agency Contracting Provisions for Construction Projects the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by the Owner in the Contract Documents.

Responsible Contractors

The City will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

Access and Retention of Records

Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

CODE OF FEDERAL REGULATION (CFR) - Title 2: Grants and Agreements

PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of

mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is 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 in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. 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.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient 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 recipient or subrecipient must comply with the requirements of 37 CFR 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.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to 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 as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must 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 any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

AMERICAN RESCUE PLAN ACT (ARPA) – CORONAVIRUS LOCAL FISCAL RECOVERY FUNDS (CLFRF) GRANT PROVISIONS

Funds are received from the U.S. Department of Treasury, Coronavirus Local Fiscal Recovery Fund (CLFRF) respectively (referred to as “Coronavirus State and Local Fiscal Recovery Funds” or “SLFRF”), Assistance Listing, CFDA Number 21.027.

Recipients under the State and Local Fiscal Recovery Funds (SLFRF) program are the eligible entities identified in sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021 (the “SLFRF statute”) that receive a SLFRF award. Subrecipients under the SLFRF program are entities that receive a subaward from a recipient to carry out the purposes (program or project) of the SLFRF award on behalf of the recipient.

Recipients are accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury’s Interim Final Rule, and reporting requirements, as applicable.

All Subrecipients, Contractors and Subcontractors are required to comply with the statutory and regulatory requirements and the terms and conditions of the award.

Key Principles

There are several guiding principles for developing your own effective compliance regimes:

- Recipients and subrecipients are the first line of defense, and responsible for ensuring the SLFRF award funds are not used for ineligible purposes, and there is no fraud, waste, and abuse associated with their SLFRF award;
- Many SLFRF-funded projects respond to the COVID-19 public health emergency and meet urgent community needs. Swift and effective implementation is vital, and recipients must balance facilitating simple and rapid program access widely across the community and maintaining a robust documentation and compliance regime;
- SLFRF-funded projects should advance shared interests and promote equitable delivery of government benefits and opportunities to underserved communities, as outlined in Executive Order 13985, On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government; and
- Transparency and public accountability for SLFRF award funds and use of such funds are critical to upholding program integrity and trust in all levels of government, and SLFRF award funds should be managed consistent with Administration guidance per Memorandum M-21-20 and Memorandum M-20-21.

Statutory Eligible Uses

As a recipient of an SLFRF award, your organization has substantial discretion to use the award funds in the ways that best suit the needs of your constituents – as long as such use fits into one of the following four statutory categories:

1. To respond to the COVID-19 public health emergency or its negative economic impacts;
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to such eligible workers of the recipient, or by providing grants to eligible employers that have eligible workers who performed essential work;

3. For the provision of government services, to the extent of the reduction in revenue of such recipient due to the COVID–19 public health emergency, relative to revenues collected in the most recent full fiscal year of the recipient prior to the emergency; and
4. To make necessary investments in water, sewer, or broadband infrastructure.

Treasury adopted an Interim Final Rule to implement these eligible use categories and other restrictions on the use of funds under the SLFRF program.¹ It is the recipient’s responsibility to ensure all SLFRF award funds are used in compliance with these requirements. In addition, recipients should be mindful of any additional compliance obligations that may apply – for example, additional restrictions imposed upon other sources of funds used in conjunction with SLFRF award funds, or statutes and regulations that may independently apply to water, broadband, and sewer infrastructure projects. Recipients should ensure they maintain proper documentation supporting determinations of costs and applicable compliance requirements, and how they have been satisfied as part of their award management, internal controls, and subrecipient oversight and management.

Treasury’s Rule

Treasury’s Interim Final Rule details recipients’ compliance responsibilities and provides additional information on eligible and restricted uses of SLFRF award funds and reporting requirements. Your organization should review and comply with the information contained in Treasury’s Interim Final Rule, and any subsequent final rule when building appropriate controls for SLFRF award funds.

Eligible and Restricted Uses of SLFRF Funds

As described in the SLFRF statute and summarized above, there are four enumerated eligible uses of SLFRF award funds. As a recipient of an award under the SLFRF program, your organization is responsible for complying with requirements for the use of funds. In addition to determining a given project’s eligibility, recipients are also responsible for determining subrecipient’s or beneficiaries’ eligibility and must monitor use of SLFRF award funds.

To help recipients build a greater understanding of eligible uses, Treasury’s Interim Final Rule establishes a framework for determining whether a specific project would be eligible under the SLFRF program, including some helpful definitions. For example, Treasury’s Interim Final Rule establishes:

- A framework for determining whether a project “responds to” a “negative economic impact” caused by the COVID-19 public health emergency;
- Definitions of “eligible employers”, “essential work,” “eligible workers”, and “premium pay” for cases where premium pay is an eligible use;
- A definition of “general revenue” and a formula for calculating revenue lost due to the COVID-19 public health emergency;
- A framework for eligible water and sewer infrastructure projects that aligns eligible uses with projects that are eligible under the Environmental Protection Agency’s Drinking Water and Clean Water State Revolving Funds; and
- A framework for eligible broadband projects designed to provide service to unserved or underserved households, or businesses at speeds sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth.

Treasury's Interim Final Rule also provides more information on four important restrictions on use of SLFRF award funds: recipients may not deposit SLFRF funds into a pension fund; recipients that are States or territories may not use SLFRF funds to offset a reduction in net tax revenue caused by the recipient's change in law, regulation, or administrative interpretation; and, recipients may not use SLFRF funds as non-Federal match where prohibited. In addition, the Interim Final Rule clarifies certain uses of SLFRF funds outside the scope of eligible uses, including that recipients generally may not use SLFRF funds directly to service debt, satisfy a judgment or settlement, or contribute to a "rainy day" fund. Recipients should refer to Treasury's Interim Final Rule for more information on these restrictions.

Applicable Federal Policies

- Recipients, Subrecipients, Contractors and Subcontractors must follow the Uniform Administrative Requirement, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) and the Terms and Conditions of the SLFRF assistance.
- American Rescue Plan Act (P.L. 117-2)
- U.S. Department of the Treasury
 - SLFRF Regulations (31 CFR 35)
 - Compliance and Reporting Guidance
 - Frequently Asked Questions
 - Uniform Administrative Requirements, Cost Principles and Audit Requirements (2 CFR 1000)
 - OMB "Uniform Guidance" 2 CFR 200, adopted by reference
 - Award Terms and Conditions
 - Assistance Listing Number 21.027 (Formerly CFDA Number)

SAM.gov Requirements

All eligible recipients are also required to have an active registration with the System for Award Management (SAM) (<https://www.sam.gov>).

Contracts and Subawards to Debarred and Suspended Parties

Pursuant to Code of Federal Regulations 2 CFR Subpart C §200.213, grantees and subrecipients must not make an award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension". By entering into this agreement Subrecipient agrees to comply with all relevant codes including 2 CFR Subpart C, "Responsibilities of Participants Regarding Transactions". When entering into a covered transaction with another person at the next lower tier, Subrecipient must verify that the person with whom you intend to do business is not excluded or disqualified.

Civil Rights Compliance

Recipients and Subrecipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of

race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23.

Davis-Bacon Act Requirements (If Applicable)

Overview

Section 1606 of the American Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009) (the "Recovery Act"), requires grant award recipients, subrecipients, contractors, and subcontractors to comply with the wage requirements of the Davis-Bacon Act (40 U.S.C. 3141 et seq.) and related acts, stating:

Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

Scope of the Davis-Bacon Act

The Davis-Bacon Act prevailing wage requirements apply to laborers and mechanics employed under contracts or subcontracts in excess of \$2,000 for construction, alteration, or repair activities (including but not limited to painting and decorating) that are funded, in whole or in part, under BTOP grant awards. In general:

- Laborers and mechanics – Are workers whose duties are manual or physical in nature, including apprentices, trainees and helpers, but do not include workers whose duties are primarily managerial, administrative, executive, or clerical. See 29 C.F.R. § 5.2(m).
- The \$2,000 threshold – Pertains to the amount of the prime construction contract, not to the amount of individual subcontracts. Accordingly, if the prime construction contract exceeds \$2,000, all construction work on the project (including subcontracts) is covered by the Davis-Bacon Act. See 29 C.F.R. § 5.5(a)(6).
- Construction, alteration, or repair activities – Are those occurring at the "site of the work" that involve the alteration, remodeling, or installation of items fabricated off-site; painting and decorating; manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work; and, in certain cases, transportation between the site of the work and other points. See 29 C.F.R. § 5.2(j).
- Site of the work – Is the physical place or places where the building or work called for in the contract will remain, and any other site where a significant portion of the building or

work is constructed, provided that such site is established specifically for the performance of the contract or project, and includes job headquarters, tool yards, batch plants, borrow pits, etc., if they are dedicated exclusively, or nearly so, to performance of the contract or project, and are adjacent or virtually adjacent to the site of the work. The site of the work does not include permanent home offices, branch plant establishments, fabrication plants, tool yards, etc., of a contractor or subcontractor whose location and continued operation are determined wholly without regard to a particular Federal or Federally-assisted contract or project. See 29 C.F.R. § 5.2(l).

- Application to Governmental Agencies – Governmental agencies, such as states or their political subdivisions, are not subject to the Davis-Bacon Act requirements when construction work is being performed by their own employees on a "force account" basis. See 29 C.F.R. § 5.2(h).

Davis-Bacon Act prevailing wage requirements are likely to apply to construction and related activities undertaken in connection with Infrastructure Round 1 and Comprehensive Community Infrastructure (CCI) Round 2 projects. In many cases, Davis-Bacon Act prevailing wage requirements will also apply to activities under BTOP grants for Sustainable Broadband Adoption (SBA) and Public Computer Centers (PCC), when construction and related activities (including minor renovation of facilities) can be segregated from the other work contemplated by the grant. See 29 C.F.R. § 4.116; F.A.R. § 22.402(b).

Davis-Bacon Act Requirements

Required contract provisions (appearing at 29 C.F.R. § 5.5) and the applicable wage determination(s) for the activities contemplated by a construction project must be included in any contract or subcontract to which the Davis-Bacon Act applies providing, among other items, that:

- Laborers and mechanics must be paid the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) at least once a week;
- No paycheck deductions or rebates are permitted, except as permitted under Department of Labor (DOL) regulations (29 C.F.R. §§ 3.5-3.6); and
- Wage and fringe benefit rates must be no less than those contained in DOL wage determination for the labor classification for the work actually performed.

The recipient is responsible for ensuring that the required contract provisions appear in all contracts and subcontracts entered into by recipients, subrecipients, contractors, and subcontractors for construction, alteration and repair activities covered by the Davis-Bacon Act and related acts. Applicable wage determinations included in the contract must be verified by the recipient within 10 days of the contract date.

In cases where state wage rates (determined under state statutes often called "Mini-Davis-Bacon Acts") are higher than the Federal wage rates, the state wage rates take precedence and should be included in contracts in lieu of the lower, Federal wage rates. In cases of construction projects on tribal lands, the recipient should contact its assigned Federal Program Officer (FPO) for guidance on the interplay among the Davis-Bacon Act, state Mini-Davis-Bacon acts and the Tribal Employment Rights Ordinance (TERO).

Contracts for amounts over \$100,000 that are covered by the Davis-Bacon Act must include additional standard clauses (also appearing in 29 C.F.R. § 5.5) providing, among other things,

that overtime for laborers and mechanics must be paid at a rate 1.5 times the basic rate of pay for time worked in excess of 40 hours per week.

In addition, the DOL Davis-Bacon poster (WH-1321) must be prominently posted at the site of the work. Refer to: www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf.

Davis-Bacon Wage Rate Determinations

DOL conducts statewide surveys seeking payment data on wage and fringe benefit rates from construction contractors and other interested parties, such as labor unions. Wage determinations are issued by locality, typically on a county-by-county basis. Davis-Bacon Act wage determinations are published on DOL's Wage Determinations OnLine (WDOL) website accessible at: www.wdol.gov. The Davis-Bacon Act prevailing wages are determined by DOL based on wages paid to various classes of laborers and mechanics employed on specific types of construction projects in an area.

If DOL has not published a wage determination for work that is needed to complete a BTOP construction project, the recipient may seek a Conformance. The recipient must submit a Conformance request using Standard Form (SF) 1444. Please go to www.wdol.gov/library.aspx to obtain a copy of the form and instructions.

To complete the form, the recipient must describe the work to be done (identified with a classification that is used in the subject area in the construction industry) and propose a wage rate that bears a reasonable relationship to existing wage determinations. Typically, the rate must not be less than the wage determination for an unskilled laborer and, for a skilled craft, must be at least equal to the lowest wage determination for any other skilled craft.

Infrastructure and CCI recipients should submit the completed SF-1444 through Grants Online as an "Other Action Request." The SF-1444 will be routed to the National Oceanic and Atmospheric Administration (NOAA) Grants Officer and transmitted to the DOL Wage and Hour Division for review and approval. The Wage and Hour Division has committed to act on Conformance requests within 30 days.

SBA and PCC recipients should submit completed SF-1444 Conformance requests through the Post-Award Monitoring (PAM) System. To do so, the recipient should create a report package of the type "POR: PAM Other Request." After filling out and attaching the Request Template, the recipient should attach the completed SF-1444 form using the "Add File" button. The SF1444 will be routed to the National Institute of Standards and Technology (NIST) Grants Officer and transmitted to the DOL Wage and Hour Division for review and approval. The Wage and Hour Division has committed to act on Conformance requests within 30 days.

Recordkeeping and Monitoring Obligations

Recipients, subrecipients, contractors, and subcontractors must prepare weekly certified payroll documentation using Form WH347 (available at: www.dol.gov/whd/forms/wh347.pdf), properly completed for laborers and mechanics performing activities covered by the Davis-Bacon Act requirements of the Recovery Act. Subrecipients, contractors, and subcontractors must submit this information to the BTOP grant award recipient on a weekly basis within seven days of the regular payment date of the subrecipient's, contractor's or subcontractor's payroll period.

A recipient must review the weekly certified payroll documentation it receives from its subrecipients, contractors and subcontractors on an ongoing basis. See 29 C.F.R. §§ 3.3-3.4. If a subrecipient receives the original payroll documents, the subrecipient should review these documents and forward the original documents to the recipient on a weekly basis within the time period described above.

The recipient must maintain in its files the original Davis-Bacon Act payroll records it prepares for itself, as well as those prepared by subrecipients, contractors, and subcontractors. The recipient is not required to submit any of the payroll documents to the BTOP Grants Office unless the assigned Grants Officer makes a request for such records. The payroll records must be maintained so as to be easily accessed by BTOP Grants Officers and by other duly authorized officials. The recipient must retain these records as provided in the Department of Commerce (DOC) Uniform Administrative Requirements for Grants and Cooperative Agreements, 15 C.F.R. § 14.53 or 24.42, as applicable, generally for the later of three years after closeout of the award, or until any litigation, claim, or audit is resolved.

Enforcement and Penalties

Violation of the requirements of Section 1606 of the Recovery Act and the Davis-Bacon Act and related acts is a serious offense. Compliance is subject to audit during OMB Circular A-133 audits (including program-specific audits) of BTOP grant recipients and subrecipients, as well as audits and investigations by the DOC Office of Inspector General, the Government Accountability Office (GAO), the DOL Wage and Hour Division, and other duly authorized officials. A violation of the Davis-Bacon Act wage requirements may lead NTIA to impose appropriate enforcement action in connection with a BTOP grant award, up to and including suspension or termination of the award. In addition, contracting parties are subject to payment of back wages, and suspension or debarment from future contracts for a period of up to three years. Monetary damages may also apply. Falsification of certified payroll records or the required kickback of wages may subject a violator to civil or criminal prosecution, the penalty for which may include fines and/or imprisonment.