

ARPA SUBRECIPIENT GRANT
AGREEMENT between CITY OF BOYNTON BEACH
and

THE SCHOOL BOARD OF PALM BEACH COUNTY on behalf of GALAXY E3 ELEMENTARY

THIS AGREEMENT entered into this _____ day of _____, 2023 is between the CITY OF BOYNTON BEACH, a Florida municipal corporation, hereinafter referred to as "CITY," and THE SCHOOL BOARD OF PALM BEACH COUNTY on behalf of GALAXY E3 ELEMENTARY hereinafter referred to as "the SUBRECIPIENT," having its principal office at 3366 Forest Hill Blvd. A 323, West Palm Beach, FL 33406 and its Federal Tax Identification Number as 85-8013897253C-1.

W I T N E S S E T H:

WHEREAS, the CITY has entered into an Agreement with the U.S. Treasury Department for Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) for the execution and implementation the American Rescue Plan Act (ARPA) in the CITY, pursuant to the Interim Final Rule of May 17, 2021, and the Final Rule, effective date April 1, 2022 (as amended); and

WHEREAS, the CITY desires to engage the SUBRECIPIENT to implement an element of the Boynton Beach ARPA Master Spending Plan;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, receipt of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
DEFINITION AND PURPOSE

1. Definitions
 - 1.1 "ARPA" means American Rescue Plan Act.
 - 1.2 "Treasury" means the U.S. Department of Treasury.
 - 1.3 "OMB" means the Federal Office of Management and Budget.
 - 1.4 "CFR" means the Code of Federal Regulations.
 - 1.5 "2 CFR" refers to the Section of the Code of Federal Regulations pertaining to Grants and Agreements.
 - 1.6 "CSLFRF" means Coronavirus State and Local Fiscal Recovery Funds (also referred to as ARPA funds).
 - 1.7 "31 CFR 35.6" refers to the Section of the Code of Federal Regulations pertaining to the Eligible Uses for Part 35, Subpart A – Coronavirus State and Local Fiscal Recovery Funds.

- 1.8 “Program Income” means gross income received directly generated or earned from the use of ARPA funds. Program Income includes, but is not limited to, interest earned on advances of federal funds or royalties received as a result of patents or copyrights produced under this grant.
- 1.9 “Property” means any purchase of equipment or real property with CSLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose in project budget detail.
- a. “Real Property” means land, land improvements, structures, fixtures and appurtenances thereto, excluding movable machinery and equipment.
 - b. “Personal Property” means personal property of any kind except real property.
 - c. “Nonexpendable Personal Property” means tangible (i.e., physical) personal property of a non-consumable nature, with a value of \$500 or more per item, with a normal expected life of one or more years, not fixed in place, and not an integral part of a structure, facility or another piece of equipment.
 - d. “Expendable Personal Property” means all tangible personal property other than nonexpendable property.
- 1.10 “Subrecipient” means an entity, including 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.

2. Purpose

The purpose of this Agreement is to state the covenants and conditions under which the SUBRECIPIENT will implement the Statement of Work set forth in Article II of this agreement.

ARTICLE II
FUNDING AND BUDGET

The maximum amount payable by the CITY under this Agreement will be One Hundred Thousand Dollars and 00/100 (\$100,000.00). The SUBRECIPIENT shall carry out the activities specified in Attachment A, “Scope of Services.” This award is a subaward of CSLFRF funds and the SUBRECIPIENT must comply with any and all requirements for use of CSLFR funds and reporting requirements for expenditures of CSLFRF funds.

ARTICLE III
FUNDING AND METHOD OF PAYMENT

- 3.1 The maximum amount payable by the CITY under this Agreement will be One Hundred Thousand Dollars and 00/100 (\$100,000.00). It is expressly understood and agreed by the Parties that the funds contemplated by this Agreement originated from federal ARPA funds and funding is contingent upon approval and funding by the Boynton Beach City Commission. SUBRECIPIENT agrees to reimburse CITY, in full, all funds remitted to SUBRECIPIENT by CITY that do not comply with any and all requirements for use of ARPA funding.

- 3.2 The CITY will be invoiced by the SUBRECIPIENT for eligible expenses on a reimbursement basis, and will disburse payments once per quarter unless there is a mutual written agreement otherwise (see Attachment "A" Scope of Services). Bills shall be submitted by the SUBRECIPIENT at least two weeks in advance and will be paid provided appropriate documentation and status and beneficiary reports are attached to the invoice.
- 3.3 Payment by the CITY shall be contingent upon timely receipt of accurate and complete reports and records required by this Agreement.
- 3.3 Prior to receipt of ARPA funds (through reimbursement), SUBRECIPIENT shall submit the following documentation:
- a. Quarterly Progress Report.
 - b. All back up original documentation relating to the expenditures for which payment is sought.
- 3.4 Release of funds is subject to the approval of the ARPA Project Manager, Finance Director, and/or City Manager.

ARTICLE IV TERM OF AGREEMENT

The term of this Agreement shall be from March 1, 2023 through December 31, 2024.

ARTICLE V SUSPENSION AND TERMINATION

- 5.1 Termination/Suspension of Payments/Agreement for Cause: If through any cause either party shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, either party shall thereupon have the right to terminate this Agreement or suspend payments in whole or in part by giving written notice of such termination or suspension of payments and specify the effective date of termination or suspension.

If payments are withheld, the CITY shall specify in writing the actions that must be taken by the SUBRECIPIENT as a condition precedent to resumption of payments and shall specify a reasonable date for compliance. Sufficient cause for suspension of payments shall include, but not be limited to:

- a. ineffective or improper use of ARPA funds,
 - b. failure to comply with the Statement of Work or terms of this Agreement,
 - c. failure to submit reports as required,
 - d. submittal of materially incorrect or incomplete reports,
 - e. failure to comply with any additional conditions that may be imposed by the Treasury, OMB, or CITY.
- 5.2 Termination for Convenience of City: The CITY may terminate this Agreement without cause at any time by giving at least ten (10) working days' notice in writing to the

SUBRECIPIENT. If this Agreement is terminated by the CITY as provided herein, the SUBRECIPIENT will be paid for allowable services performed under Article II of this Agreement until the effective date of the termination.

- 5.3 Termination for Convenience of the SUBRECIPIENT: At any time during the term of this Agreement, the SUBRECIPIENT may, at its option and for any reason, terminate this Agreement upon ten (10) working days written notice to the CITY. Upon termination, the SUBRECIPIENT shall be paid for services rendered pursuant to this Agreement through and including the date of termination.

ARTICLE VI RECORDS AND REPORTS

- 6.1 The SUBRECIPIENT agrees to maintain and produce all business records related to use of the subaward grant funds and related business expenditures from the time of grant award through December 31, 2030.
- 6.2 The SUBRECIPIENT agrees to submit upon request other documentation which may later be determined necessary to assure compliance with this Agreement.

ARTICLE VII PROGRAM INCOME

The SUBRECIPIENT agrees to expend ARPA funds for the purpose outlined in Article I of this Agreement. It is not anticipated that program income shall be generated from this allocation. However, such income, if generated, may be retained by the SUBRECIPIENT and used for costs that are in addition to the approved costs of this agreement, provided that such costs specifically further the objectives of this agreement and are an eligible use under 31 CFR 35.6. Under no circumstances shall the SUBRECIPIENT use program income to pay for charges or expenses that are specifically not allowed pursuant to the terms of this agreement and applicable federal regulations or rules. The use of program income by the SUBRECIPIENT shall comply with the requirements set forth at 31 CFR 35.6 and must be pre-approved by the CITY.

ARTICLE VIII PUBLICITY

The SUBRECIPIENT shall ensure that all publicity, public relations, advertisements and signs, recognize the CITY and the ARPA Program for the support of all contracted activities. The use of the official CITY logo is permissible, but all signs used to publicize CITY contracted activities must be approved by the CITY prior to being posted.

ARTICLE IX GENERAL CONDITIONS

- 9.1 Federal Office of Management and Budget Requirements: The SUBRECIPIENT shall comply with requirements established by the Federal Office of Management and Budget (OMB) concerning the Dun and Bradstreet Data Universal Numbering System (DUNS) and System for Award Management (SAM) database, as set forth on 2 CFR Part 200, and the Federal Accountability and Transparency Act, as set forth at 2 CFR Part 170.

- 9.2 Federal, State, County and CITY Laws and Regulations: The SUBRECIPIENT shall comply with applicable provisions of applicable federal, state, County, and CITY laws, regulations and rules, including 2 CFR part 200, subpart E, OMB A-21, 2 CFR part 200, subpart F.

The SUBRECIPIENT shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap; Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, or national origin; the Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; Title VIII of the Civil Rights Act of 1968, as amended, and Executive Order 11063 which prohibits discrimination in housing on the basis of race, color, religion, sex, or national origin; Executive Order 11246, as amended which requires equal employment opportunity; and with the Energy Policy, amended and Conservation Act (Pub.L 94-163) which requires mandatory standards and policies relating to energy efficiency.

The SUBRECIPIENT shall report its compliance with Section 504 of the Rehabilitation Act whenever so requested by the CITY. The SUBRECIPIENT shall comply with all applicable requirements of the Americans with Disabilities Act (ADA) of 1990, including, but not limited to, those provisions pertaining to employment, program services, transportation, communications, access to facilities, renovations, and new construction.

- 9.3 Other Program Requirements: The SUBRECIPIENT shall comply with all federal laws and regulations pertaining to 31 CFR 35.6 Treasury Department Interim Regulations, Treasury Department CSLFRF Frequently Asked Questions, and Treasury Department CSLFRF Compliance and Reporting Guidance.

- 9.4 Opportunities for Residents and Civil Rights Compliance: The SUBRECIPIENT agrees that no person shall on the grounds of race, color, national origin, religion, or sex be excluded from the benefits of, or be subjected to, discrimination under any activity carried out by the performance of this Agreement. To the greatest feasible extent, lower-income residents of the project areas shall be given opportunities for training and employment; and to the greatest feasible extent, eligible business concerns located in or owned in substantial part by persons residing in the project areas shall be awarded contracts in connection with the project.

- 9.5 Evaluation and Monitoring: The SUBRECIPIENT agrees that the CITY will carry out periodic monitoring and evaluation activities as determined necessary and that the continuation and/or renewal of this Agreement is dependent upon satisfactory evaluation conclusions. Such evaluations will be based on the terms of this Agreement, comparisons of planned versus actual progress relating to activity scheduling, budgets, audit reports, and output measures. The SUBRECIPIENT agrees to furnish upon request to the CITY and make copies of transcriptions of such records and information as is determined necessary by the CITY. The SUBRECIPIENT shall submit on a schedule set by the CITY and at other times upon request, information and status reports required by the CITY to enable the evaluation of said progress and to allow for completion of reports required of the CITY by the Treasury. The SUBRECIPIENT shall allow the CITY or the Treasury to monitor its agency on site. Such site visits may be scheduled or unscheduled as determined by the CITY or the Treasury. Ongoing monitoring of the SUBRECIPIENT will be done through quarterly reporting from the SUBRECIPIENT to the City. Reporting requirements will be based upon the

SUBRECIPIENT'S risk assessment and in compliance with the CSLFRF Compliance and Reporting Guidance and Uniform Guidance 2 CFR Part 200. Monitoring will include identification of deficiencies in meeting stated requirements in Article II of this agreement and follow-up to ensure appropriate remediation.

- 9.6 Audits: Any non-federal agency and/or non-profit organization that expends \$750,000 or more annually in federal awards shall have a single or program specific audit conducted accordance with 2 CFR 200, Subpart F. Non-federal agencies and/or nonprofit organizations that expend less than \$750,000 annually in federal awards shall be exempt from an audit conducted in accordance with 2 CFR 200, Subpart F, although their records must be available for review. These agencies are required by the CITY to submit "reduced scope" audits (e.g., financial audits, performance audits). Each audit shall cover a time period of not more than 12 months and an audit shall be submitted covering each assisted period until all the assistance received from this agreement has been reported on. A copy of the audit report must be received by the CITY no later than six months following each audit period.

The SUBRECIPIENT shall maintain all records in accordance with generally accepted accounting principles, procedures, and practices which shall sufficiently and properly reflect all revenues and expenditures of funds provided directly or indirectly by the CITY pursuant to the terms of this agreement.

- 9.7 Uniform Administrative Requirements: The SUBRECIPIENT agrees to maintain books, records and documents in accordance with accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by the CITY under this Agreement. The SUBRECIPIENT is required to comply with the following uniform administrative requirements:
- a. Specific provisions of the uniform administrative requirements of 2 CFR 200, Subpart E – Cost Principles
 - b. OMB 2021 Compliance Supplement Addendum Final V2 (Audit Requirements).
 - c. Applicable provisions of 31 CFR 35.6.

- 9.8 Lobbying Prohibition: The SUBRECIPIENT shall certify that 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 any 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 Agreement, 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 Agreement, grant, loan, or cooperative Agreement.

The SUBRECIPIENT shall disclose to the CITY 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 Agreement.

- 9.9 Insurance: The SUBRECIPIENT shall furnish to the CITY, c/o the ARPA Project Manager, certificate(s) of current insurance coverage.

- 9.10 Property: All real property purchased in whole or in part with funds from this agreement with the CITY, or transferred to the SUBRECIPIENT after being purchased in whole or in part with funds from the CITY, shall be listed in the property records of the SUBRECIPIENT and shall include a legal description, size, date of acquisition, value at time of acquisition, present market value, present condition, address or location, owner's name if different from the SUBRECIPIENT, information on the transfer or disposition of the property, and map. The property records shall describe the programmatic purpose for which the property was acquired and identify the ARPA national objective that will be met. If the property was improved, the records shall describe the programmatic purpose for which the improvements were made and identify the ARPA national objective that will be met.

All nonexpendable personal property purchased in whole or in part with funds from this agreement with the CITY shall be listed in the property records of the SUBRECIPIENT and shall include a description of the property, location, model number, manufacturer's serial number, date of acquisition, funding source, unit cost at the time of acquisition, present market value, property inventory number, information on its condition, and information on transfer, replacement, or disposition of the property.

The SUBRECIPIENT shall obtain prior written approval from the CITY for the disposition of real property, expendable personal property, and nonexpendable personal property purchased in whole or in part with funds given to the SUBRECIPIENT pursuant to the terms of this agreement. The SUBRECIPIENT shall dispose of all such property in accordance with instructions from the CITY. Those instructions may require the return of all such property to the CITY.

- 9.12 Reversion of Assets: The SUBRECIPIENT shall return to the CITY, upon expiration or termination of this Agreement, all the assets owned or held as a result of this Agreement, including, but not limited to any funds on hand, any accounts receivable attributable to these funds, mortgages, notes, and other collateral and any overpayments due to unearned funds or costs disallowed pursuant to the terms of this Agreement that were disbursed to the SUBRECIPIENT by the CITY. The SUBRECIPIENT shall within 30 days of expiration or termination of this Agreement execute any and all documents as required by the CITY to effectuate the reversion of assets. Any funds not earned, as described and provided for in 2 CFR 200, Subpart E, by the SUBRECIPIENT prior to the expiration or termination of this Agreement shall be retained by the CITY.
- 9.13 Conflicts with Applicable Laws: If any provision of this agreement conflicts with any applicable law or regulation, only the conflicting provision shall be deemed by the parties hereto to be modified to be consistent with the law or regulation or to be deleted if modification is impossible. However, the obligations under this agreement, as modified, shall continue and all other provisions of this agreement shall remain in full force and effect.
- 9.14 Renegotiation or Modification: Modifications of provisions of the agreement shall be valid only when in writing and signed by duly authorized representatives of each party. The parties agree to renegotiate this agreement if the CITY determines, in its sole and absolute discretion, that federal, State and/or CITY revisions of any applicable laws or regulations, or increases or decreases in budget allocations make changes in this agreement necessary.

- 9.15 Right to Waive: The CITY may, for good and sufficient cause, as determined by the CITY in its sole and absolute discretion, waive provisions in this agreement or seek to obtain such waiver from the appropriate authority. Waiver requests from the SUBRECIPIENT shall be in writing. Any waiver shall not be construed to be a modification of this agreement.
- 9.16 Disputes: In the event an unresolved dispute exists between the SUBRECIPIENT and the CITY, the CITY shall refer the questions, including the views of all interested parties and the recommendation of the CITY, to the City Manager for determination. The City Manager, or an authorized representative, will issue a determination within 30 calendar days of receipt and so advise the CITY and the SUBRECIPIENT, or in the event additional time is necessary, the CITY will notify the SUBRECIPIENT within the 30-day period that additional time is necessary. The SUBRECIPIENT agrees that the City Manager's determination shall be final and binding on all parties.
- 9.17 Indemnification: SUBRECIPIENT acknowledges the waiver of sovereign Immunity for liability in tort contained in Florida Statutes Section 768.28, the State of Florida's partial waiver of sovereign immunity, and acknowledges that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. To the extent and limits of §768.28, Florida Statutes, SUBRECIPIENT will indemnify and be responsible for and hold CITY harmless from and against any and all claims, damages, costs, and expenses caused by its negligent or intentional acts, any copyright violations or arising out of the breach of this contract. Notwithstanding the forgoing, this provision is not intended to serve or constitute (i) an agreement by SUBRECIPIENT to indemnify CITY for its own negligence; (ii) a waiver of sovereign immunity by SUBRECIPIENT; (iii) a waiver of any defense SUBRECIPIENT may have under such statute; (iv) the consent of SUBRECIPIENT or its officers, employees to be sued; or (v) a waiver of sovereign immunity of the State of Florida beyond the waiver provided in Section 768.28 of the Florida Statutes.

If SUBRECIPIENT uses a subcontractor, SUBRECIPIENT shall, by written contract, require its subcontractors to agree to the requirements and obligations of this Section 9.17.

- 9.18 Public Records: SUBRECIPIENT shall comply with all public records laws in accordance with Chapter 119, Fla. Stat. In accordance with state law, SUBRECIPIENT agrees to:
- a) Keep and maintain all records that ordinarily and necessarily would be required by the CITY.
 - b) Provide the public with access to public records on the same terms and conditions that the CITY would provide for the records and at a cost that does not exceed the costs provided in Chapter 119, Fla. Stat. or as otherwise provided by law.
 - c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law.
 - d) Meet all requirements for retaining public records and transfer, at no cost, to the CITY all records in possession of the SUBRECIPIENT at the termination of the contract and destroy any public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored

electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY. All records shall be transferred to the CITY prior to final payment being made to the SUBRECIPIENT.

- e) If SUBRECIPIENT does not comply with this section, the CITY shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

9.19 Inspector General:

SUBRECIPIENT is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this Agreement, and may demand and obtain records and testimony from SUBRECIPIENT. SUBRECIPIENT understands and agrees that in addition to all other remedies and consequences provided by law, the failure of SUBRECIPIENT to fully cooperate with the Inspector General when requested may be deemed by the CITY to be a material breach of this Agreement.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals on this _____ day of _____, 2023.

WITNESSES:

THE SCHOOL BOARD OF PALM BEACH COUNTY on behalf of GALAXY E3 ELEMENTARY

Print _____

By: _____

Print _____

Title

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ___ day of _____, 2023, by _____.

Personally Known ___ OR Produced Identification ___ Type of Identification Produced

Seal

NOTARY PUBLIC

Signature

Print

ATTEST:

CITY OF BOYNTON BEACH, FLORIDA

City Clerk

By:

Mayor

Approved as to form:

City Attorney