

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: April 1, 2024

SUBJECT: American Rescue Plan – Adoption of Policies and Procedures

PRESENTER: Amy Brantley, Assistant County Manager
Russ Burrell, County Attorney
Samantha Reynolds, Finance Director

ATTACHMENTS: Yes

1. Tab 10 – Subrecipient and Monitoring Policy

SUMMARY OF REQUEST:

The Final Rule for the American Rescue Plan was issued on January 6, 2022. That final rule contains a number of regulations that local governments must follow when expending Federal Funds, including a variety of policies and procedures. Staff believes that with the adoption of the attached Subrecipient and Monitoring Policy, all required policies will now be in place. However, should any additional policies require approval, Staff will bring those to the Board for adoption once finalized.

Tab 10 – Subrecipient and Monitoring Policy is a required policy that has been reviewed by Finance and the County Attorney.

BOARD ACTION REQUESTED:

The Board is requested to review Tab 10 – Subrecipient and Monitoring Policy drafted by Staff, and adopt it as presented.

Suggested Motion:

I move the Board adopt the Federal Awards Subrecipient and Monitoring Policy drafted by Staff, and adopt it as presented.



Federal Awards Subrecipient and Monitoring Policy

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SUBAWARDS

RESOLUTION

WHEREAS, Henderson County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS, the funds may be used for projects within these categories, to the extent authorized by state law.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

WHEREAS, the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Part 200 (UG), as provided in the [Assistance Listing \(21.027\)](#); and

WHEREAS, the ARP/CSLFRF authorizes Henderson County to enter subaward agreements with subrecipients to assist Henderson County to carry out the terms of the ARP/CSLFRF; and

WHEREAS, if Henderson County enters into a subaward as a subrecipient, it acts as a pass-through entity, as described in 2 CFR 200.1; and

WHEREAS, the [Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds](#) (v.3.0 February 2022) provides, in relevant part:

Subrecipient Monitoring. SLFRF recipients that are pass-through entities as described under 2 CFR 200.1 are required to manage and monitor their subrecipients to ensure compliance with requirements of the SLFRF award pursuant to 2 CFR 200.332 regarding requirements for pass-through entities.

First, your organization must clearly identify to the subrecipient: (1) that the award is a subaward of SLFRF funds; (2) any and all compliance requirements for use of SLFRF funds; and (3) any and all reporting requirements for expenditures of SLFRF funds.

Next, your organization will need to evaluate each subrecipient's risk of noncompliance based on a set of common factors. These risk assessments may include factors such as prior experience in managing Federal funds, previous audits, personnel, and policies or procedures for award execution and oversight. Ongoing monitoring of any given subrecipient should reflect its assessed risk and include monitoring, identification of deficiencies, and follow-up to ensure appropriate remediation.

Accordingly, your organization should develop written policies and procedures for subrecipient monitoring and risk assessment and maintain records of all award agreements identifying or otherwise documenting subrecipients' compliance obligations.

Recipients should note that non-entitlement units of local government (NEUs) are not subrecipients under the SLFRF program. They are SLFRF recipients that will report directly to Treasury.

Recipients should also note that subrecipients do not include individuals and organizations that received SLFRF funds as end users to respond to the negative economic impacts of COVID-19 on these organizations. Such individuals and organizations are beneficiaries and not subject to audit pursuant to the Single Audit Act and 2 C.F.R. Part 200, Subpart F.

Separately or in addition, many recipients may choose to provide a subaward (e.g., via contract or grant) to other entities to provide services to other end—users. For example, a recipient may provide a grant to a nonprofit to provide homeless services to individuals experiencing homelessness. In this case, the subaward to a nonprofit is based on the services that the Recipient intends to provide, assistance to households experiencing homelessness, and the nonprofit is serving as the subrecipient, providing services on behalf of the recipient. Subrecipients are subject to audit pursuant to the Single Audit Act and 2 CFR part 200, subpart F regarding audit requirements; and

WHEREAS, Subpart D of the UG dictates subrecipient and award requirements for expenditure of [ARP/CSLFRF] funds; and

WHEREAS, 2 CFR 200.332 states that:

All pass-through entities must:

- (a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the [required] information at the time of the subaward . . . When some of [the required information] is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward.
- (b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring.
- (c) Consider imposing specific subaward conditions upon a subrecipient if appropriate as described by 2 CFR 200.208.
- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.
- (e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient, [specific] monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements an achievement of performance goals.
- (f) Verify that every subrecipient is audited as required by [2 CFR 200, Subpart F] when it is expected that the subrecipient's Federal awards

expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR 200.501.

- (g) Consider whether the results of the subrecipient’s audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity’s own records.
- (h) Consider taking enforcement action against noncompliant subrecipients as described in 2 CFR 200.339 and in program regulations.

NOW THEREFORE, BE IT RESOLVED that the Henderson County Board of Commissioners hereby adopts and enacts the following Subaward and Monitoring Policy for the expenditure of ARP/CSLFRF funds.

ADOPTED, this the 1st day of April, 2024.

Rebecca McCall, Chairman
Henderson County Board of Commissioners

Attest:

Denisa Lauffer, Clerk to the Board

Purpose

The purpose of this policy is to clarify that under provisions of the American Rescue Plan, Local Governments who received State and Local Fiscal Recovery Funds (ARP/SLFRF) do have the authority to contract with any private entity to undertake a program or activity that the local government has statutory authority to perform. A local government generally **MAY NOT GRANT/DONATE** funds to a private entity (even nonprofit) to support the private entity's operations or capital needs.

American Rescue Plan Authority

"Under section 602(c)(3) of the Social Security Act, a State, territory, or Tribal government may transfer funds to a "private nonprofit organization . . . , a Tribal organization . . . , a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government." Similarly, section 603(c)(3) authorizes a local government to transfer funds to the same entities (other than Tribal organizations). The Interim Final Rule clarifies that the lists of transferees in sections 602(c)(3) and 603(c)(3) are not exclusive, and recipients may transfer funds to constituent units of government or private entities beyond those specified in the statute. A transferee receiving a transfer from a recipient under sections 602(c)(3) and 603(c)(3) will be considered to be a subrecipient and will be expected to comply with all subrecipient reporting requirements. The ARPA does not authorize Treasury to provide CSFRF/CLFRF funds directly to nonprofit or private organizations. Thus, non-profit or private organizations should seek funds from CSFRF/CLFRF recipient(s) in their jurisdiction (e.g., a State, local, territorial, or Tribal government)."¹

North Carolina State Law Authority

"§153A-449. Contracts with private entities; contractors must use E-Verify. (a) Authority. – A county may contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the county is authorized by law to engage in. A county may not require a private contractor under this section to abide by any restriction that the county could not impose on all employers in the county, such as paying minimum wage or providing paid sick leave to its employees, as a condition of bidding on a contract."²

Policy Provisions

I. Policy Overview

[Title 2 U.S. Code of Federal Regulations Part 200](#), (2 CFR 200) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (UG), specifically Subpart D, defines requirements of pass-through entities initiating subaward agreements with Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF). Henderson County (hereinafter the County) shall adhere to all applicable subaward and monitoring requirements governing the use of ARP/CSLFRF. This policy establishes procedures for classifying, making an award to, and monitoring a sub-recipient consistent with ARP/CSLFRF grant award terms and all applicable federal regulations in the UG.

Responsibility for following these guidelines lies with the County Manager and designees who are charged with the administration and financial oversight of the [SLFRF].

¹ <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf> Section 1.8

² https://www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_153a/gs_153a-449.html

II. Definitions

The definitions in 2 CFR 200.1 apply to this policy, including the following:

- Contract* - for the purpose of Federal financial assistance, a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out the project or program under a Federal award. For additional information on subrecipient and contractor determinations, see [§ 200.331](#). See also the definition of *subaward* in this section.
- Contractor* - an entity that receives a contract as defined in this section.
- Pass-through Entity* - a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.
- Recipient* - an entity, usually but not limited to non-Federal entities that receives a Federal award directly from a Federal awarding agency. The term recipient does not include subrecipients or individuals that are beneficiaries of the award.
- Subaward* - an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.
- Subrecipient* - an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

III. Subrecipient Classification

Henderson County must make a case-by-case determination whether an agreement with another government entity or private entity, that is not a beneficiary, casts the party receiving the funds in the role of a subrecipient or contractor. 2 CFR 200.331.

A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision-making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

Henderson County will use the above criteria to determine if an agreement involving the expenditure of ARP/CSLFRF is a contract or subaward. Finance Staff will document the determination in the Subrecipient or Contractor Classification Checklist in Appendix 1.

If the agreement involves a contractor relationship (including a contract for services), Henderson County must follow its UG Procurement Policy when entering into a contract.

If the agreement involves a subrecipient relationship, Henderson County must proceed to Sections IV. through VII. below.

IV. Assessment of Risk

Before engaging in a subaward, the Henderson County must evaluate a subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward to determine whether to award the subaward and the appropriate subrecipient monitoring.

The Finance Department or Internal Auditor will conduct the risk assessment, which will include consideration of the following factors:

- (1) The subrecipient's prior experience with the same or similar subawards;
- (2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with 2 CFR 200 Subpart F and the extent to which the same or similar subaward has been audited as a major program;
- (3) Whether the subrecipient has new personnel or new or substantially changed systems; and
- (4) The extent and results of Federal awarding agency monitoring (*e.g.*, if the subrecipient also receives Federal awards directly from a Federal awarding agency). 2 CFR 200.332(b).

The results of the risk assessment must be documented in the Subrecipient Assessment of Risk form in Appendix 2 and will be used to dictate the types and degree of subrecipient monitoring.

Henderson County will assign an overall risk level to the subrecipient indicating the following:

Low Risk	Moderate Risk	High Risk
There is a low risk that the subrecipient will fail to meet project or programmatic objectives or incur significant deficiencies in financial, regulatory, reporting, or other compliance requirements.	There is moderate risk that the subrecipient will fail to meet project or programmatic objectives or incur significant deficiencies in financial, regulatory, reporting, or other compliance requirements.	There is high risk that the subrecipient will fail to meet project or programmatic objectives or incur significant deficiencies in financial, regulatory, reporting, or other compliance requirements.

The assessed level of risk will be documented in the Subrecipient Assessment of Risk form in Appendix 2, placed in the subrecipient files, and communicated to the subrecipient in writing. Notification to subrecipients will include: assessed level of risk, rationale for assessed level of risk, and required monitoring conditions. Henderson County will re-evaluate subrecipient risk levels throughout the period of performance and may adjust assessed risk levels as appropriate. Subrecipients may request reconsideration of their assessed risk level at any time, and the Strategic Partnerships Director will consult with County Attorney(s) and make a determination about whether to modify the assessed risk level.

V. Subrecipient Monitoring

Henderson County will develop and implement a subrecipient monitoring plan for the particular subaward based on the findings of the Subrecipient Assessment of Risk. According to 2 CFR 200.332(d), the monitoring plan must involve:

- (1) Reviewing financial and performance reports required by the pass-through entity.
- (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular subaward.
- (3) Issuing a management decision for applicable audit findings pertaining only to the Federal award provided to the subrecipient from the pass-through entity as required by 2 CFR [200.521](#).
- (4) The pass-through entity is responsible for resolving audit findings specifically related to the subaward and not responsible for resolving crosscutting findings. If a subrecipient has a current Single Audit report posted in the Federal Audit Clearinghouse and has not otherwise been excluded from receipt of Federal funding (*e.g.*, has been debarred or suspended), the pass-through entity may rely on the subrecipient's cognizant audit agency or cognizant oversight agency to perform audit follow-up and make management decisions related to cross-cutting findings in accordance with section 2 CFR [200.513\(a\)\(3\)\(vii\)](#). Such reliance does not eliminate the responsibility of the pass-through entity to issue subawards that conform to agency and award-specific requirements, to manage risk through ongoing subaward monitoring, and to monitor the status of the findings that are specifically related to the subaward.

Henderson County’s monitoring plan will vary based on the overall subrecipient risk assessment as low risk, medium risk, or high risk, detailed as follows:

Subrecipient Deemed Low Risk	Subrecipient Deemed Medium Risk	Subrecipient Deemed High Risk
<ul style="list-style-type: none"> • Payment validations (monthly) • Report reviews (quarterly) • Desk reviews (at least once per year and more frequently if requested by Henderson County or subrecipient) • Onsite reviews (upon request of Henderson County or subrecipient) • Audit review (yearly) 	<ul style="list-style-type: none"> • More detailed financial reporting • Payment validations (monthly) • Report reviews (bi-monthly) • Desk reviews (within 6 months of project start and every six months thereafter) • Onsite reviews (within 12 months of project start and annually thereafter, or more frequently as requested by Henderson County or subrecipient) • Audit review (yearly) • Procedures engagement (if subrecipient not subject to Single Audit Act; yearly) 	<ul style="list-style-type: none"> • More detailed financial reporting • Compliance training (one-time) • Prior approvals for certain expenditures • Payment validations (monthly) • Report reviews (monthly) • Desk reviews (within 3 months of project start and at least quarterly thereafter) • Onsite reviews (within 6 months of project start and bi-annually thereafter, or more frequently as requested by Henderson County or subrecipient) • Audit review (yearly) • Procedures engagement (if subrecipient not subject to Single Audit Act; yearly)

Payment validation: All subrecipient documentation for project expenditures must be reviewed by Henderson County for compliance with subaward requirements. Any non-compliant expenditures will be denied and the subrecipient will be provided a reasonable description of the reason for denial and an opportunity to cure the deficiency. For a subrecipient on a reimbursement-based payment structure, the validation will occur before a reimbursement payment is approved. For a subrecipient that received an up-front payment, any funds found to have been expended in violation of the subaward requirements must be repaid to Henderson County.

Report review: A subrecipient must submit quarterly financial and performance reports, based on the schedule set forth in the subaward. The nature and scope of the reports will depend on the project and be spelled out in the subaward. The reports will be reviewed by Henderson County. Any deficiencies or other performance concerns will be addressed with the subrecipient in a timely manner and could trigger additional monitoring requirements or other interventions, as specified in the subaward.

Desk review: Henderson County will conduct a meeting to review the subrecipient's award administration capacity and financial management. The meeting may be held virtually or in person. Topics covered will depend on project scope and subrecipient risk assessment and may include governance, budgeting, accounting, internal controls, conflict of interest, personnel, procurement, inventory, and record keeping. Henderson County will produce a report which summarizes the results and any corrective actions if deemed necessary. The report will be shared in a timely manner with the subrecipient.

Onsite review: Henderson County will conduct an on-site meeting at the subrecipient's location to review the subrecipient's project performance and compliance. Topics covered will depend on project scope and subrecipient risk assessment and may include project procurement, data systems, activity and performance tracking, project reporting, inventory, and software systems. Henderson County will produce a report which summarizes the results and any corrective actions deemed necessary. The report will be shared in a timely manner with the subrecipient.

Audit review: Henderson County must verify that every subrecipient is audited as required by [2 CFR 200 Subpart F](#) (Single Audit) when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR [200.501](#). Henderson County must obtain a copy of the subrecipient's Single Audit from the Federal Audit Clearinghouse (FAC). Within six months of the acceptance of the audit report by the FAC, Henderson County will issue a management decision for any audit findings related to the subaward. The decision will clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. (The decision will include reference numbers the auditor assigned to each finding.) The decision will provide a timetable for responsive actions by the subrecipient. Prior to issuing the management decision, Henderson County may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs.

The specific monitoring plan for each subrecipient, including the type and frequency of reviews, will be detailed in the subaward agreement. For all requirements beyond those listed under the Low Risk category above, Henderson County will notify the subrecipient of the following in the subaward:

- (1) The nature of the additional requirements;
- (2) The reason why the additional requirements are being imposed;
- (3) The nature of the action needed to remove the additional requirement, if applicable;
- (4) The time allowed for completing the actions if applicable; and
- (5) The method for requesting reconsideration of the additional requirements imposed.

To implement the monitoring plan, Finance Staff or the Internal Auditor must perform periodic reviews and document findings in the Subrecipient Monitoring Form found in Appendix 3.

VI. Subrecipient Interventions

Henderson County may adjust specific subaward conditions as needed, in accordance with 2 CFR 200.208 and 2 CFR 200.339. If Henderson County determines that the subrecipient is not in compliance with the subaward, Henderson County may institute an intervention. The degree of the subrecipient's performance or compliance deficiency will determine the degree of intervention. All possible interventions must be indicated in the subaward agreement.

Henderson County must provide written notice to the subrecipient of any intervention within thirty days of the completion of a report review, desk review, onsite review, audit review, or procedures engagement review or as soon as possible after Henderson County otherwise learns of a subaward compliance or performance deficiency.

Pursuant to 2 CFR 200.208, the written notice must notify the subrecipient of the following related to the intervention:

- (1) The nature of the additional requirements;
- (2) The reason why the additional requirements are being imposed;
- (3) The nature of the action needed to remove the additional requirement, if applicable;
- (4) The time allowed for completing the actions if applicable; and
- (5) The method for requesting reconsideration of the additional requirements imposed.

The following interventions may be imposed on a subrecipient, based on the level of the compliance or performance deficiency:

Level 1 Interventions. These interventions may be required for minor compliance or performance issues.

- (1) Subrecipient addresses specific internal control, documentation, financial management, compliance, or performance issues within a specified time period
- (2) More frequent or more thorough reporting by the subrecipient
- (3) More frequent monitoring by Henderson County
- (4) Required subrecipient technical assistance or training

Level 2 Interventions. These interventions may be required, in addition to Level 1 interventions, for more serious compliance or performance issues.

- (1) Restrictions on funding payment requests by subrecipient
- (2) Disallowing payments to subrecipient
- (3) Requiring repayment for disallowed cost items
- (4) Imposing probationary status on subrecipient

Level 3 Interventions. These interventions may be required, in addition to Level 1 and 2 interventions, for significant and/or persistent compliance or performance issues.

- (1) Temporary or indefinite funding suspension to subrecipient
- (2) Nonrenewal of funding to subrecipient in subsequent year
- (3) Terminate funding to subrecipient in the current year
- (4) Initiate legal action against subrecipient

VII. Subrecipient Agreement and Execution

The subaward agreement will be drafted by the County Attorney using the Subaward Agreement Template in Appendix 4. Contract terms and conditions may vary based on several factors, including subrecipient risk assessment findings, as documented in the Subrecipient Assessment of Risk. After review by the Finance Department the County Manager may fully execute the subaward agreement, subject to any required budget amendments by Henderson County's Board of Commissioners, preaudit requirements, and any other contract prerequisites set by the Board of Commissioners.

APPENDIX 1

SUBRECIPIENT OR CONTRACTOR CLASSIFICATION CHECKLIST

If Henderson County wishes to contract with another government entity or a private entity and use ARP/CLFRF funds to pay for that contract, the County must determine if the relationship with the outside entity is a contractor or subrecipient. To make this determination, Henderson County must review the project proposal, budget classification, and other related proposal documents, as well as engage in discussions with key personnel about the nature of the proposed agreement. The determination of whether a proposed agreement involves a contractor or subrecipient relationship must be recorded on this form and maintained in the project file for the duration of the records retention period for ARP/CSLFRF records.

INSTRUCTIONS:

Complete sections one and two of the checklist by marking all characteristics that apply to the outside entity. The section with the greatest number of marked characteristics indicates the likely type of relationship the entity will have with the local government. On occasion there may be exceptions to the type of relationship indicated by the completed checklist. In these situations, the substance of the relationship should be given greater consideration than the form of agreement between the local government and the outside entity. Section 3 should be used to provide documentation on the use of judgment in determining the proper relationship classification.

PARTNER ENTITY CHECKLIST

PROJECT NAME: _____ PROJECT ID: _____

NAME OF OUTSIDE ENTITY: _____

SECTION 1 - SUBRECIPIENT. *A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the contractor:*

- Determines who is eligible to receive what Federal assistance;
- Has its performance measured in relation to whether objectives of a Federal program were met;
- Has responsibility for programmatic decision-making;
- In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

Entities that include these characteristics are responsible for adherence to applicable Federal program requirements specified in the Federal award.

SECTION 2 - CONTRACTOR. *A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:*

- Procurement relationship
- Provides the goods and services within normal business operations;
- Provides similar goods or services to many different purchasers;
- Normally operates in a competitive environment;
- Provides goods or services that are ancillary to the operation of the Federal program.

Entities that include these characteristics are not subject to compliance requirements of the Federal program because of the agreement, though similar requirements may apply for other reasons.

SECTION 3 - USE OF JUDGMENT. (Use only when the determination cannot clearly be made using the above criteria) *In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.*

Explanation of Use of Judgment Determination:

FINAL DETERMINATION:

SUBRECIPIENT

CONTRACTOR

Name: _____

Signature: _____

Date: _____

APPENDIX 2

RISK ASSESSMENT FOR SUBRECIPIENTS - 2 CFR 200-332(b)-(c)

TO BE COMPLETED BY THE SUBRECIPIENT ORGANIZATION INFORMATION

Subrecipient Name:	
Subrecipient Employer Identification Number (EIN):	
Type of Entity : (unit of government, non-profit, corporation)	
Is the organization registered with SAM.gov? (If not, please complete this registration)	
Subrecipient Unique Entity Identifier (UEI):	
Is the organization prohibited from receiving Federal funds due to suspension or debarment per the Excluded Parties List located on the System for Award Management (SAM)?	

KEY PERSONNEL

Role:	Name:	Length of Time in Position:
Governing Board Chair		
Governing Board Treasurer		
Governing Board Secretary		
Executive Director/Chief Executive Officer		
Chief Finance Officer		
Other Personnel Key to Subaward		

AUDITS

Fiscal Year Start Date:	
Fiscal Year End Date:	
Date of fiscal year ending for most recent audit of financial statements:	
Is the most recent audit on file with Henderson County?	
Total amount of Federal Awards expended in the most recent audit year:	
Was the most recent audit a Single Audit or Program-Specific Audit as required by Federal Uniform Guidance? Please explain:	
Were there any relevant findings in recent audits? If yes, please explain:	

EXPERIENCE WITH FEDERAL AWARDS AND SUBAWARDS

List any Federal Grants or financial assistance, including subawards, received in the past five years:

Grant	Grantor	Amount	Period of Performance	Federal AL #

ORGANIZATIONAL STABILITY

Have there been any recent major changes to the organizational structure? Please explain:	
Have there been any recent major changes relating to operations? Please explain:	

FORM PREPARED BY

Name	
Title	
Date	

RISK ASSESSMENT CHECKLIST

To be completed by Henderson County

PROJECT NAME: _____ **PROJECT ID:** _____

NAME OF OUTSIDE ENTITY: _____

SECTION 1 - DISBARMENT OR SUSPENSION. *The County shall check the SAM.GOV registry using the entity's SAM.GOV Unique Entity Identification (UEI) Number to ensure that the entity is not disbarred or suspended.*

Entity's UEI: _____

Date checked: _____

Excluded or suspended: No
 Yes (If Yes, attach Exclusion Information from SAM.GOV)

SECTION 2 - CONFLICT OF INTEREST. *The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity. See "Federal Awards Policy Manual and Procedures Tab 6 – Conflict of Interest".*

Conflicts checked: _____

Policy signed: _____

SECTION 3 - RISK ASSESSMENT. *Select risk level assigned to each of the following assessment criteria.*

Low Risk = No or minor audit findings, successful history with federal awards, seasoned staff and systems

Medium Risk = Limited prior audits, no prior experience with federal awards, newer staff or systems

High Risk = No prior audits or findings with major deficiencies, insufficient staff, systems or internal controls

3A – PRIOR AWARD EXPERIENCE

- 1) How familiar is Henderson County with the entity?
 Low Risk Medium Risk High Risk
- 2) How much experience does the entity have implementing federal award programs?
 Low Risk Medium Risk High Risk
- 3) How does the entity's experience relate to current program size?
 Low Risk Medium Risk High Risk

3B – PRIOR AUDIT EXPERIENCE

- 1) Has the entity had a single audit or other recent audits?
 Low Risk Medium Risk High Risk
- 2) Have any valid audit findings been corrected or resolved?
 Low Risk Medium Risk High Risk

3C – EXTENT OF ANY FEDERAL MONITORING

- 1) Can Henderson County build on any existing monitoring framework of other federal awards?
 Low Risk Medium Risk High Risk

3D – STAFFING AND SYSTEMS

- 1) Does the entity have personnel who are familiar with federal requirements?
 Low Risk Medium Risk High Risk
- 2) Does the entity have seasoned finance directors and accounting staff?
 Low Risk Medium Risk High Risk
- 3) Are the entity’s systems for financial management, purchasing, and records retention in place, well designed and operational?
 Low Risk Medium Risk High Risk

RISK ASSESSMENT DESIGNATION

- Low Risk = No or minor audit findings, successful history with federal awards, seasoned staff and systems
- Medium Risk = Limited prior audits, no prior experience with federal awards, newer staff or systems
- High Risk = No prior audits or findings with major deficiencies, insufficient staff, systems or internal controls

Explanation of Designation Determination:

RISK ASSESSMENT DESIGNATION - COMPLIANCE REQUIREMENTS

Subrecipients designated as High Risk must be notified of the additional requirements as part of the subaward and provided with the explanation of the designation determination.

Low Risk Designation Compliance

- Periodic review of financial and performance reports
- Follow-up an ensure timely action on all identified deficiencies detected through audits, on-site reviews, and other reports from subrecipient. (Document all follow-up)
- Management decisions for applicable audit findings related to this award (2 CFR 200.521)
- Verify audits

Medium Risk Designation Compliance (Low Risk requirements, plus)

- More detailed financial reports
- Withholding authority to proceed to next phase until sign off on acceptable performance
- Supporting documentation for all expenditures
- Payments on reimbursement basis
- Additional project monitoring
- Required technical training and assistance
- Arranging for procedures engagement, if subrecipient not subject to Single Audit (2 CFR 200.425)

High Risk Designation Compliance (Low and Medium Risk requirements, plus)

- Quarterly status meetings
- Review of financial management systems, policies and procedures to ensure minimum requirements
- Monthly financial, performance, and compliance reports
- Additional action plans: _____

Name: _____

Signature: _____

Date: _____

APPENDIX 3

SUBRECIPIENT MONITORING FORM

This report reflects Henderson County’s substantive assessment of the subrecipient’s project implementation and subaward compliance. Henderson County’s project manager assigned to the subaward must complete this report for each payment validation, report review, desk review, site review, and audit or procedures engagement review during the subaward term (and, as appropriate, after the expiration or termination of the subaward). Upon completion, and following review by the Finance Director the original will be filed in the subaward file. Any required subrecipient corrective actions will be detailed in writing and provided to the subrecipient within thirty days of the completion of this report.

Subaward Overview (complete this section for all reviews)

STAFF INFORMATION

Reviewed conducted by:		Date:
Type (programmatic, financial, or both)		Date:
Review confirmed by:		Date:

SUBRECIPIENT INFORMATION

Subrecipient Name:	
Subrecipient Program Personnel (who participated in the review):	
Subrecipient Contact Phone Number:	
Subrecipient Fiscal/Audit Personnel (who participated in the review):	
Subrecipient Fiscal Contact Phone Number:	

GRANT REVIEW INFORMATION

Grant	Project #	Award \$	POP Begin	POP End	Review Period	
					Beginning Date	Ending Date

TYPE OF MONITORING

	Type of Monitoring	Date Completed	Comments
<input type="checkbox"/>	Payment Validation (Complete this column, but not the rest of the form.)		
<input type="checkbox"/>	Report Review (Complete this column, but not the rest of the form.)		
<input type="checkbox"/>	Audit or Procedures Engagement Review (Complete this column, but not the rest of the form.)		
<input type="checkbox"/>	Desk Review (If desk review, complete the rest of the form.)		
<input type="checkbox"/>	Onsite Review (If onsite review, complete the rest of the form.)		

Desk and Onsite Reviews (complete this section for desk and onsite reviews only)

PRE-MEETING NOTES

List any issues, concerns, or other specialty items for follow-up during review.

1. _____
2. _____
3. _____

SUMMARY OF PROGRESS

Subrecipient must submit a written summary of the major workplan milestones during the review period at least one week prior to the review. The summary must address 1) number of clients served as compared with projections; 2) staffing; 3) activities undertaken; and 4) significant accomplishments. A copy of that summary will be appended to this written review report.

MONITORING OVERVIEW

PROGRAM IMPLEMENTATION

Indicate milestones met this quarter and identify milestones as scheduled to occur in the following quarter.

ACTIVITIES/PRODUCTS

Identify any reports or products that were submitted during the quarter, and identify those due the following quarter.

CORRECTIVE ACTIONS FROM PRIOR REVIEWS

Indicate actions taken in response to prior review issues.

ASSESSMENT OF QUALITY OF IMPLEMENTATION

Is the project being implemented on schedule? Are the activities impacting the goals and objectives as outlined in approved application?

ISSUES/PROBLEMS

Discuss significant new issues/problems with respect to projected milestones, audits, staffing, client flow, departures from approved goals, late reports, etc.

MONITORING SPECIFICS

Complete all fields that are applicable to the subaward.

Activity Goals	<input type="checkbox"/> N/A	Yes	No	N/A
Scope of Service, Number of People to be Served, and any Special Terms stated within the Subaward Agreement.				
1. Has there been a change in the activity goals, scope of service, number of people to be served or other special terms as indicated in the Agreement between the Subrecipient and the Recipient?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(a) If yes, was the Recipient informed of the change?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Did the activity conform to any additional or special terms as reflected in the Subaward Agreement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the subrecipient providing the full scope of services as stated in the application and Subaward Agreement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Are the actual accomplishments at the time of this review the same as the planned accomplishments? Is the activity achieving the expected quantifiable levels of performance (number of persons served, achieving goals set for clients, etc.) reaching the intended client group?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Is the overall activity performance schedule being met in a timely manner (i.e. goal for number of clients served, expenditure of funds in timely manner, reporting requirements)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Did the activity operate within the approved budget as detailed in the Subaward Agreement? (i.e., budgetary line items both accurate and realistic for activity expenses; source and use of match funds accurate)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Did the activity funding source change?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Was there a change in make-up or responsibility of staff for the activity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Were invoices for reimbursement payments submitted with support documentation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Were reports outlined in the Subaward Agreement submitted on time?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General Comments				

General Compliance	Yes	No	N/A
Request a copy of all applicable policies and procedures required by the ARP/CSLFRF award terms and Uniform Guidance.			
11. Does the subrecipient have written policies and procedures to adequately administer the ARP/CSLFRF subaward?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Does the subrecipient have a written conflict of interest policy for their employees?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Are there sufficient internal controls in place to protect against waste, fraud and abuse of Federal funds (segregation of duties, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. If program income will be generated by the subrecipient, have provisions been made to ensure that it is used in accordance with ARP/CSLFRF and Uniform Guidance requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
What procedures does the subrecipient use to identify and account for federal property purchased with subaward funds?			
Does the subrecipient have adequate safeguards for preventing loss, damage, or theft of property held (inventory control, etc.)?			
Describe any technical assistance/training provided to subrecipient during the project period.			
General Comments			

Employee Reimbursement	<input type="checkbox"/> N/A	Yes	No	N/A
Request a copy of the employee reimbursement policy, and/or have the subrecipient describe the procedure for approving and documenting expenses that are reimbursed.				
15. Are detailed receipts (i.e., receipts that do not merely show a total, but the detail of what was purchased) provided for reimbursement?				
16. Are reimbursements reviewed and approved by a supervisor or project manager prior to being submitted to the Fiscal Officer/Accounting Staff for payment?				
17. Does the subrecipient have a Reimbursement Policy?				
Examine two or more reimbursements that were paid out of the grant being monitored.				
18. Were the detailed receipts provided to support the amounts requested?				
19. Were the expenses in compliance with grant requirements/guidelines and UG?				
20. If reimbursed for training or conference expenses, was a certificate of attendance or completion, or agenda and brochure provided to support request for reimbursement?				
General Comments				

Equipment	<input type="checkbox"/> N/A	Yes	No	N/A
What is the purchasing procedure for equipment purchased with grant funds? Attach copies of relevant policies and of any purchasing documentation during the review period.				
How is equipment inventoried, insured, and managed? Attach copies of relevant policies and current inventory information.				
What is the procedure for transferring equipment purchased with grant funds to another entity? Attach copies of relevant policies and documentation for any transfers during review period.				
Request an inventory list, physical locate selected items, and examine items to ensure compliance.				
1. Were all transactions conducted in a manner providing full and open competition, and quotations obtained from an adequate number of sources?				
2. Has all equipment indicated as purchased actually been purchased?				
3. Was equipment purchased in accordance with required procurement rules/policies?				
4. Were additions and deletions to the equipment budget made and approved prior to the purchase/procurement dates?				
5. Does a detailed expenditure list indicate any equipment purchased that is not accounted for in the subaward budget?				
6. Is equipment purchased with subaward funds in prior years still in inventory and still being used for subaward purposes?				
7. Has the inventory been updated, and did it account for all items transferred to other entities?				
8. For equipment that was transferred, aside from normal office equipment, was the transferee properly trained on the equipment, and is there a record of that training?				
9. For equipment transferred to other entities; have they added it to their inventory records and is it maintained/used for intended purposes?				
General Comments				

Financial Management	<input type="checkbox"/> N/A	Yes	No	N/A
What is the Accounting System for each grant program?				
1. Is there a separate accounting for all financial transactions for the subaward?				
2. Is a process in place to prevent co-mingling of funds?				
3. Does the accounting system prevent obligation or expenditure of funds outside the subaward's period of availability?				

4. Are accounting records supported by source documentation?			
5. Were any illegal transfers or unusual activities noted during a review of the subrecipient's fund activity reports?			
6. Does the system provide for prompt and timely recording and reporting of all financial transactions?			
7. Is proper Fiscal record retention being followed (through Dec. 31, 2031)?			
What is the process for approval and payment of expenditures and posting to the General Ledger?			
8. Are subaward costs identified as eligible prior to encumbering funds and placing an order?			
9. Were the applicable State/Federal suspension and debarment listings consulted prior to doing business with a vendor and/or contractor?			
10. Are all invoices reviewed by the project director for eligibility and marked 'okay to pay' prior to being submitted to the fiscal office or accounting staff for payment?			
11. Are disbursements fully support by invoices, requisitions, purchase orders, or similar documents?			
12. Are cancelled checks or warrants available for review?			
13. Were all subaward funds that were received disabused within the allowable timeframe?			
What is the reconciliation process, and how are errors or adjustments handled?			
14. Does the subrecipient perform routine reconciliations of its records against the General Ledger? By whom and how often?			
15. Does the subrecipient have sufficient internal controls related to reconciliations?			
16. Were actions taken to promptly correct any errors and/or resolve issues?			
General Comments			

Other Direct Costs	<input type="checkbox"/> N/A	Yes	No	N/A
How are rent, utilities, and other items allocated for the program?				
1. Are rent payments documented by a copy of the lease agreement, and canceled checks or receipts?				
2. Are receipts, bills, and invoices properly maintained?				
3. Is the actual rate and method being charged to the grant consistent with the rate and method approved in the budget?				
4. Are costs shared with other programs or funding sources? If yes, how are costs allocated?				
General Comments				

Personnel/Direct Labor	<input type="checkbox"/> N/A	Yes	No	N/A
Describe the payroll process and who is paid by the subaward.				
1. Are personnel files maintained for each employee that include current job descriptions, performance and evaluations, and changes in pay rates?				
2. Are time sheets, activity reports, or payroll files available for review? These documents should clearly show the effort toward the subaward charged.				
3. Are individual employee time sheets and attendance records:				
• Prepared and signed by each employee for each pay period?				
• Reviewed and signed by each employee's supervisor?				
• Reconciled to the payroll master ledger?				
4. Are all authorized staff positions filled for the approved budget?				
5. Are staff salaries consistent with the approved budget?				
6. Are fringe benefits the same as what is listed in the approved budget?				
General Comments				

Reporting Requirements	<input type="checkbox"/> N/A	Yes	No	N/A
Subrecipients are required to report on progress toward implementing plans described in their application/proposal.				
1. Progress reports must be submitted based on approved work plan. Have all of the reports been submitted for this reporting period?				
2. Are there any outstanding data elements that must be tracked and reported by the subrecipient? If so, detail the plan for the subrecipient to comply with this requirement.				
General Comments				

Supplies & Materials	<input type="checkbox"/> N/A	Yes	No	N/A
Explain the process of allocating supply costs to the subaward.				
1. Are purchases of supplies approved and well documented by quotes, invoices, or receipts?				
2. Are expenditures for supplies consistent with the approved budget?				
3. Is there a substantial supply inventory remaining at the project termination date?				
4. Were all transactions conducted in a manner providing full and open competition, and quotations obtained from an adequate number of sources?				
General Comments				

Travel/Vehicle Mileage	<input type="checkbox"/> N/A	Yes	No	N/A
Request a copy of the subrecipient's travel policy or have them describe the procedure for approving and documenting travel expenses.				
1. Is employee travel approved in advance by a supervisor or project manager?				
2. Are travel expenditures documented with expenses reports and/or detailed receipts (i.e., receipts do not merely show total but detail of what was purchased)?				
3. Are travel expenditures appropriately supported within subaward guidelines and in the approved budget?				
4. Are mileage reimbursements supported by a mileage log or similar documentation?				
General Comments				

Single Audit Review	<input type="checkbox"/> N/A	Yes	No	N/A
Obtain a copy of the subrecipient's most recent audit from FAC. Attach it to this review form.				
1. Was the Major Programs' Compliance Opinion in the Summary of Auditor's Results in the Schedule of Findings qualified?				
2. Were there any findings and/or questioned costs for federal awards in the Schedule of Findings? Were any other operational issues such as the handling of assets, lack of policies and procedures, contract non-compliance, etc., which would impact Federal dollars received?				
3. Were past audit findings and/or questioned costs for federal awards satisfactorily resolved?				
4. Was any control issue identified which would impact the processing of Federal grant dollars (i.e., control weaknesses)?				
General Comments <i>(If yes response to questions 1, 2, and/or 4, then comment on the issues noted from the audit and how this was addressed during the onsite review).</i>				

APPENDIX 4

SUBAWARD AGREEMENT TEMPLATE - 2 CFR 200.332(a)

AGREEMENT

American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recover Funds Subaward
Agreement
Between

HENDERSON COUNTY, North Carolina
and

[NAME OF SUBRECIPIENT]

Article I. Overview.

Section 1.1. Parties. The parties to this agreement are Henderson County, North Carolina, a body politic and political subdivision of the State of North Carolina, and [FULL LEGAL NAME OF SUBRECIPIENT], a North Carolina [SUBRECIPIENT ENTITY TYPE (EG., NON-PROFIT CORPORATION, FOR-PROFIT CORPORATION, GOVERNMENT ENTITY, ETC.)) (“Subrecipient”).

Section 1.2. Definitions. The definitions in 2 CFR 200.1 are hereby incorporated into this Agreement.

Section 1.3. Roles. For the purposes of this Agreement, Henderson County serves as a pass-through entity.

Section 1.4. Source of Funding. This Agreement is funded by a portion of the \$22,806,876 allocated to Henderson County by the Coronavirus State Local Fiscal Recovery Fund created under section 603 of the American Rescue Plan Act of 2021 (ARP/CSLFRF).

Section 1.5. Purpose. The purpose of this Agreement is to establish the terms and conditions for a subaward allocated to the Subrecipient from Henderson County.

Section 1.6. Disclosures. Federal regulations, specifically 2 CFR 200.331(a)(1), require Henderson County to provide the Subrecipient with specific information about this subaward. All required information is listed in Exhibit A (Subaward Data).

Section 1.7. Term. This Agreement shall govern the performance of the parties for the period [START DATE] (the “Effective Date”) through [END DATE] (“Expiration Date”), unless earlier terminated by either party in accordance with the terms of this Agreement (“Agreement Term”).

Article II. Scope of Funded Activities.

Section 2.1. Scope of Services. Subrecipient shall perform all activities described in the scope of activities, attached hereto as Exhibit B (Approved Activities).

Section 2.2. Budget. Subrecipient shall perform the Approved Activities in accordance with the program budget as approved by Henderson County and attached hereto as Exhibit C (Approved Budget).

Section 2.3. Prior Approval for Changes. Subrecipient may not transfer allocated funds among cost categories within a budgeted program account without the prior written approval of Henderson County; nor shall Subrecipient make any changes, directly or indirectly, to program design, Approved Activities, or Approved Budget without the prior written approval of Henderson County.

Article III. Compensation.

Section. 3.1. Payment of Funds. Henderson County agrees to reimburse Subrecipient for costs actually incurred and paid by Subrecipient in accordance with the Approved Budget and for the performance of the Approved Activities under this Agreement in an amount not to exceed \$[XXX] (“Total Agreement Funds”). The amount of Total Agreement Funds, however, is subject to adjustment by Henderson County if a substantial change is made in the Approved Activities that affects this Agreement or if this Agreement is terminated prior to the expiration of the Agreement. Program funds shall not be expended prior to the Effective Date or following the earlier of the Expiration Date or the last day of the Agreement Term. Costs incurred shall only be as necessary and allowable to carry out the purposes and activities of the Approved Activities and may not exceed the maximum limits set in the Approved Budget. Expenses charged against the Total Agreement Funds shall be incurred in accordance with this Agreement.

Section. 3.2. Invoices. On or before the twentieth (20th) day of each month and in any event no later than thirty (30) days after the earlier of the expiration or termination of this Agreement, Subrecipient shall submit invoices and associated receipts, in a format dictated by Henderson County, for the most recent month ended, to Henderson County, hand-delivered or mailed to 113 North Main St, Hendersonville, NC 28792, setting forth actual expenditures of Subrecipient in accordance with this Agreement. Within ten (10) working days from the date it receives such invoice, Henderson County may disapprove the requested reimbursement claim. If the reimbursement claim is disapproved, Henderson County shall notify Subrecipient as to the disapproval. A decision by Henderson County to disapprove a reimbursement claim is final. There is no appeal process for subrecipient. If Henderson County approves payment, then Henderson County will disburse the funds without further notice.

Section. 3.3. Henderson County’s Subaward Obligations Contingent on Federal Funding and Subrecipient Compliance. The payment of funds to Subrecipient under the terms of this Agreement shall be contingent on the receipt of such funds by Henderson County from the ARP/CSLFRF and shall be subject to Subrecipient’s continued eligibility to receive funds under the applicable provisions of state and federal laws. If the amount of funds that Henderson County receives from the ARP/CSLFRF is reduced, Henderson County may reduce the amount of funds awarded under this Agreement or terminate this Agreement. Henderson County also may deny payment for Subrecipient’s expenditures for Approved Activities where invoices or other reports are not submitted by the deadlines specified in this Agreement or for failure of Subrecipient to comply with the terms and conditions of this Agreement.

Article IV. Financial Accountability and Grant Administration.

Section. 4.1. Financial Management. Subrecipient shall maintain a financial management system and financial records related to all transactions with funds received pursuant to this Agreement and with any program income earned as a result of funds received pursuant to this Agreement. Subrecipient must administer funds received pursuant to this Agreement in accordance with all applicable federal and state requirements, including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, as required by the ARP/CSLFRF Assistance Listing (21.027). Subrecipient shall adopt such additional financial management procedures as may from time-

to-time be prescribed by Henderson County if required by applicable federal or state laws or regulations, or guidelines from US Department of Treasury. Subrecipient shall maintain detailed, itemized documentation and other necessary records of all income received and expenses incurred pursuant to this Agreement.

Section. 4.2. Limitations on Expenditures. Henderson County shall only reimburse Subrecipient for documented expenditures incurred during the Agreement Term that are: (i) reasonable and necessary to carry out the scope of Approved Activities described in Exhibit B; (ii) documented by contracts or other evidence of liability consistent with the established Henderson County and Subrecipient procedures; and (iii) incurred in accordance with all applicable requirements for the expenditure of funds payable under this Agreement. Henderson County may not reimburse or otherwise compensate Subrecipient for any expenditures incurred or services provided prior to the Effective Date or following the earlier of the expiration or termination of this Agreement.

Section. 4.3. Indirect Cost Rate. The indirect cost rate, if any, indicated in Exhibit C (Approved Budget) shall apply to this Agreement.

Section. 4.4. Financial and Other Reports. Subrecipient shall submit to Henderson County such reports and back-up data as may be required by the Federal Government or Henderson County, including such reports which enable Henderson County to submit its own reports to the US Department of Treasury, in accordance with the following schedule, which may be amended from time to time:

REPORT	DEADLINE
[INSERT APPLICABLE REPORT REQUIREMENTS HERE]	[INSERT APPLICABLE DEADLINES]

This provision shall survive the expiration or termination of this Agreement with respect to any reports which the Subrecipient is required to submit to Henderson County following the expiration or termination of this Agreement.

Section. 4.5. Improper Payments. Any item of expenditure by Subrecipient under the terms of this Agreement which is found by auditors, investigators, and other authorized representatives of Henderson County, the US Department of Treasury, the NC Department of State Treasurer, or other federal or state instrumentality to be improper, unallowable, in violation of federal or state law, or the terms of this Agreement, or involving any fraudulent, deceptive, or misleading representations or activities of Subrecipient, shall become Subrecipient’s liability, and shall be paid solely by Subrecipient, immediately upon notification of such, from funds other than those provided by Henderson County under this Agreement or any other agreements between Henderson County and Subrecipient. This provision shall survive the expiration or termination of this Agreement.

Section. 4.6. Audits and Access to Records. Subrecipient certifies compliance with applicable provisions of 2 CFR 200.501-200.521, and continued compliance with these provisions during the term of this section. If Subrecipient is not required to have a Single Audit as defined by 200.501, US Department of Treasury requirements, or the Single Audit Act, then Subrecipient shall have a financial audit performed yearly by an independent Certified Public Accountant. Subrecipient shall provide notice of the completion of any required audits and will provide access to such audits and other financial information related to the Agreement upon request. Subrecipient certifies that it will provide Henderson County with notice of any adverse findings which impact this Agreement. This obligation extends for one year beyond the expiration or termination of this Agreement.

Section. 4.7. Closeout. Final payment request(s) under this Agreement must be received by Henderson County no later than thirty (30) days after the earlier of the Expiration Date or the last day of the Agreement Term. Henderson County will not accept a payment request submitted after this date without prior authorization from Henderson County. In consideration of the execution of this Agreement by Henderson County, Subrecipient agrees that acceptance of final payment from Henderson County will constitute an agreement by Subrecipient to release and forever discharge Henderson County, its agents, employees, officers, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of, in connection with or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this Agreement. The Subrecipient's obligations to Henderson County under this Agreement shall not terminate until all closeout requirements are completed to the satisfaction of Henderson County. Such requirements shall include submitting final reports to Henderson County and providing any closeout-related information requested by Henderson County by the deadlines specified by Henderson County. This provision shall survive the expiration or termination of this Agreement.

Article V. Compliance with Grant Agreement and Applicable Laws.

Section. 5.1. General Compliance. Subrecipient shall perform all Approved Activities funded by this Agreement in accordance with this Agreement, the award agreement between Henderson County and the US Department of Treasury, and all applicable federal, state and local requirements, including all applicable statutes, rules, regulations, executive orders, directives or other requirements. Such requirements may be different from Subrecipient's current policies and practices. Henderson County may assist Subrecipient in complying with all applicable requirements. However, Subrecipient remains responsible for ensuring its compliance with all applicable requirements.

Section. 5.2. Expenditure Authority. This Agreement is subject to the laws, regulations, and guidance documents authorizing and implementing the ARP/CSLFRF grant, including, but not limited to, the following:

Authorizing Statute. Section 603 of the *Social Security Act* (42 U.S.C. 803), as added by section 9901(a) of the *American Rescue Plan Act of 2021* (Pub. L. No. 117-2).

Implementing Regulations. Subpart A of 31 CFR Part 35 (Coronavirus State and Local Fiscal Recovery Funds), as adopted in the *Coronavirus State and Local Fiscal Recovery Funds* interim final rule (86 FR 26786, applicable May 17, 2021 through March 31, 2022) and final rule (87 FR 4338, applicable January 27, 2022 through the end of the ARP/CSLFRF award term), and other subsequent regulations implementing Section 603 of the Social Security Act (42 U.S.C. 803).

Guidance Documents. Applicable guidance documents issued from time-to-time by the US Department of Treasury, including the currently applicable version of the *Compliance and Reporting Guidance: State and Local Fiscal Recovery Funds*.³

This Agreement is also subject to all applicable laws of the State of North Carolina.

Section. 5.3. Federal Grant Administration Requirements. Subrecipient shall comply with the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, 2 CFR Part 200 (UG), as adopted by the Department of Treasury at 2 CFR Part 1000 and as set forth in the

³ <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>.

[Assistance Listing for ARP/CSLFRF \(21.027\)](#). These requirements dictate how Subrecipient must administer the subaward and how Henderson County must oversee Subrecipient.

The applicable UG provisions are as follows:

[Subpart A, Acronyms and Definitions](#)

[Subpart B, General provisions](#)

[Subpart C, Pre-Federal Award Requirements and Contents of Federal Awards](#) (except 2 CFR 200.204, .205, .210, and .213)

[Subpart D, Post Federal; Award Requirements](#) (except 2 CFR 200.305(b)(8) & (9), .308, .309, and .320(c)(4))

[Subpart E, Cost Principles](#)

[Subpart F, Audit Requirements](#)

[2 CFR Part 25](#) (Universal Identifier & System for Award Management)

[2 CFR Part 170](#) (Reporting Subaward and Executive Compensation Information)

[2 CFR Part 180](#) (OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement))

Subrecipient shall document compliance with UG requirements, including adoption and implementation of all required policies and procedures, within thirty (30) days of the execution of this Agreement and during all subsequent reviews during the term of the Agreement. Henderson County may provide sample policies or other assistance to Subrecipient in meeting these compliance requirements. Regardless of Henderson County's assistance, it is the Subrecipient's responsibility to properly comply with all UG requirements. Failure to do so may result in termination of the Agreement by Henderson County.

Section. 5.4. Procurement Requirements.

- (a) **Federal.** Consistent with UG compliance requirements, including the standards in 2 CFR 200.318 for the acquisition of property, equipment, supplies, or services required under this Agreement, Subrecipient shall adopt and enact procurement procedures. Subrecipient's documented procurement procedures must conform to the procurement standards identified in Subpart D of 2 CFR Part 200 (Procurement Standards). Such standards include, but are not limited to, the following:
1. All procurement transactions for property or services shall be conducted in a manner providing full and open competition, consistent with standards outlined in 2 CFR 200.320(1)-(3) and (5), which allows for non-competitive procurements only if either (1) the item is below the micro-purchase threshold; (2) the item is only available from a single source; (3) the public exigency or emergency will not permit a delay from publicizing a competitive solicitation; or (4) after solicitation of a number of sources, competition is determined inadequate.
 2. Subrecipient shall maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
 3. Subrecipient shall maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts in conformance with 2 CFR 200.318(c). Subrecipient shall immediately disclose in writing to Henderson County any potential conflict of interest affecting the awarded funds in accordance with 2 CFR 200.112.

4. Pursuant to 2 CFR 200.321, Subrecipient shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
5. Subrecipient shall “maintain records sufficient to detail the history of procurement. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.” 2 CFR 200.318(j).

(b) **Local.** In addition to the requirements described in subsection (a), the Subrecipient shall comply with the Henderson County Federal Awards Policy Manual and Procedures – Tab 2: Purchasing Policy.

1. **Reporting.** Subrecipient shall document, in its quarterly report to **Henderson County**, the status of all contracts executed in connection with this Agreement.
2. **Henderson County review of solicitations.** Except for micro-purchases made pursuant to 2 CFR 200.320(a)(1) or procurements by small purchase procedures pursuant to 2 CFR 200.320(a)(2), if Subrecipient proposes to enter into any contract for the performance of any of the Approved Activities under this Agreement, then the Subrecipient shall forward to Henderson County a copy of any solicitation (whether competitive or non-competitive) at least fifteen (15) days prior to the publication or communication of the solicitation. Henderson County will review the solicitation and provide comments, if any, to Subrecipient within three (3) business days. Failure to respond within three (3) business days does not constitute approval by Henderson County. Consistent with 2 CFR 200.324, Henderson County will review the solicitation for compliance with applicable procurement standards. Henderson County’s review and comments shall not constitute a binding approval of the solicitation. Regardless of Henderson County’s review, Subrecipient remains bound by all applicable laws, regulations, and Agreement terms. If during its review Henderson County identifies any deficiencies, then Henderson County will communicate those deficiencies to Subrecipient as quickly as possible within the three (3) business day window outlined above.
3. **Henderson County review of contracts.** Except for micro-purchases pursuant to 2 CFR 200.320(a), if Subrecipient proposes to enter into any contracts for the performance of any of the Approved Activities under this Agreement, then Subrecipient shall forward to Henderson County a copy of the written contract prior to contract execution. Henderson County shall review the unexecuted contract for compliance with applicable requirements and provide comments, if any, to Subrecipient within three (3) business days. Failure to respond within three (3) business days does not constitute approval by Henderson County. Consistent with 2 C.F.R. §200.324, Henderson County will review the unexecuted contract for compliance with the procurement standards outlined in 2 C.F.R. §§200.318 through 200.327 as well as Appendix II to 2 C.F.R. Part 200. Henderson County’s review and comments shall not constitute an approval of the contract. Regardless of Henderson County’s review, Subrecipient remains bound by all applicable laws, regulations, and Agreement terms. If during its review Henderson County identifies any deficiencies, then Henderson County will communicate those deficiencies to Subrecipient as soon as possible within the three (3) business day window outlined above. Subrecipient must correct the noted deficiencies before executing the contract.

(c) **Mandatory Contract Provisions.** Subrecipient must include contract provisions required by UG and other state and federal laws and regulations, and as otherwise dictated by Henderson County.

Section 5.5. Subawards. In executing this Agreement, Subrecipient may not enter a subaward without prior written approval from Henderson County.

Section 5.6. Property Management. All real property acquired or improved, and equipment or supplies purchased in whole or in part with ARP/CSLFRF funds, must be used, insured, managed, and disposed of in accordance with 2 CFR 200.311 through 2 CFR 200.316. Additional information is available in the Henderson County Federal Awards Policy Manual and Procedures – Tab 8: Property Management.

Section 5.7 Program Income. If Subrecipient earns program income, as defined in 2 CFR 200.1 during the term of the subaward, it must segregate the gross proceeds of the program income and follow the provisions in 2 CFR 200.307. Additional information is available in the Henderson County Federal Awards Policy Manual and Procedures – Tab 4: Program Income.

Section. 5.8. Federal Restrictions on Lobbying. Subrecipient shall comply with the restrictions on lobbying in 31 CFR Part 21. Pursuant to this regulation, Subrecipient may not use any federal funds to pay any person to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement. Subrecipient shall certify in writing that Subrecipient has not made, and will not make, any payment prohibited by these requirements using the form provided in Exhibit D (Lobbying Certifications).

Section. 5.9. Universal Identifier and System for Award Management (SAM). Subrecipient shall obtain, and provide to Henderson County, a unique entity identifier assigned by the System for Award Management (SAM), which is accessible at www.sam.gov.

Section. 5.10. Equal Opportunity & Other Requirements. Subrecipient shall adopt and enact a nondiscrimination policy consistent with the requirements in this section.

Civil Rights Laws. Subrecipient shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d *et seq.*) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance.

Fair Housing Laws. Subrecipient shall comply with the Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 *et seq.*), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.

Disability Protections. Subrecipient shall comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.

Age Discrimination. Subrecipient shall comply with the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101 *et seq.*), and Treasury’s implementing regulations at 31 CFR Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.

Americans with Disabilities Act. Subrecipient shall comply with Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*), which prohibits discrimination on the basis of

disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

Section. 5.11. Suspension and Debarment. Subrecipient shall comply with the Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement) in 2 CFR Part 180, as adopted by the U.S. Department of Treasury at 31 CFR Part 19. Subrecipient represents that neither it, nor any of its principals has been debarred, suspended, or otherwise determined ineligible to participate in federal assistance awards or contracts. Subrecipient further agrees that it will notify Henderson County immediately if it or any of its principals is placed on the list of parties excluded from federal procurement or non-procurement programs available at www.sam.gov.

Section. 5.12. Federal Funding Accountability and Transparency Act of 2006. Subrecipient shall provide Henderson County with all information requested by Henderson County to enable Henderson County to comply with the reporting requirements of the *Federal Funding Accountability and Transparency Act of 2006* (31 U.S.C. 6101 note).

Section. 5.13. Licenses, Certifications, Permits, Accreditation. Subrecipient shall obtain and keep current any license, certification, permit, or accreditation required by federal, state, or local law and shall submit to Henderson County proof of any licensure, certification, permit or accreditation upon request.

Section. 5.14. Publications. Any publications produced with funds from this Agreement shall display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to Henderson County, North Carolina by the U.S. Department of the Treasury."

Section 5.15. Program for Enhancement of Contractor Employee Protections. Subrecipient is hereby notified that they are required to: inform its employees working on any federal award that they are subject to the whistleblower rights and remedies of the program; inform its employees in writing of employee whistleblower protections under 41 U.S.C §4712 in the predominant native language of the workforce; and include such requirements in any agreement made with a subcontractor or subgrantee.

Section 5.16. Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment. Pursuant to 2 CFR 200.216, Subrecipient shall not obligate or expend funds received under this Subaward to: (1) procure or obtain; (2) extend or renew a contract to procure or obtain; or (3) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services (as described in Public Law 115-232, section 889) as a substantial or essential component of any system, or as a critical technology as part of any system.

Section 5.17. Use of Name. Neither party to this Agreement shall use the other party's name, trademarks, or other logos in any publicity, advertising, or news release without the prior written approval of an authorized representative of that party. The parties agree that each party may use factual information regarding the existence and purpose of the relationship that is the subject of this Agreement for legitimate business purposes, to satisfy any reporting and funding obligations, or as required by applicable law or regulation without written permission from the other party. In any such statement, the relationship of the parties shall be accurately and appropriately described.

Section 5.18. Highest Compensated Officers. The names and total compensation of the five most highly compensated officers of Subrecipient shall be listed if the Subrecipient in the preceding fiscal year

received 80 percent or more of its annual gross revenues in Federal awards; and \$25,000,000 or more in annual gross revenues from Federal awards; and the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. See FFATA § 2(b)(1) Code of 1986. If this requirement applies to Subrecipient, Subrecipient will submit the list of its five most highly compensated officers to Henderson County within thirty (30) days of the execution of this Agreement and yearly thereafter during the Agreement term.

Section 5.19. Statement of Assurances. Subrecipient certifies compliance with SF 424B (Statement of Assurances – Non-Construction) and SF424D (Statement of Assurances – Construction).

Section 5.20. Drug-free Workplace Requirements. In accordance with 31 C.F.R § 20.100 - 20.670, Subrecipients are required to comply with the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 *et seq.*, as amended) that applies to grants. Subrecipients must make a good faith effort, on a continuing basis, to maintain a drug-free workplace. This includes requirements to publish a drug-free workplace statement, establish a drug-free awareness program for employees, and take actions concerning employees who are convicted of violating drug statutes in the workplace.

Section 5.21. Stevens Amendments Requirements. Subrecipient shall identify that federal assistance funds were used to fund Approved Activities under this Agreement in any publicity and /or signage relating to the funded project or program.

Article VI. Cooperation in Monitoring and Evaluation.

Section. 6.1. Henderson County Responsibilities. Henderson County shall monitor, evaluate, and provide guidance and direction to Subrecipient in the conduct of Approved Activities performed under this Agreement. Henderson County must determine whether Subrecipient has spent funds in accordance with applicable laws, regulations, including the federal audit requirements and agreements and shall monitor the activities of Subrecipient to ensure that Subrecipient has met such requirements. Henderson County may require Subrecipient to take corrective action if deficiencies are found.

The type and degree of monitoring activities depends on the results of the Subrecipient Risk Assessment, as detailed in Henderson County's Subaward and Monitoring Policy for the expenditure of ARP/CSLFRF funds, see Appendix 2: Risk Assessment for Subrecipients.

Section. 6.2. Subrecipient Responsibilities.

- (a) **Cooperation with Henderson County Oversight.** Subrecipient shall permit Henderson County to carry out monitoring and evaluation activities, including any performance measurement system required by applicable law, regulation, funding sources guidelines or by the terms and conditions of the applicable grant award, and Subrecipient agrees to ensure, to the greatest extent possible, the cooperation of its agents, employees and board members in such monitoring and evaluation efforts. This provision shall survive the expiration or termination of this Agreement.
- (b) **Cooperation with Audits.** Subrecipient shall cooperate fully with any reviews or audits of the activities under this Agreement by authorized representatives of Henderson County, the North Carolina State Auditor, the US Department of Treasury, and the US Government Accountability Office. Subrecipient agrees to ensure to the extent possible the cooperation of its agents, employees, and board members in any such reviews and audits. This provision shall survive the expiration or termination of this Agreement.

Section 6.3. Interventions. If Henderson County determines that Subrecipient is not in compliance with this Agreement, Henderson County may initiate an intervention, in accordance with 2 CFR 200.208 and 2 CFR 200.339. The degree of Subrecipient's performance or compliance deficiency will determine the degree of intervention. All possible interventions are listed below and will depend on the degree of deficiency in Subrecipient's performance or compliance deficiency.

If Henderson County determines that an intervention is warranted, it shall provide written notice to Subrecipient of the intervention within thirty (30) days of the completion of a report review, desk review, onsite review, audit review, or procedures engagement review or as soon as possible after Henderson County otherwise learns of a compliance or performance deficiency related to the execution of this Agreement. The written notice shall notify Subrecipient of the following related to the intervention:

- (1) The nature of the additional requirements;
- (2) The reason why the additional requirements are being imposed;
- (3) The nature of the action needed to remove the additional requirement, if applicable;
- (4) The time allowed for completing the actions if applicable; and
- (5) The method for requesting reconsideration of the additional requirements imposed.

Henderson County may impose the following interventions on Subrecipient, based on the level of the compliance or performance deficiency that Henderson County determines:

Level 1 Interventions. These interventions may be required for minor compliance or performance issues.

- (1) Subrecipient addresses specific internal control, documentation, financial management, compliance, or performance issues within a specified time period
- (2) More frequent or more thorough reporting by the Subrecipient
- (3) More frequent monitoring by Henderson County
- (4) Required Subrecipient technical assistance or training

Level 2 Interventions. These interventions may be required for more serious compliance or performance issues.

- (1) Restrictions on funding payment requests by Subrecipient
- (2) Disallowing payments to Subrecipient
- (3) Requiring repayment for disallowed cost items
- (4) Imposing probationary status on Subrecipient

Level 3 Interventions. These interventions may be required for significant and/or persistent compliance or performance issues.

- (1) Temporary or indefinite funding suspension to Subrecipient
- (2) Nonrenewal of funding to Subrecipient in subsequent year
- (3) Terminate funding to Subrecipient in the current year
- (4) Initiate legal action against Subrecipient

Interventions will remain in place until the underlying performance or compliance deficiency is addressed to the sole satisfaction of Henderson County.

Section 6.4. Records Retention and Access. Subrecipient shall maintain all records, books, papers and other documents related to its performance of Approved Activities under this Agreement (including without limitation personnel, property, financial and medical records) through at least December 31, 2031, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving this Agreement. Subrecipient shall make all records, books, papers and other

documents that relate to this Agreement available at all reasonable times for inspection, review and audit by the authorized representatives of Henderson County, the North Carolina State Auditor, the US Department of Treasury, the US Government Accountability Office, and any other authorized state or federal oversight office.

Section 6.5. Key Personnel. Subrecipient shall identify all personnel who will be involved in performing Approved Activities and otherwise administering the Agreement, including at least one project manager and one fiscal officer (Key Personnel). Subrecipient shall notify Henderson County of any changes to these personnel within thirty (30) days of the change. Key personnel names, titles, and contact information are listed in Exhibit E: Key Personnel.

Article VII. Default and Termination.

Section. 7.1. Termination for Cause. Henderson County may terminate this Agreement for cause after three days written notice. Cause may include misuse of funds, fraud, lack of compliance with applicable rules, laws and regulations, failure to perform on time, or failure to comply with any of the requirements of this Agreement.

Sec. 7.2. Termination Without Cause. Henderson County may terminate this Agreement for any reason, in its sole discretion, by providing Subrecipient with thirty (30) days prior written notice.

Sec. 7.3. Termination by Mutual Agreement. Henderson County and Subrecipient may agree to terminate this Agreement for their mutual convenience through a written amendment to this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of the Agreement.

Sec. 7.4. Termination Procedures. If this Agreement is terminated, Subrecipient may not incur new obligations for the terminated portion of the Agreement after Subrecipient has received the notification of termination. Subrecipient must cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed. Subrecipient shall not be relieved of liability to Henderson County because of any breach of Agreement by Subrecipient. Henderson County may, to the extent authorized by law, withhold payments to Subrecipient for the purpose of set-off until the exact amount of damages due Henderson County from Subrecipient is determined.

Article VIII. General Conditions.

Section. 8.1. Indemnification. To the extent permitted by law, Subrecipient agrees to indemnify and hold harmless Henderson County, and any of its officers, agents and employees, and the Federal Government from any claims of third parties arising out of any act or omission of Subrecipient in connection with the performance of this Agreement.

Section. 8.2. Insurance. During the term of the Agreement, the Subrecipient at its sole cost and expense shall provide commercial insurance in the amount set forth in the Henderson County “Insurance and Bond Requirements for County Projects” as found at:

https://www.hendersoncountync.gov/sites/default/files/fileattachments/henderson_county/page/42611/hendersoncountyinsurance_and_bond_requirements.pdf

Henderson County may require higher limits if warranted by the nature of this Agreement and the type of activities to be provided. The insurer must provide Henderson County with a Certificate of Insurance reflecting the coverages required in this Section. All Certificates of Insurance shall reflect thirty (30) days written notice by the insurer in the event of cancellation, reduction, or other modification of coverage. In addition to this notice requirement, Subrecipient must provide Henderson County prompt written notice of cancellation, reduction, or material modification of coverage of insurance. If Subrecipient fails to provide such notice, the Subrecipient assumes sole responsibility for all losses incurred by Henderson County for which insurance would have provided coverage. The insurance policies must remain in effect during the term of this Agreement.

Subrecipient shall name Henderson County as an additional insured except as to workers compensation insurance and it is required that coverage be placed with an "A" rated insurance company acceptable to Henderson County. If Subrecipient fails at any time to maintain and keep in force the required insurance, Henderson County may cancel and terminate the Agreement without notice.

Section. 8.3. Venue and Jurisdiction. Henderson County and Subrecipient agree that they executed and performed this Agreement in Henderson County, North Carolina. This Agreement will be governed by and construed in accordance with the laws of North Carolina. The exclusive forum and venue for all actions arising out of this Agreement is the appropriate division of the North Carolina General Court of Justice in Henderson County. Such actions may not be commenced in, nor removed to, federal court unless required by law.

Section. 8.4. Nonwaiver. No action or failure to act by Henderson County constitutes a waiver of any of its rights or remedies that arise out of this Agreement, nor shall such action or failure to act constitute approval of or acquiescence in a breach of this Agreement, except as specifically agreed in writing.

Section. 8.5. Limitation of Henderson County Authority. Nothing contained in this Agreement may be deemed or construed to in any way stop, limit, or impair Henderson County from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

Section. 8.6. Severability. If any provision of this Agreement is determined to be unenforceable in a judicial proceeding, the remainder of this Agreement will remain in full force and effect to the extent permitted by law.

Section. 8.7. Assignment. Subrecipient may not assign or delegate any of its rights or duties that arise out of this Agreement without Henderson County's prior written consent. Unless Henderson County otherwise agrees in writing, Subrecipient and all assigns are subject to all Henderson County's defenses and are liable for all Subrecipient's duties that arise from this Agreement and all Henderson County's claims that arise from this Agreement.

Section. 8.8. Integration. This Agreement contains the entire agreement between the parties pertaining to the subject matter of this Agreement. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed, or implied, between the parties, other than as set forth or referenced in this Agreement.

Section. 8.9. Notices. All notices and other communications required or permitted by this Agreement must be in writing and must be given either by personal delivery, approved carrier, email, or mail, addressed as follows:

(a) If to Henderson County:

C. Russell Burrell, County Attorney
1 Historic Courthouse Square
Hendersonville, NC 28792
rburrell@hendersoncountync.gov

With copy to:

Samantha Reynolds, Finance Director
Historic Courthouse Annex
113 N. Main St.
Hendersonville, NC 28792

(b) If to the Subrecipient:

Name, Title
Company
Address
E-Mail

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly constituted legal representatives and is effective as of the Effective Date.

{Signature Pages Follow}

NOW THEREFORE, the parties hereby make, agree, and execute this Contract by the below signatures of duly authorized officials or agents.

CONTRACTOR

By: _____
(Signature)

(Printed Name)

(Title)

(Date)

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public of the county and State aforesaid, do hereby certify that personally appeared before me this day and voluntarily acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this ____ day of _____, 20____ .

My commission expires: _____.

Notary Public

HENDERSON COUNTY

By: _____
(Signature)

(Printed Name)

(Title)

(Date)

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public of the county and State aforesaid, do hereby certify that personally appeared before me this day and voluntarily acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this ____ day of _____, 20____ .

My commission expires: _____.
Notary Public

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Henderson County Finance Director

Exhibit A: Subaward Data

Subrecipient Name: [Subrecipient name must match the name associated with its unique entity identifier]	
Subrecipient Employer Identification Number (EIN):	
Subrecipient Unique Entity Identifier:	
Federal Award Identification Number (FAIN):	
Federal Award Date of Award to the Recipient by the Federal Agency:	
Subaward Period of Performance Start Date:	
Subaward Period of Performance End Date:	
Amount of Federal Funds Obligated by this Action by the Pass-Through Entity to the Subrecipient:	
Total Amount of Federal Funds Obligated to the Subrecipient by the Pass-Through Entity Including the Current Obligation: [If additional Federal Awards have been awarded to the Subrecipient, insert total amount, including the Total Agreement Funds specified above]	
Total Amount of the Federal Award Committed to the Subrecipient by the Pass-Through Entity:	
Federal Award Project Description:	Coronavirus State and Local Fiscal Recovery Funds (SLFRF).
Name of Federal Awarding Agency:	Department of Treasury
Name of Pass-Through Entity:	Henderson County, North Carolina
Contact Information for Henderson County Authorizing Official:	Henderson County Finance 113 North Main St Hendersonville NC 28792 828,697.4821
CFDA Number and Name:	CFDA 21.027
Identification of Whether Subaward is R&D: (Research and Development activities)	No
Subrecipient Indirect Costs:	See <u>Exhibit C</u> – Approved Budget

Exhibit B: Approved Activities

DESCRIBE IN DETAIL WHAT THE SUBRECIPIENT WILL DO WITH THE MONEY

Exhibit C: Approved Budget

Consult Henderson County’s Allowable Costs and Cost Principles Policy and the ARP/CSLFRF Final Rule for specific directives and limitations on cost items.

REVENUES			Total Revenue
Henderson County Coronavirus State and Local Fiscal Recovery Funds Awarded			\$
Budget Cost Categories		OMB Uniform Guidance Federal Awards Reference 2 CFR 200	Total Expenditures
1.	Personnel (Salary and Wages)		\$
2.	Fringe Benefits		\$
3.	Travel		\$
4.	Equipment		\$
5.	Supplies		\$
6.	Contractual Services and Subawards		\$
7.	Consultant (Professional Service)		\$
8.	Construction		\$
9.	Occupancy (Rent and Utilities)		\$
10.	Research and Development (R&D)		\$
11.	Telecommunications		\$
12.	Training and Education		\$
13.	Direct Administrative Costs		\$
14.	Miscellaneous Costs		\$
a.	Advertising and public relations costs		
b.	Materials and supplies costs, including costs of computing devices		
15.	<i>Add additional cost items as needed</i>		
16.	Total Direct Costs (add lines 1-15)		\$
17.	Total Indirect Costs		
	Rate %:		\$
	Base*:		\$
18.	Total Costs Federal Grant Funds (Lines 16 and 17)		\$
MUST EQUAL REVENUE TOTALS ABOVE			

* The Base is modified direct total costs (MTDC) of the subaward project. Pursuant to 2 CFR 200.68, MTDC means all direct salaries and wages, applicable fringe benefits, materials and [supplies](#), services, travel, and up to the first \$25,000 of each [subaward](#) (regardless of the [period of performance](#) of the [subawards](#) under the award). MTDC excludes [equipment](#), [capital expenditures](#), charges for patient care, rental costs, tuition remission, scholarships and fellowships, [participant support costs](#) and the portion of each [subaward](#) in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the [cognizant agency for indirect costs](#).

Exhibit D: Lobbying Certification

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Subrecipient's Authorized Official

Name and Title of Subrecipient's Authorized Official

Date

Exhibit E: Key Personnel

HENDERSON COUNTY INFORMATION	
Administrative Address:	1 Historic Courthouse Square, Hendersonville NC 28792
Invoice Address:	113 North Main Street, Hendersonville NC 28792
Fiscal Officer Name:	Samantha Reynolds
Fiscal Officer Title:	Finance Director
Fiscal Officer Email:	sreynolds@hendersoncountync.gov
Fiscal Officer Telephone:	828.697.4821
SUBRECIPIENT INFORMATION	
Administrative Address:	
Invoice Address:	
Project Manager Name:	
Project Manager Title:	
Project Manager Email:	
Project Manager Telephone:	
Fiscal Officer Name:	
Fiscal Officer Title:	
Fiscal Officer Email:	
Fiscal Officer Telephone:	



APPENDIX 5

ARPA PROGRAM/PROJECT FILE CHECKLIST

This document is to be filled out by the ARPA Coordinator with appropriate back-up and signatures as needed from management and executive team members.

Records must be retained through December 31, 2031.

PROJECT NAME: _____ PROJECT ID: _____

NAME OF OUTSIDE ENTITY: _____

Basic Information and Description

Program/Project Name:

Program/Project Short Description:

Eligibility Review (Attach correspondence from Attorney as needed)

Justification and Legal Review for ARPA Eligibility:

Justification and Legal Review for State Authority:

Financial Information (attach Council Action Form, Resolution, Policy, and Budget Amendments)

Total Amount Appropriated:

FROP Code(s):

Treasury Expenditure Category Level:

Treasury Expenditure Category:



Program Management Information

Responsible Department:

Program Manager Name:

Program Manager Email and Phone Number:

Program Admin. (select one): IN-HOUSE CONTRACTOR/VENDOR CONTRACTOR/SUB-RECIPIENT

Proposed Timelines (including key monitoring dates in monitoring letter):

Geographic location of where benefits will be received (QCT): YES NO

If no, provide further justification:

Program Sub-Recipient and/or Contractor List:

<u>Name</u>	<u>Tax ID #</u>	<u>SR/Contractor?</u>	<u>DUNS #/UEI</u>	<u>Date checked SAM.gov</u>

Detailed Process Description, Narrative, Sub-Recipient Monitoring Plan, Grant Invoice Review Checklist, Grant Invoice Template, Grant Performance Progress Template (attach documents as needed)