

DRAFT AIA Document A101 - 2017

Standard Form of Agreement Between Owner and Contractor
where the basis of payment is a Stipulated Sum

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.



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DRAFT AIA Document A101 - 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the « » day of « » in the year «2024» (In words, indicate day, month and year.)

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BETWEEN the Owner: (Name, legal status, address and other information)

«Sedgwick County Board of County Commissioners 100 N. Broadway, Suite 660 Wichita, Kansas 67202» « »

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This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

and the Contractor: (Name, legal status, address and other information)

« » « » « » « »

for the following Project: (Name, location and detailed description)

«South Central KS Regional Psychiatric Hospital» «Wichita, Kansas A 104 bed, secure hospital facility for in-patient adult mental health care» « »

The Architect: (Name, legal status, address and other information)

«Pulse Design Group - 4622 Pennsylvania Avenue, Suite 1050» «Kansas City, Missouri 64112» «Basil Sherman - Principal» « »



The Owner and Contractor agree as follows.

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

[« »] The date of this Agreement.

[«X-»] A date set forth in a notice to proceed issued by the Owner.

[« »] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

« »

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

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[« »] Not later than « » (« ») calendar days from the date of commencement of the Work.

[«X»] By the following date: «October 31, 2026»

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be « » (\$ « »), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.3 Allowances, if any, included in the Contract Sum: (Identify each allowance.)

Item	Price

§ 4.4 Unit prices, if any: (Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)

§ 4.5 Liquidated damages, if any: (Insert terms and conditions for liquidated damages, if any.)

«Liquidated damages to be paid by Contractor to Owner are \$3,000.00 per day for each calendar day beyond the date for Substantial Completion provided in Section 3.3.1.»

§ 4.6 Other: (Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

« »

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

~~§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than () days after the Architect receives the Application for Payment. Applications for payment shall be submitted on the 15th day of the month following the month covered by the application. Architect shall review, approve and forward undisputed requests for payment to the Owner within seven business days of receipt from the Contractor. Payment of amounts due Contractor from Owner, except retainage, shall be made within 30 days after the Owner receives a timely, properly completed, undisputed request for payment according to the terms of this contract, unless extenuating circumstances exist which would preclude approval of payment within 30 days. If such extenuating circumstances exist, the payment shall be made within 45 days after the Owner receives such payment request. K.S.A. 16-1903(c). (Federal, state or local laws may require payment within a certain period of time.)~~

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§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™-2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due: 5%
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

~~«The provisions of K.S.A. 16-1904 concerning retainage are incorporated herein by reference.»~~

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

« »

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

« »

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage upon Substantial Completion.)

~~«Owner shall release all remaining retainage on any undisputed payment due within 30 days after Substantial Completion as part of the regular payment cycle. However, if Contractor or any subcontractors are still performing work on the project, Owner may withhold that portion of the retainage attributable to such work until 30 days after the work is complete. K.S.A. 16-1904(h)».~~

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

~~«NA»~~

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

«» % «»

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker. *(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

« »
« »
« »
« »

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows: *(Check the appropriate box.)*

- Arbitration pursuant to Section 15.4 of AIA Document A201–2017
 - Litigation in a court of competent jurisdiction *(the parties waive the right to a jury trial and any litigation will be tried to the court without a jury)*
 - Other *(Specify)*
- « »

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows: *(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.)*

« »

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner’s representative: *(Name, address, email address, and other information)*

« »
« »
« »
« »
« »

« »

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

« »
« »
« »
« »
« »
« »

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™-2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with a building information modeling exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with a building information modeling exhibit, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

« »

§ 8.7 Other provisions: Contractor shall execute and deliver to Owner a Certified Copy of a Resolution of the Board or Directors, in a form such as is attached, or similar resolution if Contractor is a limited liability company, confirming that this Contract has been duly approved and executed.

§ 8.8 Restrictive Covenants. A Declaration of Easements, Covenants, Conditions and Restrictions has been recorded with the Sedgwick County Register of Deeds (at Doc.#Flm-Pg: 30331098) covering the land upon which the Project will be constructed. Contractor shall comply with the following terms and Owner obligations set forth in that Declaration:

§ 8.8.11. Partial Construction. No Structure shall remain partially constructed any longer than is reasonably necessary, and no excavation shall be made except in connection with construction of improvements, and upon completion thereof exposed openings shall be filled and disturbed ground shall be properly graded and landscaped.

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§ 8.8.12. Use of Hazardous Material. Each Owner shall only cause or permit any Hazardous Materials (as hereafter defined) to be brought upon, kept, or used in or about such Owner's Lot by Owner, its tenant, or the agents, employees, contractors or licensees of such Owner or tenant, as are necessary or useful to the business conducted on such Lot and the same will be used, kept and stored in a manner that strictly complies with all laws, rules, regulations, decrees and orders regulating any such Hazardous Material. As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material, or waste, including but not limited to, those substances, materials, or wastes listed in the United States Department of Transportation Hazardous Material Table (49 CFR 172.101), or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302), and amendments thereto, or such substances, materials, and wastes that are or become regulated under any applicable local, state or federal laws.

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§ 8.8.9.2. Construction Period Maintenance. During any construction upon a Lot, the Lot (and all streets used by construction equipment and trucks) shall be kept in a clean and neat condition by the Owner and all trash, rubbish, debris, mud and dirt shall be removed throughout the period of construction. During construction, the Owner shall also take measures necessary or appropriate to control fugitive dust, blowing sand and erosion, whether by wind or water, on the Lot. All construction shall be conducted so as not to interfere with free and ready access to existing Structures and neighboring Lots.

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§ 8.9 Performance Period and Funding. Contractor acknowledges that the allowed Federal Period of Performance for the federal funds provided for under this Contract is March 3, 2021, to December 31, 2026. However, the Sedgwick County Board of County Commissioners has appropriated funding for this Contract only for the current appropriation year.

§ 8.10 Reporting Requirements. Contractor shall provide Owner with Quarterly Expenditure Reports, in a timely manner, to facilitate County's required quarterly reporting.

§ 8.11 Conflict of Interest. Contractor understands and agrees it must maintain a conflict-of-interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict-of-interest policy is applicable to each activity funded under the award to Owner. Contractor and subcontractors must disclose in writing any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112. Contractor agrees that it will not willfully attempt to secure preferential treatment in its dealings with Owner by offering any valuable consideration, thing of value or gift, whether in the form of services, loan, thing or promise, in any form to any county official or employee. Contractor acknowledges that if found to have violated the prohibition found in this paragraph, its current contracts with Owner will be cancelled and it shall not be able to bid on any Owner contract for a period of two years.

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ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™-2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .4 Building information modeling exhibit, dated as indicated below:
(Insert the date of the building information modeling exhibit incorporated into this Agreement.)

< >

- .5 Drawings

Number	Title	Date

- .6 Specifications

Section	Title	Date	Pages
	<u>Pulse Project Manual</u> <u>Project Plans</u>		

- .7 Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding or proposal requirements are ~~made a not~~ part of the Contract Documents as unless the bidding or proposal requirements are also enumerated in this Article 9. These include the Invitation for Bids, Instructions for Bidders, Bid Form, Request for Bid Conditions, Bonds, Statutory Payment Bond, Performance Bond, Certified Copy of Resolution of Board of

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User: Notes: (1282568280)

Directors, Insurance Requirements, Subcontractor Sheet, and Contractor's Response to Bid Invitation.

- 8 Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

The Sustainability Plan:

Title	Date	Pages
-------	------	-------

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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- 9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Portions of the funding for this project are being provided pursuant to the federal American Rescue Plan Act. The following are attached and/or incorporated into this agreement as part of the Contract Documents:

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1. Attachment A Contractual Provisions (State of Kansas, Department of Administration DA-146a (Rev. 07-19);

2. Attachment B – Federal Award Terms and Conditions;

3. Attachment C – Pain Table;

4. Attachment D – State of Kansas Coronavirus Local Fiscal Recovery Fund – Assurances of Compliance with Civil Rights Requirements – American Rescue Plan Act of 2021, Section 9901;

5. Attachment E, State of Kansas Coronavirus Local Fiscal Recovery Fund – Lobbying Certification;

6. Attachment F – Sedgwick County Mandatory Contractual Provisions Attachment;

7. Attachment G – Sedgwick County Mandatory Independent Contractor Addendum;

8. Attachment H – Sedgwick County Mandatory ARPA Contractual Provisions Attachment;

9. Attachment I – KDADS ARPA Subrecipient Agreement;

10. Attachment J – Project Budget for State Psychiatric Hospital;

11. Attachment K – MOU between KDADS and Sedgwick County FY2024; and

12. The current Uniform Federal Guidance at 2 CFR Part 200, presently available at the following link: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1>, and as may be amended throughout the duration of this agreement, and which is hereby incorporated by reference as if fully set forth herein.

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This Agreement entered into as of the day and year first written above.

OWNER (Signature)

05 20 05 20

(Printed name and title)

CONTRACTOR (Signature)

05 20 05 20

(Printed name and title)

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R
A
F
T

1. Attachment A - Contractual Provisions [State of Kansas, Department of Administration DA-146a (Rev. 07-19)]

**ATTACHMENT A
CONTRACTUAL PROVISIONS**

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 07-19), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20_____.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least thirty (30) days prior to the end of its current fiscal year and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by the State, title to any such equipment shall revert to the contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*).

Anti-Discrimination Clause: The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001, *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111, *et seq.*) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101, *et seq.*) (ADA), and Kansas Executive Order No. 19-02, and to not discriminate against any person because of race, color, gender, sexual orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran status, disability status, marital or family status, genetic information, or political affiliation that is unrelated to the person's ability to

reasonably perform the duties of a particular job or position; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) Contractor agrees to comply with all applicable state and federal anti-discrimination laws and regulations; (g) Contractor agrees all hiring must be on the basis of individual merit and qualifications, and discrimination or harassment of persons for the reasons stated above is prohibited; and (h) if it is determined that the contractor has violated the provisions of any portion of this paragraph, such violation shall constitute a breach of contract and the contract may be canceled, terminated, or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

5. **Acceptance of Contract:** This contract shall not be considered accepted, approved, or otherwise effective until the statutorily required approvals and certifications have been given.
6. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to, the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority to Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility for Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state, or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101, *et seq.*
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment.
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency

or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement

2. Attachment B - Federal Award Terms and Conditions

ATTACHMENT B
FEDERAL AWARD TERMS & CONDITIONS

1. **Contractor understands and agrees that funds provided under this Contract may come from a federal source and agrees to comply with any and all additional applicable terms.**
 - A. Contractor Capacity. Contractor agrees and confirms that it has the institutional, managerial, and financial capacity to ensure proper planning, management, and completion of the Contract.
 - B. Technical Assistance. If, at any time, Contractor believes its capacity is compromised or Contractor otherwise needs any sort of assistance, it SHALL immediately notify KDADS. KDADS will make best efforts to provide timely technical assistance to the Contractor to bring the Contract into compliance.
 - C. Compliance with Applicable Act. Contractor understands and agrees that funds provided under this Contract may only be used, as applicable, in compliance with section 603(e) of the Social Security Act (the "Act"), as added by section 9901 of the American Rescue Plan Act, the Coronavirus State and Local Fiscal Recovery Fund ("CLFR"), the U.S. Department of Treasury's ("Treasury's") regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - D. Definitions. The term "Contractor" shall refer to a Contractor, Beneficiary, or Subrecipient, as determined in KDADS's sole discretion and referenced in the FAIN table cover page.

2. **Contract Services and Requirements, and Incorporated Exhibits.**

The Contractor shall provide services and meet the requirements included in this Contract and in the following attached exhibits, each of which is incorporated herein by this reference:

EXHIBIT NAME	EXHIBIT NUMBER
Contractual Provisions	Attachment A
Federal Award Terms and Conditions	Attachment B
FAIN Table	Attachment C
Civil Rights Certification	Attachment D
Lobbying Certification/Disclosure Form	Attachment E
Memorandum of Understanding	Attachment F

- A. Scope of Eligible Expenditures. Funds shall only be used to pay or reimburse eligible expenditures as described in the Exhibit (Scope of Work). No funds may be used to pay or reimburse expenditures reimbursed under any other federal or state program, or from any other third-party source.

B. Contractor Responsibilities. The funds provided under the Contract may come from a federal source. Contractor agrees to administer the Contract consistent with the terms and conditions of this Contract, in accordance with section 603(c) of the Act, the Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing, as well as any other applicable federal statutes, executive orders, regulations, and interpretive guidance. As part of the invoicing process, the Contractor shall provide KDADS with a "Cost Certification" on reimbursement form, that certifies that funding of this Contract was used for eligible expenditures, was prepared with the terms and conditions of the Grant Agreement (including Duplication of Benefits), and is not in excess of the appropriate budget. Contractor shall also provide the State with a "Civil Rights Certification" (Attachment D) prior to starting work or payment for work authorized by this Contract.

C. Reports. Contractor shall provide KDADS with the following reports:

- i. Monthly Expenditure Report
- ii. Monthly Reporting Forms
- iii. Payment Request Report
- iv. Closeout Report

3. Access to Records. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Contractor to conduct audits or other investigations, and may request additional information for the administration of the award, or as may be necessary or appropriate, including as may be necessary to prevent evasions of the requirements of the award.

4. False Statements. Contractor understands that making false statements or claims in connection with this Contract is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages, and penalties, debarment from participating in federal or county awards or contracts, and/or any other remedy available by law.

5. Publications. Any publications produced with funds from this Contract must display the following language: *"This project is supported, in whole or in part, by federal award number SLERP 1176, awarded to the State of Kansas by the U.S. Department of the Treasury."*

6. Debts Owed the Federal Government.

A. Any funds paid to Contractor (1) in excess of the amount to which Contractor is finally determined to be authorized to retain under the terms of the award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Contractor shall constitute a debt to the federal government.

B. Any debts determined to be owed to the federal government must be paid promptly by the recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment unless other satisfactory arrangements have been made, or if the recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

7. **Uniform Guidance Compliance.**

- A. **Remedial Actions.** In the event of Contractor's noncompliance with section 603(c) of the Act, Treasury's regulations implementing that section, guidance issued by Treasury regarding the foregoing, or any other applicable federal statutes, executive orders, regulations, or interpretive guidance, Treasury may take available remedial actions as set forth in 2 C.F.R. 200.339 and may pursue recoupment as provided under 31 CFR Part 35.10.
- B. **Recoupment.**
- i. Contractor agrees that it is financially responsible for and will repay KDADS any and all indicated amounts following an audit exception which occurs due to Contractor's failure, for any reason, to comply with the terms of this Contract. This duty to repay KDADS shall not be diminished or extinguished by the termination of the Contract.
 - ii. In the event of a violation of section 603(c) of the Act, the funds shall be subject to recoupment by KDADS.
 - iii. Any funds paid to Contractor (1) in excess of the amount to which Contractor is authorized to retain under the terms of the Contract; (2) that are determined by the Treasury Office of Inspector General to have been misused; (3) are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act; or (4) are otherwise subject to recoupment by KDADS and have not been repaid by Contractor to KDADS shall constitute a debt to KDADS.
 - iv. Any debts determined to be owed KDADS must be paid promptly by the Contractor. A debt is delinquent if it has not been paid by the date specified in KDADS's initial written demand for payment unless other satisfactory arrangements have been made, or if KDADS knowingly or improperly retains funds that are a debt. KDADS will take any actions available to it to collect such a debt.
- C. **Return of Unused Funds.** If Contractor has any funds that have not been expended as of the earlier of the termination of this Contract or December 31, 2026, Contractor shall return all unspent funds to KDADS within ten (10) calendar days.

8. **Disclaimer.**

- A. The United States expressly disclaims any and all responsibility or liability to recipient or third persons for the actions of recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- B. The acceptance of this award by recipient does not in any way establish an agency relationship between the United States and recipient.

9. **Protection for Whistleblowers.**

- A. In accordance with 41 U.S.C. § 4712, Contractor may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse

of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

B. The list of persons and entities referenced in the paragraph above includes the following:

- i. A member of Congress or a representative of a committee of Congress;
- ii. An Inspector General;
- iii. The Government Accountability Office;
- iv. A Treasury employee responsible for contract or grant oversight or management;
- v. An authorized official of the Department of Justice or other law enforcement agency;
- vi. A court or grand jury; or
- vii. A management official or other employee of Contractor or subcontractor who has the responsibility to investigate, discover, or address misconduct.

C. Contractor shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

10. **Increasing Seat Belt Use in the United States.** Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented, or personally owned vehicles.

11. **Reducing Text Messaging While Driving.** Pursuant to Executive Order 13513, 74 FR 51225 (October 6, 2009), Contractor is encouraged to adopt and enforce policies that ban text messaging while driving, and to establish workplace safety policies to decrease accidents caused by distracted drivers.

12. **Conflict of Interest**

A. Applicability.

- (1) In the procurement of supplies, equipment, construction, and services by the Contractor the conflict-of-interest provisions in 2 CFR 200, shall apply.
- (2) In all cases not governed by 2 CFR 200, the provisions of this section shall apply.

B. Conflicts prohibited. The general rule is that no persons described in paragraph (C) of this section who exercise or have exercised any functions or responsibilities with respect to ARPA activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from an ARPA-assisted activity, or have a financial interest in any contract, subcontract, or Agreement with respect to an ARPA-assisted activity, or with respect to the proceeds of the ARPA-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

- C. Persons covered. The conflict-of-interest provisions of paragraph (B) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part.
- D. Exceptions. Upon the written request of the Contractor, KDADS may grant an exception to the provisions of paragraph (B) of this section on a case-by-case basis when it has satisfactorily met the threshold requirements of (D)(1) of this section, taking into account the cumulative effects of paragraph (D)(2) of this section.
 - (1) Threshold requirements. KDADS will consider an exception only after the Contractor has provided the following documentation:
 - (i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
 - (ii) An opinion of the Contractor's attorney that the interest for which the exception is sought would not violate State or local law.
 - (2) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (D)(1) of this section, KDADS shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project, taking into account the cumulative effect of the following factors, as applicable:
 - (i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
 - (ii) Whether an opportunity was provided for open competitive bidding or negotiation;
 - (iii) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
 - (iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;
 - (v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section.
 - (vi) Whether undue hardship will result either to the Contractor or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
 - (vii) Any other relevant considerations.

13. Applicable Law.

- A. This Contract shall be construed and interpreted in accordance with the laws of the State of Kansas.
- B. Contractor agrees to comply with the requirements of section 603 of the Act, the Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing. Contractor also agrees to comply with all other applicable federal statutes,

regulations, and executive orders, and Contractor shall provide for compliance with the Act, section 603 of the Act, and any interpretive guidance by other parties in any agreements it enters into with other parties relating to this Contract.

- C. Federal regulations applicable to this award include, without limitation, the requirements set forth in Section 14, each of which is incorporated by reference herein, as applicable.

14. **Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,**

A. 2 C.F.R. Part 200, including the following:

Subpart A, Acronyms and Definitions;
Subpart B, General Provisions;
Subpart C, Pre-Federal Award Requirements and Contents of Federal Awards;
Subpart D, Post-Federal Award Requirements;
Subpart E, Cost Principles; and
Subpart F, Audit Requirements.

And all appendices thereto including without limitation appendix II to Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

- i. As applicable, the Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - ii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iii. OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - iv. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - v. Government-wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vi. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - vii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - viii. Generally applicable federal environmental laws and regulations.
- B. Statutes and regulations prohibiting discrimination (which prohibit the denial of benefits or services, or otherwise discriminate on the basis of race, color, national origin (including

limited English proficiency), disability, age, or sex (including sexual orientation and gender identity)) applicable to this award include, without limitation, the following:

- i. 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; Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22;
 - ii. 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;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- C. Hatch Act. Contractor agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limits certain political activities of federal employees, as well as certain other employees who work in connection with federally funded programs.

15. Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

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

- A. Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- B. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.
- C. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319,

12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

- D. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)**. Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- E. **Rights to Inventions Made Under a Contract or Agreement**. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- F. **Clean Air Act (42 U.S.C. 7401-7671q)** and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- G. **Debarment and Suspension (Executive Orders 12549 and 12689)** - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235). "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- H. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)** - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other

award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

- I. **Solid Waste Disposal Act**-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with **section 6002 of the Solid Waste Disposal Act**, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- J. **Telecommunications and Video Surveillance Services Or Equipment**
 - a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds 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 use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - I. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - II. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - III. (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
 - b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions, and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services.

to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

K. **Domestic Preferences For Procurements**

- A. As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- B. For purposes of this section:
1. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 2. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

16. **Subaward Language.** Pursuant to 2 C.F.R. Part 200.332(a)(1), KDADS must make a determination whether the scope of work falls under a Beneficiary, Subrecipient, or Contractor relationship, or whether the funds are being provided for the purpose of directly benefitting the individual or entity as a result of experiencing a public health impact or negative economic impact of the COVID-19 pandemic, in which case the individual or entity is acting as a Beneficiary rather than a Subrecipient or Contractor. The non-Federal entity may concurrently receive Federal awards as a Recipient, a Subrecipient, a Contractor, and a Beneficiary, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a Subrecipient, a Contractor, or a Beneficiary. The awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

- (a) Beneficiary. Awards or payments to individuals or entities that are direct Beneficiaries of a federal award are not considered payment to Subrecipients or Contractors. If the funds are provided to an individual or entity for the purpose of directly benefitting the individual or entity as a result of the individual or entity experiencing a public health impact or negative economic impact of the COVID-19 pandemic, the individual or entity is acting as a Beneficiary.
- (b) Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the Subrecipient. A Subrecipient does not include an individual or entity that is a Beneficiary of such award. 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.
- (c) Contractors. 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**. A Beneficiary is not a 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.
- (d) Use of judgment in making determination. In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a Subrecipient, Contractor, or Beneficiary, 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, a procurement contract, or as funding provided to a Beneficiary.

If the pass-through entity determines that the scope of work falls under a Subrecipient relationship, all of the information below must be included in any subaward agreement.

3. Attachment C - Fain Table

**ATTACHMENT C
FAIN TABLE**

Federal Award Identification (reference 2 CFR 200.332)

I.	Agency name (which must match the name associated with its unique entity identifier);	Sedgwick County
II.	Agency's unique entity identifier;	U78SNHE76SE3
III.	KDADS Number for Agreement;	
IV.	Federal Award Identification Number (FAIN);	SLFRP1176
V.	Federal Award Date;	5/10/2021
VI.	Federal Period of Performance Start and End Date;	March 3 rd , 2021, and December 31, 2026
VII.	Federal Budget Period Start and End Date;	March 3 rd , 2021, and December 31, 2026
VIII.	Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;	\$25,000,000
IX.	Subaward Period of Performance Start and End Date	May 17, 2023 – June 30, 2026
X.	Subaward Budget Period Start and End Date	May 17, 2023 – June 30, 2026
XI.	Federal Award Project Description;	CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS – KDADS SPARK FACILITY AND WORKFORCE TRAINING EXPANSION PROGRAM
XII.	Pass-Through Entity;	KDADS
XIII.	Federal Awarding Official Name and Contact Information; KDADS Contact Information	Department of the Treasury; grantsaccounting@ks.gov
XIV.	Assistance Listing CFDA Number and Name (the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement);	21.027 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS
XV.	Identification of whether the award is R&D;	No
XVI.	Indirect cost rate for the Federal award (including if the de minimis rate is charged per § 200.414 Indirect (F&A) costs);	N/A
XVII.	Is the recipient a Subrecipient, Contractor, or Beneficiary for the Purposes of this Agreement?	Subrecipient
XVIII.	Award Payment Method	Working capital advance payments
XIX.	Procurement Type	Sole Source Contract

The sub-awardee must be in compliance with the below and must note the required information in their

subaward agreements:

- (1) A requirement that the Subrecipient permit the pass-through entity and auditors to have access to the Subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and
- (2) Appropriate terms and conditions concerning closeout of the subaward.
- (3) All requirements imposed by the pass-through entity on the Subrecipient so that the Federal award is used in accordance with applicable Federal statutes, regulations, and executive orders, and in compliance with the Act (including without limitation section 603(c) of the Act), any interpretive guidance by other parties, and the terms and conditions of the Federal award;
- (4) Any additional requirements that the pass-through entity imposes on the Subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;
- (5) Evaluate each Subrecipient's risk of noncompliance with Federal statutes, executive orders, regulations, interpretive guidance, and the terms and conditions of the subaward for purposes of determining the appropriate Subrecipient monitoring may include consideration of such factors as:
 - (a) The Subrecipient's prior experience with the same or similar subawards;
 - (b) The results of previous audits including whether or not the Subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements of this part, and the extent to which the same or similar subaward has been audited as a major program;
 - (c) Whether the Subrecipient has new personnel or new or substantially changed systems; and
 - (d) The extent and results of Federal awarding agency monitoring (e.g., if the Subrecipient also receives Federal awards directly from a Federal awarding agency).
- (6) Consider imposing specific subaward conditions upon a Subrecipient if appropriate as described in §200.207 Specific Conditions.
- (7) 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. Pass-through entity monitoring of the Subrecipient must include:
 - (a) Reviewing financial and performance reports required by the pass-through entity.
 - (b) 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 other means.
 - (c) Issuing a management decision for audit findings pertaining to the Federal award provided to the Subrecipient from the pass-through entity as required by §200.521 Management Decision.
- (8) Depending upon the pass-through entity's assessment of risk posed by the Subrecipient (as described in paragraph (5) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

- (a) Providing Subrecipients with training and technical assistance on program-related matters; and
 - (b) Performing on-site reviews of the Subrecipient's program operations;
 - (c) Arranging for agreed-upon-procedures engagements as described in §200.425 Audit services.
- (9) Verify that every Subrecipient is audited as required by Subpart F—Audit Requirements of this part when it is expected that the Subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.
- (10) 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.
- (11) Consider taking enforcement action against noncompliant Subrecipients as described in §200.338 Remedies for Non-compliance of this part and in program regulations.

4. Attachment D - State of Kansas Coronavirus Local Fiscal Recovery Fund - Assurances of Compliance with Civil Rights Requirements - American Rescue Plan Act of 2021, Section 9901

ATTACHMENT D
State of Kansas Coronavirus Local Fiscal Recovery Fund

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS
American Rescue Plan Act of 2021, section 9901

The funds provided to Contractor are available under section 603 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act.

The Contractor understands and acknowledges that:

1. As a condition of receipt of federal financial assistance from the Department of the Treasury, with monies distributed through KDADS, the contractor named below (hereinafter referred to as the "Contractor") provides the assurances stated herein. The federal financial assistance may include federal grants, loans, and contracts to provide assistance to the Contractor's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.
2. The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Contractor's program(s) and activity(ies), so long as any portion of the Contractor's program(s) or activity(ies) is federally assisted in the manner prescribed above

The Contractor certifies the following:

1. Contractor ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Contractor acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Contractor understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Contractor shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Contractor understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient's programs, services, and activities.

3. Contractor agrees to consider the need for language services for LEP persons when Contractor develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.
4. Contractor acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Contractor and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. The sub-grantee, Contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.
6. Contractor understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Contractor for the period during which it retains ownership or possession of the property.
7. Contractor shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Contractor shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Contractor shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Contractor also must inform the Department of the Treasury if Contractor has received no complaints under Title VI.
9. Contractor must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Contractor and the administrative agency that made the finding. If the Contractor settles a case or matter alleging such discrimination, the Contractor

must provide documentation of the settlement. If Contractor has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. The Contractor may not make sub-awards to other agencies or other entities, the Contractor is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of sub-recipients.
11. The United States of America has the right to seek judicial enforcement of the terms of this assurance document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

5. Attachment E - State of Kansas Coronavirus Local Fiscal Recovery Fund - Lobbying Certification

ATTACHMENT E
State of Kansas Coronavirus Local Fiscal Recovery Fund
LOBBYING CERTIFICATION

The undersigned certifies, to the best of the undersigned's 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, as attached.

(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 into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I hereby certify that I have read the above certification, and that the information and my statements provided herein by me are true and correct to the best of my knowledge, and by my signature on this document, acknowledge my understanding that any intentional or negligent misrepresentation or falsification of any of the information in this document could subject me to punishment under federal and/or civil liability and/or in criminal penalties, including but not limited to fine or imprisonment or both under Title 18, United States Code, Sec. 1001, et seq. and punishment under federal law.

ATTACHMENT E-SAMPLE

Pt. 21, App. B

31 CFR Subfile A (7-1-06 Edition)

APPENDIX B TO PART 21- DISCLOSURE FORM TO REPORT LOBBYING

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0146-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance		2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award		3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____	
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Not _____, if known: Congressional District, if known: _____			5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____		
6. Federal Department/Agency:			7. Federal Program Name/Description: CFDA Number, if applicable: _____		
8. Federal Action Number, if known:			9. Award Amount, if known: \$ _____		
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI): (attach Continuation Sheet(s) SF-ELI-A, if necessary)			b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): (attach Continuation Sheet(s) SF-ELI-A, if necessary)		
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned			13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other: specify: _____		
12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____					
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: (attach Continuation Sheet(s) SF-ELI-A, if necessary)					
15. Continuation Sheet(s) SF-ELI-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No					
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. The disclosure of lobbying activities is a material recommendation of fact upon which members were elected by the free choice of the American people. This information will be reported to the Congress and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.				Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:				Authorized for Local Reproduction Standard Form - 112	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503

6. Attachment F- Sedgwick County Mandatory Contractual Terms Attachment

SEDGWICK COUNTY MANDATORY CONTRACTUAL PROVISIONS ATTACHMENT

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the Agreement in which this attachment is incorporated.
2. **Choice of Law:** This Agreement shall be interpreted under and governed by the laws of the State of Kansas. The parties agree that any dispute or cause of action that arises in connection with this Agreement will be brought before a court of competent jurisdiction in Sedgwick County, Kansas.
3. **Termination Due To Lack of Funding Appropriation:** If, in the judgment of the Chief Financial Officer, sufficient funds are not appropriated to continue the function performed in this Agreement and for the payment of the charges hereunder, County may terminate this Agreement at the end of its current fiscal year. County agrees to give written notice of termination to Contractor at least thirty (30) days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided for in the Agreement, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided to County under the Agreement. County will pay to Contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any related equipment. Upon termination of the Agreement by County, title to any such equipment shall revert to Contractor at the end of County's current fiscal year. The termination of the Agreement pursuant to this paragraph shall not cause any penalty to be charged to the County or the Contractor.
4. **Disclaimer of Liability:** County shall not hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*).
5. **Acceptance of Agreement:** This Agreement shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
6. **Arbitration, Damages, Jury Trial and Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has consented to a jury trial to resolve any disputes that may arise hereunder. Contractor waives its right to a jury trial to resolve any disputes that may arise hereunder. No provision of any Agreement and/or this Contractual Provisions Attachment will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
7. **Representative's Authority to Contract:** By signing this Agreement, the representative of the Contractor thereby represents that such person is duly authorized by the Contractor to execute this Agreement on behalf of the Contractor and that the Contractor agrees to be bound by the provisions thereof.
8. **Federal, State and Local Taxes:** Unless otherwise specified, the proposal price shall include all applicable federal, state and local taxes. Contractor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Agreement. County is exempt from state sales or use taxes and federal excise taxes for direct purchases. These taxes shall not be included in the Agreement. Upon request, County shall provide to the Contractor a certificate of tax exemption.

County makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.

9. **Insurance:** County shall not be required to purchase any insurance against loss or damage to any personal property to which this Agreement relates, nor shall this Agreement require the County to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), Contractor shall bear the risk of any loss or damage to any personal property to which Contractor holds title.
10. **Conflict of Interest.** Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any professional personnel who are also in the employ of the County and providing services involving this Agreement or services similar in nature to the scope of this Agreement to the County. Furthermore, Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any County employee who has participated in the making of this Agreement until at least two years after his/her termination of employment with the County.
11. **Confidentiality.** Contractor may have access to private or confidential data maintained by County to the extent necessary to carry out its responsibilities under this Agreement. Contractor must comply with all the requirements of the Kansas Open Records Act (K.S.A. 45-215 *et seq.*) in providing services and/or goods under this Agreement. Contractor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this Agreement shall be disseminated by either party except as authorized by statute, either during the period of the Agreement or thereafter. Contractor must agree to return any or all data furnished by the County promptly at the request of County in whatever form it is maintained by Contractor. Upon the termination or expiration of this Agreement, Contractor shall not use any of such data

or any material derived from the data for any purpose and, where so instructed by County, shall destroy or render such data or material unreadable.

12. **Cash Basis and Budget Laws.** The right of the County to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and all other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the County shall at all times stay in conformity with such laws, and as a condition of this Agreement the County reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.
13. **Anti-Discrimination Clause.** Contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 *et seq.*) and the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs and activities; (b) to include in all solicitations or advertisements for employees the phrase "equal opportunity employer;" (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the Contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto; and (f) if it is determined that the Contractor has violated applicable provisions of the ADA, such violation shall constitute a breach of the Agreement and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto.

Parties to this Agreement understand that the provisions of this paragraph 13 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of this Agreement or whose contracts with the County cumulatively total \$5,000 or less during the County's fiscal year.

14. **Suspension/Debarment.** Contractor acknowledges that as part of the Code of Federal Regulations (2 C.F.R. Part 180) a person or entity that is debarred or suspended in the System for Award Management (SAM) shall be excluded from federal financial and nonfinancial assistance and benefits under federal programs and activities. All non-federal entities, including Sedgwick County, must determine whether the Contractor has been excluded from the system and any federal funding received or to be received by the County in relation to this Agreement prohibits the County from contracting with any Contractor that has been so listed. In the event the Contractor is debarred or suspended under the SAM, the Contractor shall notify the County in writing of such determination within five (5) business days as set forth in the Notice provision of this Agreement. County shall have the right, in its sole discretion, to declare the Agreement terminated for breach upon receipt of the written notice. Contractor shall be responsible for determining whether any sub-contractor performing any work for Contractor pursuant to this Agreement has been debarred or suspended under the SAM and to notify County within the same five (5) business days, with the County reserving the same right to terminate for breach as set forth herein.
15. **HIPAA Compliance.** Contractor agrees to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (codified at 45 C.F.R. Parts 160 and 164), as amended ("HIPAA"); privacy and security regulations promulgated by the United States Department of Health and Human Services ("DHHS"); title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, as amended ("HITECH Act"); the Genetic Information Nondiscrimination Act of 2008 ("GINA"); provisions regarding Confidentiality of Alcohol and Drug Abuse Patient Records (codified at 42 C.F.R. Part 2), as amended (collectively referred to as "HIPAA"), to the extent that the Contractor uses, discloses or has access to protected health information as defined by HIPAA. Under the final Omnibus Rule effective March 2013, Contractor may be required to enter into a Business Associate Agreement pursuant to HIPAA.
16. **Compliance with Law.** Contractor shall comply with all applicable local, state and federal laws and regulations in carrying out this Agreement, regardless of whether said local, state and federal laws are specifically referenced in the Agreement to which this attached is incorporated.
17. **Tax Set-Off.** If, at any time prior to or during the term of any executed agreement, Contractor is delinquent in the payment of real and/or personal property taxes to Sedgwick County, and the delinquency exists at the time payment is due under the agreement, County will offset said delinquent taxes by the amount of the payment due under the agreement and will continue to do so until the delinquency is satisfied, pursuant to K.S.A. 79-2012.
18. **Inapplicability to Municipal Contractors.** The following provisions found in this Sedgwick County Mandatory Contractual Provisions Attachment shall be inapplicable if the contractor is a Kansas county, incorporated city, township, or improvement district: 8, 10, 17.
19. **Safety Recall Notices.** Throughout the term of the Agreement and at all times thereafter, Contractor must immediately notify County of any and all safety recall notices of products, goods and services Contractor has provided to County. In addition, Contractor shall remedy the recalled defect(s), at no cost to County, by: (1) providing products, goods or services reasonably equal to or better than the quality of the products, goods or services without accounting for the recalled defect(s); or (2) providing compensation to County in an amount not less than the original cost of the products, goods or services less a reasonable amount for depreciation. This Section 18 survives expiration or termination of the Agreement.

7. Attachment G- Sedgwick County Mandatory Independent Contractor
Addendum

SEDGWICK COUNTY MANDATORY INDEPENDENT CONTRACTOR ADDENDUM

1. This Agreement shall satisfy all tax and other governmentally imposed responsibilities including, but not limited to payment of: state, federal, and social security taxes; unemployment taxes; workers' compensation and self-employment taxes. No federal, state, or local taxes of any kind shall be withheld or paid by County.
2. The parties agree that as an independent contractor, Contractor is not entitled to the following benefits from County: (a) unemployment insurance benefits; (b) workers' compensation coverage; or (c) health insurance coverage. Contractor may only receive such coverages if provided by Contractor or an entity other than County. Subject to the foregoing, Contractor hereby waives and discharges any claim, demand, or action against County's workers' compensation insurance and/or health insurance and further agrees to indemnify County for any such claims related to Contractor's operations or the performance of services by Contractor hereunder
3. The parties hereby acknowledge and agree that County will not: (a) require Contractor to work exclusively for County; (b) establish a quality standard for Contractor, except that County may provide plans and specifications regarding the work but will not oversee the actual work or instruct Contractor as to how the work is to be performed; (c) pay to Contractor a salary or hourly rate, but rather will pay to Contractor a fixed or contract rate; (d) provide more than minimal training for Contractor; (e) provide tools or benefits to Contractor (materials and equipment may be supplied, however); (f) dictate the time of Contractor's performance; (g) pay Contractor personally when possible; instead, County will make all checks payable to the trade or business name under which Contractor does business; and (h) combine its business operations in any way with Contractor's business, but will instead maintain such operations as separate and distinct.
4. Contractor does not have the authority to act for County, to bind County in any respect whatsoever, or to incur debts or liabilities in the name of or on behalf of County.
5. Unless given express written consent by County, Contractor agrees not to bring any other party (including but not limited to employees, agents, subcontractors, sub-subcontractors, and vendors) onto the project site.
6. If Contractor is given written permission to have other parties on the site, and Contractor engages any other party which may be deemed to be an employee of Contractor, Contractor will be required to provide the appropriate workers' compensation insurance coverage as required by this Agreement.
7. Contractor has and hereby retains control of and supervision over the performance of Contractor's obligations hereunder and, if Contractor is given written permission to have other parties on site and the Contractor provides the appropriate coverage, the Contractor agrees to retain control over any persons employed by Contractor for performing the services hereunder and take full and complete responsibility for any liability created by or from any actions or individuals brought to the project by Contractor.
8. County will not provide training or instruction to Contractor regarding the performance of services hereunder.
9. Contractor will not receive benefits of any type from County.
10. Contractor represents that it is engaged in providing similar services to the general public and not required to work exclusively for County.
11. All services are to be performed solely at the risk of Contractor and Contractor shall take all precautions necessary for the proper and sole performance thereof.
12. No workers' compensation insurance shall be obtained by County covering Contractor. Contractor shall comply with the workers' compensation laws pertaining to Contractor.
13. Contractor will not combine its business operations in any way with County's business operations and each party shall maintain their operations as separate and distinct.

8. Attachment H- Sedgwick County Mandatory ARPA Contractual Provisions
Attachment

SEDGWICK COUNTY MANDATORY ARPA CONTRACTUAL PROVISIONS ATTACHMENT

**If you require accommodation to access this form,
alternate formats are available upon request.**

Contractor's Name: Click or tap here to enter text. _____

Contractor's UEI Number: Click or tap here to enter text. _____

Contract Amount: Click or tap here to enter text. _____

The following certifications and provisions are required and applied when Sedgwick County ("County") expands federal funds for any contract. Accordingly, the parties agree that the following terms and conditions apply to this Agreement between the County and [CONTRACTOR] ("Contractor") in all situations where Contractor has been or will be paid with federal funds.

REQUIRED CONTRACT PROVISIONS FOR COUNTY CONTRACTS UNDER FEDERAL AWARDS APPENDING II
TO 2 CFR PART 200

A. Any violation or breach of terms of this Agreement on the part of Contractor or Contractor's subcontractors may result in the suspension or termination of this Agreement or such other action that may be necessary to enforce the rights of the County, including but not limited to debarment as a contractor and a subcontractor.

Contractor agrees _____ *Initials of Authorized Representative of Contractor*

B. The County reserves the right to immediately terminate any agreement in excess of \$10,000 for a breach or default of the agreement by Contractor in the event Contractor fails to: (1) meet schedules, deadlines, and/or delivery dates with in the time specified in the procurement solicitation, contract, and/or purchase order; (2) make any payments owed as related to this agreement; and (3) otherwise perform in accordance with this Agreement and/or the procurement solicitation.

County also reserves the right to terminate this Agreement immediately, with written notices to Contractor, for convenience, if the County believes, in its sole discretion, that it is in the best interest of the County to do so. Contractor will be compensated for work performed and accepted and goods accepted by the County as of the termination date if this Agreement is terminated for convenience of the County.

Contractor agrees _____ *Initials of Authorized Representative of Contractor*

C. During the performance of this Agreement, Contractor agrees as follows:

1. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated, during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. Contractor will not discharge, or in any other manner discriminate against, any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish information.
4. Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising said labor union or workers' representatives of Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor pursuant thereto, and will permit access to their books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole, or in part, and Contractor may be declared ineligible for further

Government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

8. Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) of this section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Contractor agrees _____ *Initials of Authorized Representative of Contractor*

D. All transactions regarding this Agreement shall be done in compliance with the Davis-Bacon Act (40 USC 3141 - 3144 and 3146 - 3148) and the requirements of 29 CFR part 5, as may be applicable. Contractor shall comply with 40 USC 3141 - 3144 and 3146 - 3148 and the 29 CFR part 5 as applicable. Among other requirements that may apply, Contractor must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor, and Contractor must pay wages not less than once a week.

Further, Contractor shall comply with the Copeland "Anti-Kickback" Act (40 USC 3145) and the requirements of 29 CFR Part 3, as applicable. Among other requirements that may apply, Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

Contractor agrees _____ *Initials of Authorized Representative of Contractor*

E. During the performance of this Agreement, Contractor agrees to comply with the Contract Work Hours and Safety Standards Act (40 USC 3701 - 3708) as supplemented by Department of Labor regulations (2 CFR Part 5). This includes, but is not limited to, the following:

1. **Overtime requirements.** Contractor and any subcontractors are required to compute the wages of every mechanic and laborer employed pursuant to this Agreement on the basis of a standard work week of 40 hours. Work in excess of the standard workweek is allowed, provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the workweek.

2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (E)(1) of this section, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States, for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (E)(1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in paragraph (E)(1) of this section.

3. **Withholding for unpaid wages and liquidated damages.** The County shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor, under any such contract or any other Federal contract with the same prime contractor or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (E)(2) of this section.

4. **Subcontracts.** Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (E)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (E)(1) through (4) of this section.

5. **Work Conditions.** Contractor or subcontractor shall ensure that any laborer or mechanic employed pursuant to this Agreement is not required to work in surroundings or under working conditions that are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Contractor agrees _____ *Initials of Authorized Representative of Contractor*

F. As the recipient of a "funding agreement," the County will comply with 37 CFR Part 401 Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements.

Contractor agrees _____ *Initials of Authorized Representative of Contractor*

G. Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended (42 USC 7401 et seq.) and the Federal Water Pollution Control Act, as amended (33 USC 1251 et seq.). Contractor agrees to report each violation to the County, and understands and agrees that the County will, in turn, report each violation as required to assure

notification to the Federal awarding agency and the appropriate Environmental Protection Agency Regional Office. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

Contractor agrees _____ *Initials of Authorized Representative of Contractor*

H. This Agreement is a covered transaction for purposes of 2 CFR Part 180 and 2 CFR Part 3000. As such, Contractor is required to verify that none of Contractor's principals (defined at 2 CFR 180.995) or its affiliates (defined at 2 CFR 180.905) are excluded (defined at 2 CFR 180.940) or disqualified (defined at 2 CFR 180.935). Contractor must comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C, and must include a requirement to comply with these regulations in any subcontractor or other lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by the County. If it is later determined that Contractor did not comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C, in addition to remedies available to County the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

Contractor confirms/agrees _____ *Initials of Authorized Representative of Contractor*

I. Contractor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 USC 1352). Contractor further certifies:

1. No Federal appropriated funds have been paid or will be paid for on behalf of Contractor 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 a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, or the extension, continuation, renewal, amendment, or modification of a 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 grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. Contractor shall require that the language of this certification be included in the contract documents for all covered contracts exceeding \$100,000 in Federal funds at all appropriate tiers and that all subcontractors shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required

certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

4. Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Contractor understands and agrees that the provisions of 31 USC Chapter 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure.

Contractor confirms/agrees _____ *Initials of Authorized Representative of Contractor*

J. As required by Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, Contractor shall:

1. Procure only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 of the value or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.
2. Procure solid waste management services in a manner that maximizes energy and resource recovery.
3. Establish an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor confirms/agrees _____ *Initials of Authorized Representative of Contractor*

K. Contractor will not use Federal funds to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is:

1. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
2. Video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes.
3. Telecommunications or video surveillance services provided by such entities or using such equipment.

4. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

In the event Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or Contractor is notified of such by a subcontractor at any tier or by any other source, Contractor shall report the following information to the recipient or subrecipient:

1. Within one business day from the date of such identification or notification:
 - a. The contract number;
 - b. the order number(s), if applicable;
 - c. supplier name;
 - d. supplier unique entity identifier (UEI) (if known);
 - e. supplier Commercial and Government Entity (CAGE) code (if known);
 - f. brand;
 - g. model number (original equipment manufacturer number, manufacturer part number, or wholesaler number);
 - h. item description; and
 - i. any readily available information about mitigation actions undertaken or recommended.
2. Within 10 business days of submitting the information above:
 - a. Any further available information about mitigation actions undertaken or recommended;
 - b. A description of the efforts undertaken by Contractor to prevent use or submission of covered telecommunications equipment or services; and
 - c. Any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts and other contractual instruments.

Contractor confirms/agrees _____ *Initials of Authorized Representative of Contractor*

L. As appropriate and to the extent consistent with law, Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to iron, aluminum, steel, cement, and other manufactured products).

“Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

“Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Contractor must include these requirements in all subcontracts for work or products under this award.

Contractor confirms/agrees _____ *Initials of Authorized Representative of Contractor*

FEDERAL AWARDING AGENCY REQUIRED PROVISIONS

M. Pursuant to Executive Order 13043, 62 FR 19217 (4/18/97), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented, or personally owned vehicles.

Contractor confirms/agrees _____ *Initials of Authorized Representative of Contractor*

N. Pursuant to Executive Order 13513, 74 FR 51225 (10/6/09) Contractor is encouraged to adopt and enforce policies that ban text messaging while driving.

Contractor confirms/agrees _____ *Initials of Authorized Representative of Contractor*

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

Contractor confirms/agrees _____ *Initials of Authorized Representative of Contractor*

Contractor agrees to comply with all applicable federal, state, and local laws, rules, regulations, and ordinances. It is further acknowledged that Contractor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.

Contractor’s Name: _____

Address: _____

City, State, Zip: _____

Phone Number: _____

Email Address: _____

Printed Name of Authorized Representative: _____

Title of Authorized Representative: _____

Signature of Authorize Representative: _____

Date: _____

9. Attachment I- KDADS ARPA Subrecipient Agreement

4552-13
#70-23-000610

State of Kansas
Kansas Department for Aging and Disability Services

**ARPA SUBRECIPIENT AGREEMENT
SPARK FACILITY AND WORKFORCE TRAINING EXPANSION PROGRAM**

This Agreement is made and entered into this 31st day of January 2024, by and between the Kansas Department for Aging and Disability Services, hereinafter called "KDADS" and SEDGWICK COUNTY, hereinafter referred to as "Subrecipient" in an amount not to exceed \$25,000,000.00, which shall terminate on or before June 30, 2026, unless amended by the written instrument as provided for herein.

WHEREAS, On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President. Section 9901 of ARPA amended Title VI of the Social Security Act (42 U.S.C. 801, *et seq.*, "the Act") to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (together the Coronavirus State & Local Fiscal Recovery Funds); and

WHEREAS, transfers under section 603(c)(3) must qualify as an eligible use of Coronavirus State and Local Fiscal Recovery Funds by the transferor, and the Subrecipient must abide by the restrictions on use applicable to the recipient under the ARPA and other applicable law and program guidance;

WHEREAS, the State of Kansas is facing both a public health and economic crisis – the pandemic and public health emergency of COVID-19, which has resulted in illness, quarantines, school closures, and temporary and permanent closures of businesses resulting in lost wages and financial hardship to Kansas citizens; and

WHEREAS, the federal government, pursuant to section 602 of Title VI of the Social Security Act established the Coronavirus State Fiscal Recovery Funds ("State Fiscal Recovery Funds"), as added by section 9901 of the federal American Rescue Plan Act of 2021 ("ARPA") provided monies to the State of Kansas to use for expenditures to respond to the public health emergency or its negative economic impacts, to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers, for the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the public health emergency, and to make necessary investments in water, sewer, or broadband infrastructure; and

WHEREAS, on December 20, 2022, the SPARK Taskforce recommended distributing \$66,000,000 in ARPA State Fiscal Recovery Funds to a program for health facilities and program expansion; and

WHEREAS, on December 21, 2022, the State Finance Council approved the expenditure of \$66,000,000 in ARPA State Fiscal Recovery Funds for health facilities and program expansion; and

WHEREAS, Governor Kelly, through the Office of Recovery, has designated the Kansas Department for Aging and Disability Services to carry out a program for health facilities and program expansion in accordance with the SPARK Taskforce approved plan and applicable laws, rules, regulations, and United States Department of the Treasury ("Treasury") interpretive guidance; and

WHEREAS, Subrecipient is undertaking a State of Kansas / KDADS function (the general acquisition and/or construction of property for a State-run function and facility) on behalf of the State, the

parties understand and agree that funds specifically provided by Sedgwick County taxpayers for county purposes should not be expended pursuant to this Agreement.

NOW THEREFORE, in consideration of the mutual benefit herein provided for and expressed, the KDADS and the Subrecipient do hereby agree as follows:

I. PROGRAM DELIVERY/ELIGIBILITY CATEGORY:

It is further agreed that the Subrecipient, Sedgwick County, is a governmental entity located in Wichita, KS, serving the State and that the subrecipient will utilize funds for eligible activities identified below within the State of Kansas to the satisfaction of KDADS and consistent with any standards required as a condition of providing these funds:

Activity:

Subrecipient will design and construct a mental health hospital operated by the Kansas Department for Aging and Disability Services (KDADS) pursuant to applicable Kansas laws. Such a hospital will have at least 50 beds with the potential to expand to up to 100 beds. At a minimum, 25 of the beds would be to serve acutely ill, civilly committed patients and 25 beds would be for forensic competency treatment services. This facility will address the shortage of inpatient behavioral care beds, alleviate the strain on the Larned and Osawatomie State Hospitals, and allow patients to stay closer to home and family. The additional beds will also address the wait time for inmates needing competency evaluations or mental treatment.

Funding under this grant will be used to cover eligible real estate, pre-construction costs, construction costs, contracted services, operational costs, furniture, fixtures, and medical equipment purchases.

Expected Outcomes:

- Increase service capacity with more bed space.
- Improve timeliness for forensic evaluation and restoration for criminal competency cases.

Subrecipient certifies that the activities carried out under this Agreement will meet the goals and objectives of the Coronavirus State and Local Fiscal Recovery Funds in the American Rescue Plan Act.

II. GRANT--WORKING CAPITAL ADVANCES

The total compensation of ARPA funds to be paid to the Subrecipient shall not exceed \$25,000,000.00. This award is in addition to the \$15,000,000.00 of State General Fund (SGF) appropriated in FY 2023 and \$15,000,000.00 appropriated in FY 2024. These funding sources and the overall project are outlined within the Memorandum of Understanding (MOU) between KDADS and the Subrecipient for this project, see Attachment F for more information. Consistent with the MOU, the parties agree that it is the intent of this Agreement that the Subrecipient shall be provided with funds from KDADS to complete the work outlined within this Agreement.

- A. Initial working capital advance payment. The total award to be paid to the Subrecipient under this agreement shall not exceed \$25,000,000.00. An initial working capital advance payment will be made upon execution of the Agreement. This payment will cover real estate acquisition and other construction costs occurring starting May 17, 2023, and ending once the Special Terms and Conditions have been met, with the parties anticipating that this would occur not later than March 1, 2024. The Special Terms and Conditions are as follows:

- Subrecipient shall provide a detailed budget breakdown that includes sufficient information to demonstrate:
 - i. Separation of ARPA funds from other project funding sources
 - ii. Categorization of funding uses including but not limited to:
 - a. Construction
 - b. Real Estate/Land Acquisition
 - iii. Estimated working capital advance amounts from ARPA funding
 - iv. Utilization of ARPA funding within the required period of performance (until June 30, 2026)
 - If Special Terms and Conditions cannot be met by March 1, 2024, Subrecipient will provide KDADS a new anticipated date that the Terms and Conditions will be met. Any additional requests for funding can follow procedures outlined in item E.
 - Any budget adjustments must be agreed to by all parties.
- B. Working capital advance payments will be made for eligible expenses following the Special Terms and Conditions being met and shall not exceed the total award amount of \$25,000,000.00. Payments will not be made until proof of payment and supporting documents have been provided for the prior working capital advance payment. These payments will cover costs for the acquisition of property/real estate and construction costs. The amounts for future working capital advance payments will be based on the budget and timeline provided by the Subrecipient, in consultation with KDADS before each payment is authorized.
- C. No work performed pursuant to this Agreement shall be contracted to any other person, organization, consultant, or corporation without prior written approval by KDADS, with such approval completed by the KDADS Secretary or KDADS Deputy Secretary. All requests for Subrecipient shall be responded to in writing with approval, denial, or need for additional information by KDADS within three (3) business days.
- D. All working capital advance payments will follow the requirements below:
 - No payments will be made without the submission of a payment request.
 - The payment request must be submitted in a format provided by KDADS or approved by KDADS.
 - Every payment request must be signed by the County Manager or designee. KDADS will pay within thirty (30) calendar days of a correct and accurate payment request being received.
- E. For payments outlined in the Memorandum of Understanding (Attachment F), Subrecipient shall provide a written notice to KDADS describing the situation and the necessity of the payment request, including the amount requested. Any requests are subject to the approval by KDADS. These Non-Working Capital Advance payments (NWCAPs) may be initially funded through SGF. NWCAPs require compliance with 2 CFR 200.305. Subrecipient shall keep track of expenditures from Non-Working Capital Advance Payments and submit a report with supporting documentation such as itemized invoices, itemized receipts, itemized bills, method of calculating charges, accompanying acceptable satisfaction of payment, timesheets, other documentation needed to support the reconciliation, and a copy of the canceled check. Supportive documentation shall be submitted with an expenditure reconciliation form. Each expenditure reconciliation form must be signed. Reconciliation of these payments/funds will be performed within 30 days of receiving proper documentation. All documentation must be approved by KDADS to satisfy the terms of this Agreement. Once documentation has been reconciled and has been found to be in compliance, the expenditure line items may be shifted from SGF to ARPA.
- F. If determined Subrecipient needs to shift line-item expenditures from SGF to ARPA funds, Subrecipient shall provide a written notice to KDADS requesting approval for the changes. Any

expenditure line-items shifting from SGF to ARPA must include clear descriptions and supporting documentation so that expenditures can be deemed eligible under ARPA.

- G. Supporting documentation such as itemized invoices, itemized receipts, itemized bills, method of calculating charges, accompanying acceptable satisfaction of payment, timesheets, and other documentation needed to support the working capital advance payment request. Supportive documentation shall be submitted with an expenditure reconciliation form. Each expenditure reconciliation form must be signed. Reconciliation of payment funds will be performed for each working capital payment request and must be approved by KDADS to satisfy the terms of this Agreement. The Subrecipient shall submit all supporting documents (i.e., receipts, invoices, payroll registers, logs, etc.) for the invoiced expenditures. The WCAPR (Working Capital Advance Payment Reconciliation) is due no later than 90 days after receipt of each funding payment. The WCAPR package shall include the following for each pertinent type of expenditure:

Capital Projects:

- a. Contract includes scope of work, tasks, and addendum
- b. Procurement documentation
- c. Competitive selection process documentation
- d. Itemized billing(s) detailing work performed
- e. Proof of contractor performance acknowledgment by the facilities manager
- f. Copies of any required permits and certificates of occupancy related to the project
- g. Proof of payment

Contractual services:

- a. Contract includes scope of work, tasks, and addendum
- b. Procurement documentation (if required)
- c. Selection process
- d. Itemized billing
- e. Proof of payment

- H. Expenditures must be recorded and documented in accordance with Generally Accepted Accounting Principles (GAAP) and the provisions of Title 2 CFR Part 200 and all Appendices.
- I. The Subrecipient must retain on file backup documentation for all costs paid for by ARPA Relief funds (including receipts, invoices, timesheets, logs, and copies of checks) for the duration of this Agreement and through December 31, 2031.
- J. The Subrecipient shall not request funding from KDADS for costs that will be paid by another source of funds.
- K. Repayment of Funds. If the Subrecipient has unspent award funds on hand as of the termination date of this Agreement, it shall return all unspent grant proceeds to KDADS within ten (10) calendar days. If any funds provided to the Subrecipient were used in a manner that is not consistent or allowable as outlined in this Agreement or Attachment B, the Subrecipient shall return funds to KDADS in the amount determined to be ineligible within ten (10) calendar days after provided notice.
- L. Capital assets include lands, facilities, equipment, and intellectual property. Equipment means "tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or

\$5,000." Supplies, which means all tangible personal property other than those included as "equipment," are not considered capital expenditures.

- III. Furthermore, among other requirements contained in 2 CFR 200, Appendix II, all contracts made by the subrecipient in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with certain provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

IV. RECORDS AND REPORTS:

- A. Monitoring and Evaluation – The Subrecipient shall work under the Direction of KDADS, in conjunction with the State, which will monitor and evaluate the performance of this Agreement. The Subrecipient agrees to comply with monitoring requirements under 2 CFR 200.206, 200.331, and 200.329.
- B. The Subrecipient shall submit, by the 15th day of the month following the month being reported, a monthly report outlining all activities undertaken pursuant to this Agreement to KDADS. Failure to submit these reports may result in the loss of funds. All monthly reports should include, but not be limited to:
- a. Project expenditures and obligations, both current and cumulative;
 - b. Project status;
- C. KDADS encourages strong labor practices for all infrastructure and capital projects. KDADS at any point during the duration of this agreement may request the following information:
- a. Subrecipient will be asked to describe workforce practices on any infrastructure projects or capital expenditures being pursued. Including but not limited to: How are projects using strong labor standards to promote effective and efficient delivery of high-quality infrastructure projects while also supporting the economic recovery through strong employment opportunities for workers? For example, report whether any of the following practices are being utilized: project labor agreements, community benefits agreements, prevailing wage requirements, and local hiring.
- D. Reporting requirements may change as new guidance from the U.S. Treasury is updated.
- E. The Subrecipient shall maintain detailed records of all persons served pursuant to this Agreement. Representatives of KDADS, United States Department of Treasury, Government Accountability Office, Treasury Office of Inspector General, or their designees may examine any records or information accumulated pursuant to this Agreement.
- F. Subaward and Executive Compensation Reporting - By the end of the month following the month this Agreement is executed, provide a list of staff earning \$30,000 or more a year, with names and salaries from highest to lowest per Government Funding Transparency Act of 2008, supplemented by OMB guidance issued August 27, 2010.
- G. The Subrecipient will notify KDADS, per 48 CFR 452.237-74, in writing of any changes to program specific key personnel within 15 days of the change.
- H. All records pertaining to these Recovery Funds shall be retained for 5 years after all funds have been expended by KDADS or returned to the Treasury, whichever is later.

V. REVERSION OF ASSETS:

Within ten (10) days of the expiration, termination, or completion of this Agreement, the Subrecipient shall transfer to KDADS any ARPA funds from this Agreement and on hand and

uncommitted at the time of termination. The determination of uncommitted funds will be evaluated by expenses incurred or obligated prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Agreement in connection with uncompleted work, and for reasonable expenses directly attributable to the termination.

If the Subrecipient ceases to use any asset acquired with ARPA funds for the purposes described in this Agreement, the Subrecipient shall either pay to KDADS the fair market value of the asset or transfer control of the asset to KDADS. This requirement shall expire 3 years from the execution of this Agreement.

VI. OMB Circulars:

The Subrecipient shall comply with the following OMB circulars as applicable:

- A. Principles for Determining Costs Applicable to Grants and Contracts with State, Local and Federally Recognized Indian Tribal Governments,” OMB Circular A-128, “Audits of State and Local Governments” (Implemented at 24 CFR Part 44), and will all be applicable portions relating to “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;”
- B. OMB Guidelines to Agencies on Government Debarment and Suspension (Non-Procurement) and the United States Treasury’s implementing regulation at 31 CFR Part 19.
- C. Records demonstrating compliance with the Uniform Administrative Requirements, Cost Principles, Procurement Requirements, and Audit Requirements for Federal Awards in 2 CFR Part 200.

VII. ANTIDISCRIMINATION AND EQUAL OPPORTUNITY:

- A. No person shall on the grounds of race, color, sex, age, religion, national origin, disability, or veteran status, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity made possible by or resulting from this Agreement.
- B. The Subrecipient hereby agrees that in its employment practices and service rendered, it does not and shall not discriminate based on an individual’s race, color, sex, age, religion, national origin, disability, or veteran status. The Subrecipient also agrees to comply with Executive Order 11246 entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 and supplemented in Department of Labor regulations (24 CFR, Part 60).
- C. In the event of the Subrecipient’s non-compliance with the equal employment opportunity clause of this Agreement, this Agreement may not be awarded or may be canceled, terminated, or suspended in whole or in part and the Subrecipient may be declared ineligible for further KDADS contracts.
- D. The Subrecipient will include the provisions of Section VII (A) and (B) in every subcontract or purchase order based on this Agreement.

VIII. OTHER PROGRAM REQUIREMENTS:

See Attachments B-F for additional information

The Subrecipient shall comply with all Federal laws and regulations as applicable, governing the allocation and expenditure of ARPA funds and shall comply with all rules and regulations established by KDADS governing the administration of this Agreement.

A. Independent Contractor

The Subrecipient acknowledges and understands that the performance of this Agreement is as an independent contractor and as such, the Subrecipient is obligated for Workmen's Compensation, FICA taxes, Occupational Taxes, all applicable federal, state, and local taxes, etc. and KDADS will not be obligated for the same under this Agreement.

B. Miscellaneous Requirements

Upon execution of this Agreement, the Subrecipient shall furnish the KDADS Finance Department with the information required for Form 1099 reporting and other pertinent data required by law.

C. Governing Law

To the extent Federal law does not apply, this Agreement shall be construed in accordance with and governed by the laws of the State of Kansas.

D. Insurance

Subrecipient shall maintain such insurance as will protect them and KDADS from claims under Worker's Compensation Acts and from claims for damage, and/or personal injury, including death, which may arise from operations under this Agreement. Insurance will be written by companies authorized to do business in the State of Kansas. Evidence of insurance will be furnished to KDADS no later than 7 days after execution of the Agreement.

E. KDADS Funds Paid

KDADS and the Subrecipient representative signed below certify by the execution of this Agreement that no part of the funds paid by KDADS pursuant to this Agreement, nor any part of the services, products or any item or thing of value whatsoever purchased or acquired with said funds shall be paid to, used by or used in any way whatsoever for the personal benefit of any member or employee of any government whatsoever or family member of any of them, including federal, state, KDADS and municipal and any agency or subsidiary of any such government; and further certify that neither the contractor nor any of its officers, partners, owners, agents, representative, employees, or parties in interest has in any way colluded, conspired, or connived with any member of the governing body or employee of the governing body of KDADS or any other public official or public employee, in any manner whatsoever, to secure or obtain this Agreement and further certify that, except as expressly set out in the scope of work or services of this Agreement, no promise or commitment of any nature whatsoever has been made or communicated to any such governing body member or employee or official as inducement or consideration for this Agreement.

Any violation of this certification shall constitute a breach and default of this Agreement which shall be cause for termination. Upon such termination, Subrecipient shall immediately refund to KDADS all amounts paid by KDADS pursuant to this Agreement.

F. Religious Activities

Subrecipient may not use funds to support inherently religious activities, such as worship, religious instruction, or proselytization. If the Subrecipient engages in these activities, the activities must be offered separately, in time or location, from the programs or services directly funded with ARPA assistance, and participation must be voluntary for the beneficiaries of the ARPA-funded program or service.

Faith based organizations may use space in their facilities to provide ARPA-funded services, without removing religious art, icons, sculptures, or other religious symbols. In addition, a faith-based organization may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents. Faith-based organizations that participate in an ARPA-funded program shall not, in providing program assistance, discriminate against a program Subrecipient or prospective program Subrecipient on the basis of religion or religious belief.

G. Procurement

Subrecipient shall procure all supplies, equipment, property, and services for implementation of its activities. Procurement should be carried out in accordance with 2 CRF 200.300-200.346, excluding 200.305(b)(8), 200.305(b)(9), 200.308 and 200.309, as well as Subrecipient's own procurement requirements and all provisions of the ARPA Final Rule governing procurement.

H. Universal Identifier and System for Award Management (SAM) Subrecipients are required to maintain an active SAM.gov registration.

I. Duplication of Benefit

Subrecipient shall not duplicate funds received through SBA, FEMA, IRS, Treasury, USDA, HHS, and/or any other source for expenditures on the exact same services or activities for which ARPA Local Fiscal Recovery funds have been received related to COVID-19 unless these funds will be used for the expansion of such services and activities.

J. Additional Contract Provisions for Non-Federal Entity Contracts Under Federal Awards as laid out in Appendix II to 2CFR200. See Attachment A for additional guidance.

K. As per Terms and Conditions (Attachment A) from 2CFR200, these are required pass down requirements including Drug Free Workplace, Protection for Whistle Blowers, Reducing Text Messages While Driving, and Increasing Safety Belt Use in the United States.

IX. SUBRECIPIENT AUDIT:

If the Subrecipient receives more than \$750,000.00 in federal funds in a year, the Subrecipient shall have a single or program-specific audit conducted for that year in accordance with 2 CFR 200.500. The Subrecipient will be required to submit an audit report within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. The Subrecipient agrees that any costs disallowed pursuant to subsequent audit(s), KDADS, or United States Department of Treasury review will promptly be remitted to KDADS.

X. TIME OF PERFORMANCE:

Services/Activities performed under this Agreement will commence from the date this Agreement was fully executed through June 30, 2026, unless amended by written instrument as provided for herein or unless the State of Kansas would grant any other subrecipient(s) an extended period of performance later than June 30, 2026, in which case the period of performance in this Agreement would match the latest date of any such extended period of performance.

If the Subrecipient will not be able to expend funds under this agreement by June 30, 2026, Subrecipient shall, no later than 45 days prior to the termination of this agreement, request in writing, an extension for the expenditure of funds under this agreement. All extension requests are subject to approval by KDADS.

XI. LIABILITY.

The Subrecipient shall not, without prior written permission of KDADS specifically authorizing them to do so, represent or hold themselves out to others as an agent of or on behalf of KDADS.

The Subrecipient will save and hold harmless, KDADS, its elected officials, and employees against liability resulting from any act or omission by the Subrecipient, its agents, servants, or employees related to expenditures and services furnished by the Subrecipient under this Agreement.

XII. SUSPENSION AND TERMINATION:

A. Termination of Agreement for Cause by KDADS - If the Subrecipient shall fail to fulfill in a reasonably timely and proper manner their obligations under this Agreement or if the Subrecipient violates any of the material covenants, Agreements, or stipulations of this Agreement, KDADS shall thereupon have the right to immediately terminate or suspend this Agreement by giving written notice to the Subrecipient of such termination or suspension and specifying the effective date thereof. The Subrecipient shall not be relieved of any liability to KDADS for damages sustained by KDADS by virtue of any breach of the Agreement by the Subrecipient, and KDADS may withhold any payments to the Subrecipient for the purpose of setoff until such time as the exact amount of damage to KDADS from the Subrecipient is determined. KDADS agrees that prior to terminating this Agreement and ending the relationship between the parties, KDADS would use its best efforts to utilize other funding contemplated in the attached MOU or would otherwise utilize its best efforts to secure other funding to complete the project contemplated within this Agreement.

B. Termination for Convenience - Upon thirty (30) days' written notice to the Subrecipient, KDADS may, without cause and without prejudice to any other right or remedy of KDADS, elect to terminate this Agreement. In such case, Subrecipient shall be paid (without duplication of any items):

For completed and acceptable work executed in accordance with this Agreement prior to the effective date of termination.

For expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Agreement in connection with uncompleted work, and for reasonable expenses directly attributable to the termination.

Subrecipient shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

- In the event KDADS would terminate this Agreement for convenience, KDADS would waive any and all claims or demands against Subrecipient. To the extent the Subrecipient would have any existing contracts where termination would lead to claims and/or judgments being made against Subrecipient due to such termination for convenience by KDADS, the parties would undertake best efforts to transfer those contracts from the Subrecipient to KDADS including any obligations in those contracts.

C. Termination for Cause by Subrecipient - Subrecipient may terminate this Agreement if KDADS shall fail to fulfill in a reasonably timely and proper manner their obligations under this Agreement or if KDADS substantially violates any of the material covenants, Agreements, or stipulations of this Agreement, the Subrecipient shall thereupon have the right to immediately terminate or suspend this Agreement by giving written notice to KDADS of such termination or suspension and specifying the effective date thereof. KDADS

shall not be relieved of any liability to the Subrecipient for damages sustained by the Subrecipient by virtue of any breach of the Agreement by KDADS. In the event of any termination for cause by the Subrecipient, the Subrecipient would return any unencumbered funds to KDADS that had been provided by KDADS pursuant to this Agreement and would undertake reasonable and appropriate measures to assist in the transition of documents and any other matters to the State of Kansas / KDADS so that KDADS could reasonably continue to pursue the project identified within this Agreement, even if the Subrecipient would no longer be part of completing the project. The aforementioned "reasonable and appropriate measures" would not include Sedgwick County funding.

XIII. INFLUENCE ON GRANT AWARDS:

To the best of the Subrecipients' knowledge and belief:

They have complied with the lobbying restrictions located in 31 CFR Part 21.

No Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, 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 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;

If any funds other than Federal appropriated funds have been 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, Subrecipient will complete and submit Standard Form- LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

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 into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

XIV. AMENDMENT OF AGREEMENT:

This Agreement contains the entire understanding of the parties, and no change of any term or provision of the Agreement shall be valid or binding unless so amended by a written instrument which has been executed or approved by KDADS. Any such amendment shall be attached to and made a part of this Agreement. Such amendments shall not invalidate this Agreement, nor relieve or release KDADS or Subrecipient for its obligations under this Agreement.

XV. ACKNOWLEDGEMENT OF SUPPORT:

The Subrecipient shall, in any publication, or media presentation regarding this project, provide the following statement: "This project [is being] [was] supported, in whole or in part, by federal

award number [FAIN SLFRF 1176] awarded to the State of Kansas by the U.S. Department of the Treasury."

XVI. COPYRIGHTS AND DISCOVERIES:

- A. If this Agreement results in a book or other copyrightable materials, the author is free to copyright the work, but the federal grantor and KDADS reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and authorized the use of all copyrighted material and all material which can be copyrighted resulting from the Agreement.
- B. Any discovery or invention arising out of or developed in the course of work aided by the Agreement shall be promptly and fully reported to KDADS and if applicable, to the administrator of the federal grantor agency for determination as to whether patent protection on such invention or discovery including right under any patent issued thereon, shall be disposed of and administered, in order to protect the public interest.
- C. The Subrecipient shall know and follow the mandatory standards and policies relating to energy efficiency which are contained in the State of Kansas's Energy Conservation Plan and Conservation Act (Pub.L.94-163).

XVII. COMPLIANCE WITH FEDERAL REGULATION:

Subrecipient agrees to comply with applicable uniform requirements, as described in the American Rescue Plan Act. The Subrecipient shall carry out each activity in compliance with all Federal laws and regulations described in 2 CFR 200, 31 CFR part 35, Recipient Award Terms and Conditions, Treasury Guidance, and Compliance and Reporting Guidance.

IN WITNESS WHEREOF, the parties hereto have executed the above Agreement on the day and year first written above.

KANSAS DEPARTMENT FOR AGING
AND DISABILITY SERVICES

Laura Howard
Laura Howard, Secretary


SEDGWICK COUNTY, KANSAS

R. B.
Ryan Baty, Chairman
Sedgwick Co. Commission, Fourth District

03/06/2024
Date

Feb 21 2024
Date

Attest:

KBA
Kelly B. Arnold, Sedgwick County Clerk


Approved as to Form:

Justin M. Waggoner
Justin M. Waggoner, County Counselor

ATTACHMENT A
CONTRACTUAL PROVISIONS

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 07-19), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20_____.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least thirty (30) days prior to the end of its current fiscal year and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by the State, title to any such equipment shall revert to the contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*).

Anti-Discrimination Clause: The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001, *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111, *et seq.*) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101, *et seq.*) (ADA), and Kansas Executive Order No. 19-02, and to not discriminate against any person because of race, color, gender, sexual orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran status, disability status, marital or family status, genetic information, or political affiliation that is unrelated to the person's ability to

reasonably perform the duties of a particular job or position; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) Contractor agrees to comply with all applicable state and federal anti-discrimination laws and regulations; (g) Contractor agrees all hiring must be on the basis of individual merit and qualifications, and discrimination or harassment of persons for the reasons stated above is prohibited; and (h) if it is determined that the contractor has violated the provisions of any portion of this paragraph, such violation shall constitute a breach of contract and the contract may be canceled, terminated, or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

5. **Acceptance of Contract:** This contract shall not be considered accepted, approved, or otherwise effective until the statutorily required approvals and certifications have been given.
6. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to, the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority to Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility for Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state, or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101, *et seq.*
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment.
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency

or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement

ATTACHMENT B
FEDERAL AWARD TERMS & CONDITIONS

1. Contractor understands and agrees that funds provided under this Contract may come from a federal source and agrees to comply with any and all additional applicable terms.
 - A. Contractor Capacity. Contractor agrees and confirms that it has the institutional, managerial, and financial capacity to ensure proper planning, management, and completion of the Contract.
 - B. Technical Assistance. If, at any time, Contractor believes its capacity is compromised or Contractor otherwise needs any sort of assistance, it SHALL immediately notify KDADS. KDADS will make best efforts to provide timely technical assistance to the Contractor to bring the Contract into compliance.
 - C. Compliance with Applicable Act. Contractor understands and agrees that funds provided under this Contract may only be used, as applicable, in compliance with section 603(c) of the Social Security Act (the "Act"), as added by section 9901 of the American Rescue Plan Act, the Coronavirus State and Local Fiscal Recovery Fund ("CLFR"), the U.S. Department of Treasury's ("Treasury's") regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - D. Definitions. The term "Contractor" shall refer to a Contractor, Beneficiary, or Subrecipient, as determined in KDADS's sole discretion and referenced in the FAIN table cover page.
2. Contract Services and Requirements, and Incorporated Exhibits.

The Contractor shall provide services and meet the requirements included in this Contract and in the following attached exhibits, each of which is incorporated herein by this reference:

EXHIBIT NAME	EXHIBIT NUMBER
Contractual Provisions	Attachment A
Federal Award Terms and Conditions	Attachment B
FAIN Table	Attachment C
Civil Rights Certification	Attachment D
Lobbying Certification/Disclosure Form	Attachment E
Memorandum of Understanding	Attachment F

- A. Scope of Eligible Expenditures. Funds shall only be used to pay or reimburse eligible expenditures as described in the Exhibit (Scope of Work). No funds may be used to pay or reimburse expenditures reimbursed under any other federal or state program, or from any other third-party source.

- B. Contractor Responsibilities. The funds provided under the Contract may come from a federal source. Contractor agrees to administer the Contract consistent with the terms and conditions of this Contract, in accordance with section 603(e) of the Act, the Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing, as well as any other applicable federal statutes, executive orders, regulations, and interpretive guidance. As part of the invoicing process, the Contractor shall provide KDADS with a "Cost Certification" on reimbursement form, that certifies that funding of this Contract was used for eligible expenditures, was prepared with the terms and conditions of the Grant Agreement (including Duplication of Benefits), and is not in excess of the appropriate budget. Contractor shall also provide the State with a "Civil Rights Certification" (Attachment D) prior to starting work or payment for work authorized by this Contract.
- C. Reports. Contractor shall provide KDADS with the following reports:
- i. Monthly Expenditure Report
 - ii. Monthly Reporting Forms
 - iii. Payment Request Report
 - iv. Closeout Report
3. Access to Records. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Contractor to conduct audits or other investigations, and may request additional information for the administration of the award, or as may be necessary or appropriate, including as may be necessary to prevent evasions of the requirements of the award.
4. False Statements. Contractor understands that making false statements or claims in connection with this Contract is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages, and penalties, debarment from participating in federal or county awards or contracts, and/or any other remedy available by law.
5. Publications. Any publications produced with funds from this Contract must display the following language: *"This project is supported, in whole or in part, by federal award number SLFRP 1176, awarded to the State of Kansas by the U.S. Department of the Treasury."*
6. Debts Owed the Federal Government.
- A. Any funds paid to Contractor (1) in excess of the amount to which Contractor is finally determined to be authorized to retain under the terms of the award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Contractor shall constitute a debt to the federal government.
 - B. Any debts determined to be owed to the federal government must be paid promptly by the recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment unless other satisfactory arrangements have been made, or if the recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

7. Uniform Guidance Compliance

- A. Remedial Actions. In the event of Contractor's noncompliance with section 603(e) of the Act, Treasury's regulations implementing that section, guidance issued by Treasury regarding the foregoing, or any other applicable federal statutes, executive orders, regulations, or interpretive guidance, Treasury may take available remedial actions as set forth in 2 C.F.R. 200.339 and may pursue recoupment as provided under 31 CFR Part 35.10.
- B. Recoupment.
- i. Contractor agrees that it is financially responsible for and will repay KDADS any and all indicated amounts following an audit exception which occurs due to Contractor's failure, for any reason, to comply with the terms of this Contract. This duty to repay KDADS shall not be diminished or extinguished by the termination of the Contract.
 - ii. In the event of a violation of section 603(e) of the Act, the funds shall be subject to recoupment by KDADS.
 - iii. Any funds paid to Contractor (1) in excess of the amount to which Contractor is authorized to retain under the terms of the Contract; (2) that are determined by the Treasury Office of Inspector General to have been misused; (3) are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act; or (4) are otherwise subject to recoupment by KDADS and have not been repaid by Contractor to KDADS shall constitute a debt to KDADS.
 - iv. Any debts determined to be owed KDADS must be paid promptly by the Contractor. A debt is delinquent if it has not been paid by the date specified in KDADS's initial written demand for payment unless other satisfactory arrangements have been made, or if KDADS knowingly or improperly retains funds that are a debt. KDADS will take any actions available to it to collect such a debt.
- C. Return of Unused Funds. If Contractor has any funds that have not been expended as of the earlier of the termination of this Contract or December 31, 2026, Contractor shall return all unspent funds to KDADS within ten (10) calendar days.

8. Disclaimer

- A. The United States expressly disclaims any and all responsibility or liability to recipient or third persons for the actions of recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- B. The acceptance of this award by recipient does not in any way establish an agency relationship between the United States and recipient.

9. Protection for Whistleblowers

- A. In accordance with 41 U.S.C. § 4712, Contractor may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse

of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

B. The list of persons and entities referenced in the paragraph above includes the following:

- i. A member of Congress or a representative of a committee of Congress;
- ii. An Inspector General;
- iii. The Government Accountability Office;
- iv. A Treasury employee responsible for contract or grant oversight or management;
- v. An authorized official of the Department of Justice or other law enforcement agency;
- vi. A court or grand jury; or
- vii. A management official or other employee of Contractor or subcontractor who has the responsibility to investigate, discover, or address misconduct.

C. Contractor shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

10. **Increasing Seat Belt Use in the United States.** Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented, or personally owned vehicles.

11. **Reducing Text Messaging While Driving.** Pursuant to Executive Order 13513, 74 FR 51225 (October 6, 2009), Contractor is encouraged to adopt and enforce policies that ban text messaging while driving, and to establish workplace safety policies to decrease accidents caused by distracted drivers.

12. **Conflict of Interest**

A. **Applicability.**

(1) In the procurement of supplies, equipment, construction, and services by the

Contractor the conflict-of-interest provisions in 2 CFR 200, shall apply.

(2) In all cases not governed by 2 CFR 200, the provisions of this section shall apply.

B. **Conflicts prohibited.** The general rule is that no persons described in paragraph (C) of this section who exercise or have exercised any functions or responsibilities with respect to ARPA activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from an ARPA-assisted activity, or have a financial interest in any contract, subcontract, or Agreement with respect to an ARPA-assisted activity, or with respect to the proceeds of the ARPA-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

- C. Persons covered. The conflict-of-interest provisions of paragraph (B) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part.
- D. Exceptions. Upon the written request of the Contractor, KDADS may grant an exception to the provisions of paragraph (B) of this section on a case- by-case basis when it has satisfactorily met the threshold requirements of (D)(1) of this section, taking into account the cumulative effects of paragraph (D)(2) of this section.
 - (1) Threshold requirements. KDADS will consider an exception only after the Contractor has provided the following documentation:
 - (i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
 - (ii) An opinion of the Contractor's attorney that the interest for which the exception is sought would not violate State or local law.
 - (2) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (D)(1) of this section, KDADS shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project, taking into account the cumulative effect of the following factors, as applicable:
 - (i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
 - (ii) Whether an opportunity was provided for open competitive bidding or negotiation;
 - (iii) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
 - (iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;
 - (v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section
 - (vi) Whether undue hardship will result either to the Contractor or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
 - (vii) Any other relevant considerations.

13. Applicable Law.

- A. This Contract shall be construed and interpreted in accordance with the laws of the State of Kansas.
- B. Contractor agrees to comply with the requirements of section 603 of the Act, the Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing. Contractor also agrees to comply with all other applicable federal statutes.

regulations, and executive orders, and Contractor shall provide for compliance with the Act, section 603 of the Act, and any interpretive guidance by other parties in any agreements it enters into with other parties relating to this Contract.

- C. Federal regulations applicable to this award include, without limitation, the requirements set forth in Section 14, each of which is incorporated by reference herein, as applicable.

14. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

A. 2 C.F.R. Part 200, including the following:

Subpart A, Acronyms and Definitions;
Subpart B, General Provisions;
Subpart C, Pre-Federal Award Requirements and Contents of Federal Awards;
Subpart D, Post-Federal Award Requirements;
Subpart E, Cost Principles; and
Subpart F, Audit Requirements.

And all appendices thereto including without limitation appendix II to Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

- i. As applicable, the Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - ii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iii. OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - iv. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - v. Government-wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vi. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - vii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - viii. Generally applicable federal environmental laws and regulations
- B. Statutes and regulations prohibiting discrimination (which prohibit the denial of benefits or services, or otherwise discriminate on the basis of race, color, national origin (including

limited English proficiency), disability, age, or sex (including sexual orientation and gender identity)) applicable to this award include, without limitation, the following:

- i. 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; Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22;
 - ii. 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;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- C. Hatch Act. Contractor agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limits certain political activities of federal employees, as well as certain other employees who work in connection with federally funded programs.

15. Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

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

- A. Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- B. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.
- C. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319).

12935, 3 CFR Part. 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

- D. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)**. Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- E. **Rights to Inventions Made Under a Contract or Agreement**. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- F. **Clean Air Act (42 U.S.C. 7401-7671q)** and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- G. **Debarment and Suspension** (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235). "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- H. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)** - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other

award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

- I. Solid Waste Disposal Act-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

J. Telecommunications and Video Surveillance Services Or Equipment

- a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds 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 use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- I. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - II. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - III. (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions, and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services.

to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

K. Domestic Preferences For Procurements

- A. As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- B. For purposes of this section:
1. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 2. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

16. Subaward Language. Pursuant to 2 C.F.R. Part 200.332(a)(1), KDADS must make a determination whether the scope of work falls under a Beneficiary, Subrecipient, or Contractor relationship, or whether the funds are being provided for the purpose of directly benefitting the individual or entity as a result of experiencing a public health impact or negative economic impact of the COVID-19 pandemic, in which case the individual or entity is acting as a Beneficiary rather than a Subrecipient or Contractor. The non-Federal entity may concurrently receive Federal awards as a Recipient, a Subrecipient, a Contractor, and a Beneficiary, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a Subrecipient, a Contractor, or a Beneficiary. The awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

- (a) Beneficiary. Awards or payments to individuals or entities that are direct Beneficiaries of a federal award are not considered payment to Subrecipients or Contractors. If the funds are provided to an individual or entity for the purpose of directly benefitting the individual or entity as a result of the individual or entity experiencing a public health impact or negative economic impact of the COVID-19 pandemic, the individual or entity is acting as a Beneficiary.
- (b) Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the Subrecipient. A Subrecipient does not include an individual or entity that is a Beneficiary of such award. 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.
- (c) Contractors. 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. A Beneficiary is not a 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.
- (d) Use of judgment in making determination. In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a Subrecipient, Contractor, or Beneficiary, 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, a procurement contract, or as funding provided to a Beneficiary.

If the pass-through entity determines that the scope of work falls under a Subrecipient relationship, all of the information below must be included in any subaward agreement.

ATTACHMENT C
FAIN TABLE

Federal Award Identification (reference 2 CFR 200.332)

I.	Agency name (which must match the name associated with its unique entity identifier);	Sedgwick County
II.	Agency's unique entity identifier;	U78SNHE76SE3
III.	KDADS Number for Agreement;	
IV.	Federal Award Identification Number (FAIN);	SLFRP1176
V.	Federal Award Date;	5/10/2021
VI.	Federal Period of Performance Start and End Date;	March 3 rd , 2021, and December 31, 2026
VII.	Federal Budget Period Start and End Date;	March 3 rd , 2021, and December 31, 2026
VIII.	Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;	\$25,000,000
IX.	Subaward Period of Performance Start and End Date	May 17, 2023 – June 30, 2026
X.	Subaward Budget Period Start and End Date	May 17, 2023 – June 30, 2026
XI.	Federal Award Project Description;	CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS – KDADS SPARK FACILITY AND WORKFORCE TRAINING EXPANSION PROGRAM
XII.	Pass-Through Entity;	KDADS
XIII.	Federal Awarding Official Name and Contact Information; KDADS Contact Information	Department of the Treasury; grantsaccounting@ks.gov
XIV.	Assistance Listing CFDA Number and Name (the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement);	21.027 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS
XV.	Identification of whether the award is R&D;	No
XVI.	Indirect cost rate for the Federal award (including if the de minimis rate is charged per § 200.414 Indirect (F&A) costs);	N/A
XVII.	Is the recipient a Subrecipient, Contractor, or Beneficiary for the Purposes of this Agreement?	Subrecipient
XVIII.	Award Payment Method	Working capital advance payments
XIX.	Procurement Type	Sole Source Contract

The sub-awardee must be in compliance with the below and must note the required information in their

subaward agreements:

- (1) A requirement that the Subrecipient permit the pass-through entity and auditors to have access to the Subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and
- (2) Appropriate terms and conditions concerning closeout of the subaward.
- (3) All requirements imposed by the pass-through entity on the Subrecipient so that the Federal award is used in accordance with applicable Federal statutes, regulations, and executive orders, and in compliance with the Act (including without limitation section 603(c) of the Act), any interpretive guidance by other parties, and the terms and conditions of the Federal award;
- (4) Any additional requirements that the pass-through entity imposes on the Subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;
- (5) Evaluate each Subrecipient's risk of noncompliance with Federal statutes, executive orders, regulations, interpretive guidance, and the terms and conditions of the subaward for purposes of determining the appropriate Subrecipient monitoring may include consideration of such factors as:
 - (a) The Subrecipient's prior experience with the same or similar subawards;
 - (b) The results of previous audits including whether or not the Subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements of this part, and the extent to which the same or similar subaward has been audited as a major program;
 - (c) Whether the Subrecipient has new personnel or new or substantially changed systems; and
 - (d) The extent and results of Federal awarding agency monitoring (e.g., if the Subrecipient also receives Federal awards directly from a Federal awarding agency).
- (6) Consider imposing specific subaward conditions upon a Subrecipient if appropriate as described in §200.207 Specific Conditions.
- (7) 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. Pass-through entity monitoring of the Subrecipient must include:
 - (a) Reviewing financial and performance reports required by the pass-through entity.
 - (b) 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 other means.
 - (c) Issuing a management decision for audit findings pertaining to the Federal award provided to the Subrecipient from the pass-through entity as required by §200.521 Management Decision.
- (8) Depending upon the pass-through entity's assessment of risk posed by the Subrecipient (as described in paragraph (5) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

- (a) Providing Subrecipients with training and technical assistance on program-related matters; and
 - (b) Performing on-site reviews of the Subrecipient's program operations;
 - (c) Arranging for agreed-upon-procedures engagements as described in §200.425 Audit services.
- (9) Verify that every Subrecipient is audited as required by Subpart F—Audit Requirements of this part when it is expected that the Subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.
- (10) 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.
- (11) Consider taking enforcement action against noncompliant Subrecipients as described in §200.338 Remedies for Non-compliance of this part and in program regulations.

ATTACHMENT D
State of Kansas Coronavirus Local Fiscal Recovery Fund

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS
American Rescue Plan Act of 2021, section 9901

The funds provided to Contractor are available under section 603 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act.

The Contractor understands and acknowledges that:

1. As a condition of receipt of federal financial assistance from the Department of the Treasury, with monies distributed through KDADS, the contractor named below (hereinafter referred to as the "Contractor") provides the assurances stated herein. The federal financial assistance may include federal grants, loans, and contracts to provide assistance to the Contractor's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.
2. The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Contractor's program(s) and activity(ies), so long as any portion of the Contractor's program(s) or activity(ies) is federally assisted in the manner prescribed above.

The Contractor certifies the following:

1. Contractor ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Contractor acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Contractor understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Contractor shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Contractor understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient's programs, services, and activities.

3. Contractor agrees to consider the need for language services for LEP persons when Contractor develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.
4. Contractor acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Contractor and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. The sub-grantee, Contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.
6. Contractor understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Contractor for the period during which it retains ownership or possession of the property.
7. Contractor shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Contractor shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Contractor shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Contractor also must inform the Department of the Treasury if Contractor has received no complaints under Title VI.
9. Contractor must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Contractor and the administrative agency that made the finding. If the Contractor settles a case or matter alleging such discrimination, the Contractor

must provide documentation of the settlement. If Contractor has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. The Contractor may not make sub-awards to other agencies or other entities, the Contractor is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of sub-recipients.
11. The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

ATTACHMENT E
State of Kansas Coronavirus Local Fiscal Recovery Fund
LOBBYING CERTIFICATION

The undersigned certifies, to the best of the undersigned's 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, as attached.

(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 into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I hereby certify that I have read the above certification, and that the information and my statements provided herein by me are true and correct to the best of my knowledge, and by my signature on this document, acknowledge my understanding that any intentional or negligent misrepresentation or falsification of any of the information in this document could subject me to punishment under federal and/or civil liability and/or in criminal penalties, including but not limited to fine or imprisonment or both under Title 18, United States Code, Sec. 1001, et seq. and punishment under federal law.

ATTACHMENT E-SAMPLE

Pt. 21, App. B

31 CFR Subtitle A (7-1-06 Edition)

APPENDIX B TO PART 21—DISCLOSURE FORM TO REPORT LOBBYING

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0044

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1152
(See reverse for public burden disclosure.)

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract</p> <p><input type="checkbox"/> b. grant</p> <p><input type="checkbox"/> c. cooperative agreement</p> <p><input type="checkbox"/> d. loan</p> <p><input type="checkbox"/> e. loan guarantee</p> <p><input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid offer/application</p> <p><input type="checkbox"/> b. initial award</p> <p><input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial filing</p> <p><input type="checkbox"/> b. material change</p> <p>For Material Change Only:</p> <p>year _____ quarter _____</p> <p>date of last report _____</p>
<p>4. Name and Address of Reporting Entity:</p> <p><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee</p> <p>Title _____, if known:</p> <p>Congressional District, if known: _____</p>		<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p>Congressional District, if known: _____</p>
<p>6. Federal Department/Agency:</p>		<p>7. Federal Program Name/Description:</p> <p>CFDA Number, if applicable: _____</p>
<p>8. Federal Action Number, if known:</p>		<p>9. Award Amount, if known:</p> <p>\$ _____</p>
<p>10. a. Name and Address of Lobbying Entity (if individual, last name, first name, M/D):</p>		<p>b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, M/D):</p>
<p>11. Amount of Payment (check all that apply):</p> <p>\$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned</p>		<p>13. Type of Payment (check all that apply):</p> <p><input type="checkbox"/> a. retainer</p> <p><input type="checkbox"/> b. one-time fee</p> <p><input type="checkbox"/> c. commission</p> <p><input type="checkbox"/> d. contingent fee</p> <p><input type="checkbox"/> e. deferred</p> <p><input type="checkbox"/> f. other; specify: _____</p>
<p>12. Form of Payment (check all that apply):</p> <p><input type="checkbox"/> a. cash</p> <p><input type="checkbox"/> b. in-kind; specify: nature _____ value _____</p>		<p>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:</p>
<p>Attach Continuation Sheet(s) SF-L11-A, if necessary:</p>		
<p>15. Continuation Sheet(s) SF-L11-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>16. Information requested through this form is withheld by 31 U.S.C. section 1152. The disclosure of lobbying activities is a material representation of fact upon which action was placed by the law which when such transaction may be made or entered into. This disclosure is required pursuant to 31 U.S.C. 1152. The information will be required to be furnished with accuracy and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>		<p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No. _____ Date: _____</p>
<p>Federal Use Only:</p>		<p>Author and how: Local Reproduction Standard Form - 111</p>

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

Attachment F:
Memorandum of Understanding

4178-13
#30-23-000071

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") serves to memorialize the current understanding between the Board of County Commissioners of Sedgwick County, Kansas ("County") and the Kansas Department for Aging and Disability Services Secretary ("KDADS") with regard to the funding, acquisition, and construction and/or improvements of what is intended to be a psychiatric hospital operated by the State of Kansas within Sedgwick County, Kansas. County and KDADS (collectively "the parties") understand and acknowledge that this MOU is not a binding agreement and is merely an expression of intent for the parties and that subsequent actions and/or agreement(s) may be required to complete the full intent expressed within this MOU.

WHEREAS, pursuant to K.S.A. 39-1601, *et seq.*, the State of Kansas operates state psychiatric hospitals in Osawatomie and Lamed;

WHEREAS, there is a need within Kansas for increased state psychiatric hospital services, for addressing serious mental health needs pertaining to care and treatment matters pursuant to K.S.A. 59-2945, *et seq.* where individuals are a danger to themselves or others;

WHEREAS, there is a need for increased competency evaluation and competency restoration services pursuant to K.S.A. 22-3301 *et seq.*, to reduce the wait times for defendants to obtain such evaluations and treatment;

WHEREAS, the COVID-19 pandemic exacerbated the already substantial mental health services needs within Kansas and also South Central Kansas, meaning that there is a need for increased capacity to close service gaps within the continuum of care;

WHEREAS, there is a particular regional need in and around Sedgwick County for services provided by the state psychiatric hospitals and the process outlined within this MOU could increase access to care and necessary services in the long term;

WHEREAS, County's 2023 Legislative Platform specifically indicates that the County supports a state psychiatric hospital with a bed capacity of at least 50 within South Central Kansas;

WHEREAS, an additional state psychiatric hospital would be beneficial for the criminal justice system and the acute, inpatient psychiatric services within Kansas; and

WHEREAS, this MOU is consistent with recommendations from the 2021 Special Committee on Kansas Mental Health Modernization and Reform, recommendations included in the FY 2023 Governor's Budget Report for a regional state psychiatric hospital and the recommendation of the Special Committee on Mental Health Beds that was established in 2022, and also comments made by legislators serving on such committee.

1. Purpose: General Overview. The purpose for this MOU is to outline an understanding between the parties as to the process for the establishment of a state psychiatric hospital (as described within K.S.A. 39-1601, *et seq.*, K.S.A. 59-2945, *et seq.*, K.S.A. 22-3301 *et seq.*, and any other applicable statutes) within Sedgwick County. Such hospital would have at least 50 beds with the potential to expand to up to 100 beds. At a minimum, 25 of the beds would be to serve acutely ill, civilly committed patients and 25 beds would be for forensic competency treatment services. The

State of Kansas, through its budgetary approvals, various agencies, and with whatever funding sources may be available and designated by the State, will provide funding to the County to acquire property and construct or modify a building to serve as a state psychiatric hospital. The County will then deed the real property and accompanying facility to the State of Kansas. The State of Kansas will then be responsible for operating and staffing the state psychiatric hospital.

2. **Funding.** The funding for this project will come from several funding sources for the County to complete actions indicated within this MOU and for the State of Kansas to operate the proposed state psychiatric hospital. While the parties recognize that additional actions may need to occur, the contemplated funding sources include, but may not necessarily be limited to:

- A. \$15,000,000.00 within the KDADS 2023 fiscal year budget specified for additional state psychiatric hospital capacity included in the FY 2023 Governor's Budget Report, and released by the State Finance Council;
- B. Approximately \$25,000,000.00 for a grant that may be awarded by SPARK Executive Committee to KDADS to expand statewide health and behavioral health services to close service gaps in the continuum of care and expand workforce, all consistent with a letter of interest submitted by Sedgwick County in 2022 and any subsequent application for the funding submitted by the County to KDADS for SPARK funding; and
- C. \$15,000,000.00 recommended by the FY 2024 Governor's Budget Recommendation for KDADS for the specified regional state psychiatric hospital capacity as contemplated in this MOU.

In total, it is estimated that the contemplated funding from the State of Kansas for the proposed state psychiatric hospital would be approximately \$40,000,000.00 from Section 2.A. and B., but this is not meant to in any way act as a limitation of funding from the State of Kansas for expenses related to the establishment of a state psychiatric hospital within Sedgwick County. The State's appropriation and transfer of funding identified within this section would be a condition precedent to the County undertaking future action contemplated within this MOU. Funds in Section 2.A. may be transferred from KDADS to the County in amounts specified within one or more agreement(s) between the parties describing the work activities planned with related payment terms developed through statements of work. It is the intent of the parties that the County shall be provided with funds to complete work contemplated within this MOU and any subsequent agreements up-front prior to incurring costs for such work. The parties understand the County would generally intend to spend any funds identified within Section 2.B. of this MOU for construction, land acquisition, or remodeling costs before other funds identified within this Section.

3. **Uses for Funding.** The County will utilize any funding provided by the State of Kansas for any and all necessary expenses to achieve the purpose of this MOU. These uses would include, but not necessarily be limited to: acquisition of real property; construction of a facility or improvements to an existing facility to meet the needs of a state psychiatric hospital as outlined in this MOU; on-call reactor expenses, contracted indirect expenses, outside legal counsel services; any necessary survey, platting, and zoning costs; and project management and oversight services; and consulting services. While in-house County staff members will have significant involvement within this matter, the parties recognize that a state psychiatric hospital is a State of Kansas statutory responsibility and function. Accordingly, it is the intent of the parties that the County would not expend any County funds solely for activities contemplated within this MOU. Instead, the County's primary contribution within this MOU would be the utilization of in-house professionals and staff members to assist with matters including but not limited to financial management, competitive bidding, purchasing, legal

advice, and overall project management. In the event the County does not utilize funds transferred by KDADS for purposes identified within this MOU, the funds shall be returned to KDADS.

4. Compliance and Reporting; Expenditure Tracking; Remaining Funding. The County will follow any applicable compliance and reporting requirements that exist pursuant to law. The County will follow all applicable ARPA compliance requirements related to any SPARK grant funding awarded to the County for the project described in the MOU or in the project defined by the County for SPARK funding. The County will specifically track all funds received and expended pursuant to activities contemplated within this MOU. Once all County functions have ended with respect to this MOU, if County retains any funding received pursuant to this MOU, to the extent permissible by law, such funding will be returned to the State of Kansas.

5. Responsibilities of the Parties

A. Subject to the limits of the funding articulated in Section 2 of this MOU, KDADS will:

- a. Transfer funds to the County to pay the costs of architectural design services performed by contractors working through contracts with Sedgwick County.
- b. Provide funding for any necessary surveys, platting, and/or zoning changes in relation to the acquisition or construction of the state hospital.
- c. Provide the County with funding for work products up-front developed within the schedule of activities for this project. Funds will be transferred to the County pursuant to one (1) or more written agreement(s) based upon specified planned activities. Such agreement(s) may include details for County to submit certification of completed milestones and/or project activities.
- d. Be responsible for the licensure, operation, staffing, and maintenance of the state psychiatric hospital after County deeds the property to the State of Kansas. The County would not be responsible for any aspects of the operational function of the state psychiatric hospital.
- e. Have final approval of design, site location, construction or renovation plans prior to: selecting a site for the psychiatric hospital; purchasing a building for renovation, or beginning site preparation; construction; and/or renovation of the psychiatric hospital.
- f. KDADS staff will provide project management services for the overall project to ensure completion of the project including opening the state psychiatric hospital for patients.
- g. KDADS shall, in all aspects, provide reasonable and timely feedback to the County regarding completion of work so that the County can ensure completion of work within the timeframe established within ARPA and in order to provide the County with the ability to reasonably accomplish any deadlines that may be applicable to the work completed within this MOU.

B. County will:

- a. Obtain an agreement or use an existing agreement to engage an architectural firm to develop preliminary design specifications for the state psychiatric hospital including standards for psychiatric hospital construction from the Centers for Medicare and Medicaid Services, accrediting agencies, input from Lamed State

Hospital and Osawatomic State Hospital program managers, and facilities and building management staff from KDADS and the State of Kansas

- b. Acquire real property where the new state psychiatric hospital will be built or the building to be renovated. It will either be a newly built building or an acquisition of an existing building that could be renovated to meet the specifications developed for a state psychiatric hospital
- c. Contract for or perform the requisite surveys, platting, zoning changes, or any other necessary acts to prepare the site for acquisition and construction/renovation that may be required as part of the acquisition and construction/renovation process.
- d. Use a competitive bidding process for contractors or firms to perform the construction of the state psychiatric hospital consistent with applicable local and state laws.
- e. Transfer the deed or any legal descriptions of the real property and facility to the State of Kansas upon substantial completion of the construction work. The transfer to the State will designate the property "as is", although to the extent possible the County intends to seek to ensure that any construction warranties would be transferable to the State of Kansas / KDADS.
- f. The County may contract for specific project management task related to the design, acquisition or construction phases of the project as deemed appropriate and agreed to by the County and KDADS.

C. KDADS and County will

- a. Develop a schedule of work products through the life of the project with assigned duties for the parties.
- b. Write a scope of work for a contractor to gather public input on the proposed design, potential site selection, and integration of a state psychiatric hospital into the Sedgwick County community and existing behavioral health and criminal justice services. If an existing state or county contract is available for this purpose, the appropriate party will engage their vendor to complete this process with the agreement of the other party.

6. Additional Understandings.

- A. During the process of designing, acquiring and constructing/renovating the state psychiatric hospital, the County will consult with KDADS to ensure the course of action would be satisfactory to KDADS. KDADS will make any final decision on the location of the proposed state hospital and the design specifications for the proposed hospital building or renovation
- B. The parties recognize that unforeseen events or issues may arise such that this process may not be a comprehensive and precise sequential summary of activities.
- C. The parties understand that future legislative changes and changes to administrative regulations will be needed to establish the state psychiatric hospital in Sedgwick County
- D. Each of the parties shall designate two (2) persons as points of contact for the other party
- E. In the event the parties determine that an amendment to this MOU is necessary, such amendment shall be in writing and agreed to by both parties.

F. The County can request funding from KDADS to fulfill a task or project objective with a statement of the work to be completed, an estimate of the total cost, a proposed payment schedule, and an accounting of the actual cost incurred.

This Memorandum of Understanding hereby reflects the understanding of these parties.

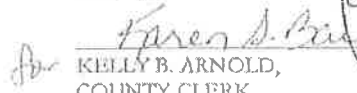
SEDGWICK COUNTY, KANSAS

KANSAS DEPARTMENT FOR AGING
AND DISABILITY SERVICES


PETER F. MEITZNER, CHAIRMAN
COMMISSIONER, FIRST DISTRICT


LAURA HOWARD
SECRETARY

ATTEST:


KELLY B. ARNOLD,
COUNTY CLERK



APPROVED AS TO FORM:


JUSTIN M. WAGGONER,
DEPUTY COUNTY COUNSELOR

10. Attachment J- Project Budget for State Psychiatric Hospital

4178-13

#30-23-000071

**PROJECT BUDGET FOR THE SOUTH CENTRAL REGIONAL HOSPITAL
BETWEEN
KANSAS DEPARTMENT FOR AGING AND DISABILITY SERVICES
AND
SEDGWICK COUNTY**

This Agreement is made and entered into this 30th day of August 2024, by and between the Kansas Department for Aging and Disability Services (“KDADS”), hereinafter referred to as KDADS, and SEDGWICK COUNTY, hereinafter referred to as COUNTY, both of, State of Kansas.

Witnesseth:

WHEREAS, the Parties entered into a Memorandum of Understanding (“MOU”) in March 2023 outlining the funding, acquisition, and construction and/or improvements of a regional state psychiatric hospital in south central Kansas (“Hospital Project”); and

WHEREAS, the MOU, Section 5.A.c, states KDADS would “Provide the County with funding for work products up-front developed within the schedule of activities for this project. Funds will be transferred to the County pursuant to one (1) or more written agreement(s) based upon specified planned activities. Such agreement(s) may include details for County to submit certification of completed milestones and/ or project activities.

WHEREAS, the MOU, Section 6.F, states that the COUNTY “can request funding from KDADS to fulfill a task or project objective with a statement of the work to be completed, an estimate of the total cost, a proposed payment schedule, and an accounting of the actual cost incurred.”

WHEREAS, the Parties also entered into an ARPA (American Rescue Plan Act) Subrecipient Agreement: SPARK Facility and Workforce Training Expansion Program in January 2024 in which COUNTY will design and construct a psychiatric hospital operated by KDADS. Funding under the grant of \$25 million ARPA funds will cover eligible real estate, pre-construction costs, construction costs, contracted services, operational costs, furniture, fixtures, and medical equipment purchases.

WHEREAS, the ARPA Subrecipient Agreement: SPARK Facility and Workforce Training Expansion Program requires that a detailed budget breakdown be provided. This breakdown shall include the separation of ARPA funds from other project funding sources, categorization of funding uses, estimated working capital advance amounts from ARPA funding, and utilization of ARPA funding within the required period of performance (until June 30, 2026).

WHEREAS, The Agreement for Architectural and Engineering Services Funding stated that “An ancillary goal of this initial Agreement is to develop a roadmap for the provision of future funds according to anticipated expenditures. Future agreements shall not require specific contractor estimates or invoices prior to the provision of funds to COUNTY, but would instead be based upon anticipated project costs agreed to by KDADS and COUNTY.”

WHEREAS, KDADS and COUNTY believe it to be in their best interests for the PROJECT BUDGET for the regional state psychiatric hospital to be agreed upon.

NOW THEREFORE, the COUNTY and KDADS agree as follows:

Section 1.

KDADS agrees to grant State General Funds appropriated to KDADS to the COUNTY for the purpose of acquiring property, hiring architects and engineers to design the regional hospital building and site plan, and hiring a general contractor to construct the hospital building. These funds are in addition to the ARPA federal funds awarded by KDADS to COUNTY. In no event shall COUNTY expend Sedgwick County funds towards the performance of this Agreement.

Section 2.

KDADS and the COUNTY agree to a schedule of work products described in Section 5.C.a of the MOU including project activities, milestones, and realized and anticipated expenditures related to the Hospital Project. The schedule of work products includes the following project phases: Preconstruction, design, Construction Administration, Construction, Land Acquisition, and County Bidding process. This schedule of activities shall fulfill some of the requirements as stated in the ARPA Subrecipient Agreement. The Working Capital Advance amounts will be contemplated and addressed in future communication between the COUNTY and KDADS, once the construction costs are further identified through the Request for Proposal process for hospital construction.

Section 3.

The initial project budget by task included in the Schedule of Work is as follows:

Project Task	Example of work products	ARPA Funds	Total Anticipated Budget
Pre-Construction			600,000
Design	Includes production of design documents and construction documents.		5,500,000
Construction Administration	Includes oversight of construction and installation equipment including MEP (Mechanical, Electrical, Plumbing) equipment, Furniture, Fixtures, Signage (equipment schedule items), Medical Equipment (contractor provided), Information Systems, Security devices and cameras, and other interior finishes provided by the contractor.		12,000,000
Construction	Costs included in the bid specifications delivered to the bidders and awarded to general contractor.	25,000,000	85,700,000
Land Acquisition	Costs included in land transfer agreements including amounts for any escrow accounts, and costs associated with surveys or inspections of the property and closing costs related to the transaction.		290,000
County Bidding Process	Costs incurred by Sedgwick County for outside legal counsel related to the general construction contractor bidding process.		25,000

	Total		104,115,000

COUNTY may request funding from KDADS for activities described in the above Schedule of Work by presenting an invoice for anticipated costs or actual costs.

Section 4.

Nothing in the performance of this Agreement shall impose any liability for claims against KDADS or the COUNTY other than claims for which liability may be imposed by the Kansas Tort Claims Act.

Section 5.

Each party to this Agreement will be responsible for its own actions in providing services under this Agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

Section 6.

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 7.

COUNTY acknowledges that KDADS has both monitoring and financial/performance reporting duties as a state agency. COUNTY shall provide reasonable assistance as necessary to support KDADS in complying with such monitoring and reporting duties. Further, COUNTY shall permit KDADS and auditors to have access to the sub-recipient's records and financial statements as necessary for the pass-through entity to meet reporting requirements.

Section 8.

By entering into this Agreement, the parties do not intend to create any obligations, express or implied, other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

Section 9.

County shall not be liable for the repayment of any funds provided by KDADS under this Agreement in the event that KDADS, the Kansas Office of Recovery, or any other responsible state entity fails to provide the funds contemplated in the MOU necessary to complete the Hospital Project.

Section 10.

Neither this Agreement nor any rights or obligations created by it shall be amended by either party without the prior written consent of the other. Any attempted amendment without such consent shall be null and void.

Section 11.

This Agreement shall be interpreted under and governed by the laws of the State of Kansas. The parties agree that any dispute or cause of action that arises in connection with this Agreement will be brought before a court of competent jurisdiction in Sedgwick County, Kansas.

Section 12.

This Agreement (and any amendments, modifications, or waivers in respect hereof) may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same document. Facsimile signatures or signatures emailed in portable document format (PDF) shall be acceptable and deemed binding on the parties hereto as if they were originals.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

SEDGWICK COUNTY, KANSAS

KANSAS DEPARTMENT FOR AGING AND
DISABILITY SERVICES



Thomas J. Stolz, County Manager

Laura Howard, Secretary

ATTEST:



Kelly B. Arnold
County Clerk



APPROVED TO FORM:



Kirk W. Sponsel
Deputy County Counselor

This Agreement (and any amendments, modifications, or waivers in respect hereof) may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same document. Facsimile signatures or signatures emailed in portable document format (PDF) shall be acceptable and deemed binding on the parties hereto as if they were originals.

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SEDGWICK COUNTY, KANSAS

KANSAS DEPARTMENT FOR AGING AND
DISABILITY SERVICES



Thomas J. Stolz, County Manager



Laura Howard, Secretary

ATTEST:



Kelly B. Arnold
County Clerk



APPROVED TO FORM:



Kirk W. Sponsel
Deputy County Counselor

11. Attachment K- MOU between KDADS and Sedgwick County FY2024



Sedgwick County...
working for you

County Manager's Office

100 N. Broadway, Suite 630, Wichita, KS 67202 - www.sedgwickcounty.org - TEL: 316-660-9393 - FAX: 316-660-9345

March 23, 2023

Scott Brunner
Deputy Secretary of Hospitals and Facilities
Kansas Department for Aging and Disability Services
503 S. Kansas Avenue
Topeka, KS 66603

Dear Mr. Brunner,

Enclosed is the original Memorandum of Understanding with Sedgwick County that was passed on March 22, 2023 by the Board of County Commissioners.

Please obtain the signature from Secretary Howard at your earliest convenience, and mail the original back to us at the address above for permanent retention in the County Clerk's Office.

Sincerely,

A handwritten signature in cursive script that reads "Lynda Baker".

Lynda Baker

4178-13

#30-23-000071

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) serves to memorialize the current understanding between the Board of County Commissioners of Sedgwick County, Kansas (“County”) and the Kansas Department for Aging and Disability Services Secretary (“KDADS”) with regard to the funding, acquisition, and construction and/or improvements of what is intended to be a psychiatric hospital operated by the State of Kansas within Sedgwick County, Kansas. County and KDADS (collectively “the parties”) understand and acknowledge that this MOU is not a binding agreement and is merely an expression of intent for the parties and that subsequent actions and/or agreement(s) may be required to complete the full intent expressed within this MOU.

WHEREAS, pursuant to K.S.A. 39-1601, *et seq.*, the State of Kansas operates state psychiatric hospitals in Osawatimie and Larned;

WHEREAS, there is a need within Kansas for increased state psychiatric hospital services, for addressing serious mental health needs pertaining to care and treatment matters pursuant to K.S.A. 59-2945, *et seq.* where individuals are a danger to themselves or others;

WHEREAS, there is a need for increased competency evaluation and competency restoration services pursuant to K.S.A. 22-3301 *et seq.*, to reduce the wait times for defendants to obtain such evaluations and treatment;

WHEREAS, the COVID-19 pandemic exacerbated the already substantial mental health services needs within Kansas and also South Central Kansas, meaning that there is a need for increased capacity to close service gaps within the continuum of care;

WHEREAS, there is a particular regional need in and around Sedgwick County for services provided by the state psychiatric hospitals and the process outlined within this MOU could increase access to care and necessary services in the long term;

WHEREAS, County’s 2023 Legislative Platform specifically indicates that the County supports a state psychiatric hospital with a bed capacity of at least 50 within South Central Kansas;

WHEREAS, an additional state psychiatric hospital would be beneficial for the criminal justice system and the acute, inpatient psychiatric services within Kansas; and

WHEREAS, this MOU is consistent with recommendations from the 2021 Special Committee on Kansas Mental Health Modernization and Reform, recommendations included in the FY 2023 Governor’s Budget Report for a regional state psychiatric hospital and the recommendation of the Special Committee on Mental Health Beds that was established in 2022, and also comments made by legislators serving on such committee.

1. **Purpose; General Overview.** The purpose for this MOU is to outline an understanding between the parties as to the process for the establishment of a state psychiatric hospital (as described within K.S.A. 39-1601, *et seq.*, K.S.A. 59-2945, *et seq.*, K.S.A. 22-3301 *et seq.*, and any other applicable statutes) within Sedgwick County. Such hospital would have at least 50 beds with the potential to expand to up to 100 beds. At a minimum, 25 of the beds would be to serve acutely ill, civilly committed patients and 25 beds would be for forensic competency treatment services. The

State of Kansas, through its budgetary approvals, various agencies, and with whatever funding sources may be available and designated by the State, will provide funding to the County to acquire property and construct or modify a building to serve as a state psychiatric hospital. The County will then deed the real property and accompanying facility to the State of Kansas. The State of Kansas will then be responsible for operating and staffing the state psychiatric hospital.

2. **Funding.** The funding for this project will come from several funding sources for the County to complete actions indicated within this MOU and for the State of Kansas to operate the proposed state psychiatric hospital. While the parties recognize that additional actions may need to occur, the contemplated funding sources include, but may not necessarily be limited to:
 - A. \$15,000,000.00 within the KDADS 2023 fiscal year budget specified for additional state psychiatric hospital capacity included in the FY 2023 Governor's Budget Report, and released by the State Finance Council;
 - B. Approximately \$25,000,000.00 for a grant that may be awarded by SPARK Executive Committee to KDADS to expand statewide health and behavioral health services to close service gaps in the continuum of care and expand workforce, all consistent with a letter of interest submitted by Sedgwick County in 2022 and any subsequent application for the funding submitted by the County to KDADS for SPARK funding; and
 - C. \$15,000,000.00 recommended by the FY 2024 Governor's Budget Recommendation for KDADS for the specified regional state psychiatric hospital capacity as contemplated in this MOU.

In total, it is estimated that the contemplated funding from the State of Kansas for the proposed state psychiatric hospital would be approximately \$40,000,000.00 from Section 2.A. and B., but this is not meant to in any way act as a limitation of funding from the State of Kansas for expenses related to the establishment of a state psychiatric hospital within Sedgwick County. The State's appropriation and transfer of funding identified within this section would be a condition precedent to the County undertaking future action contemplated within this MOU. Funds in Section 2.A. may be transferred from KDADS to the County in amounts specified within one or more agreement(s) between the parties describing the work activities planned with related payment terms developed through statements of work. It is the intent of the parties that the County shall be provided with funds to complete work contemplated within this MOU and any subsequent agreements up-front prior to incurring costs for such work. The parties understand the County would generally intend to spend any funds identified within Section 2.B. of this MOU for construction, land acquisition, or remodeling costs before other funds identified within this Section.

3. **Uses for Funding.** The County will utilize any funding provided by the State of Kansas for any and all necessary expenses to achieve the purpose of this MOU. These uses would include, but not necessarily be limited to: acquisition of real property; construction of a facility or improvements to an existing facility to meet the needs of a state psychiatric hospital as outlined in this MOU; on-call realtor expenses; contracted architect expenses; outside legal counsel services; any necessary survey, platting, and zoning costs; and project management and oversight services; and consulting services. While in-house County staff members will have significant involvement within this matter, the parties recognize that a state psychiatric hospital is a State of Kansas statutory responsibility and function. Accordingly, it is the intent of the parties that the County would not expend any County funds solely for activities completed within this MOU. Instead, the County's primary contribution within this MOU would be the utilization of in-house professionals and staff members to assist with matters including but not limited to financial management, competitive bidding, purchasing, legal

advice, and overall project management. In the event the County does not utilize funds transferred by KDADS for purposes identified within this MOU, the funds shall be returned to KDADS.

4. **Compliance and Reporting; Expenditure Tracking; Remaining Funding.** The County will follow any applicable compliance and reporting requirements that exist pursuant to law. The County will follow all applicable ARPA compliance requirements related to any SPARK grant funding awarded to the County for the project described in the MOU or in the project defined by the County for SPARK funding. The County will specifically track all funds received and expended pursuant to activities contemplated within this MOU. Once all County functions have ended with respect to this MOU, if County retains any funding received pursuant to this MOU, to the extent permissible by law, such funding will be returned to the State of Kansas.

5. **Responsibilities of the Parties**

A. **Subject to the limits of the funding articulated in Section 2 of this MOU, KDADS will:**

- a. Transfer funds to the County to pay the costs of architectural design services performed by contractors working through contracts with Sedgwick County.
- b. Provide funding for any necessary surveys, platting, and/or zoning changes in relation to the acquisition or construction of the state hospital.
- c. Provide the County with funding for work products up-front developed within the schedule of activities for this project. Funds will be transferred to the County pursuant to one (1) or more written agreement(s) based upon specified planned activities. Such agreement(s) may include details for County to submit certification of completed milestones and/or project activities.
- d. Be responsible for the licensure, operation, staffing, and maintenance of the state psychiatric hospital after County deeds the property to the State of Kansas. The County would not be responsible for any aspects of the operational function of the state psychiatric hospital.
- e. Have final approval of design, site location, construction or renovation plans prior to: selecting a site for the psychiatric hospital; purchasing a building for renovation, or beginning site preparation; construction; and/or renovation of the psychiatric hospital.
- f. KDADS staff will provide project management services for the overall project to ensure completion of the project including opening the state psychiatric hospital for patients.
- g. KDADS shall, in all aspects, provide reasonable and timely feedback to the County regarding completion of work so that the County can ensure completion of work within the timeframe established within ARPA and in order to provide the County with the ability to reasonably accomplish any deadlines that may be applicable to the work completed within this MOU.

B. **County will:**

- a. Obtain an agreement or use an existing agreement to engage an architectural firm to develop preliminary design specifications for the state psychiatric hospital including standards for psychiatric hospitals construction from the Centers for Medicare and Medicaid Service's, accrediting agencies, input from Larned State

Hospital and Osawatomie State Hospital program managers, and facilities and building management staff from KDADS and the State of Kansas

- b. Acquire real property where the new state psychiatric hospital will be built or the building to be renovated. It will either be a newly built building or an acquisition of an existing building that could be renovated to meet the specifications developed for a state psychiatric hospital.
- c. Contract for or perform the requisite surveys, platting, zoning changes, or any other necessary acts to prepare the site for acquisition and construction/renovation that may be required as part of the acquisition and construction/renovation process.
- d. Use a competitive bidding process for contractors or firms to perform the construction of the state psychiatric hospital consistent with applicable local and state laws.
- e. Transfer the deed or any legal descriptions of the real property and facility to the State of Kansas upon substantial completion of the construction work. The transfer to the State will designate the property "as is", although to the extent possible the County intends to seek to ensure that any construction warranties would be transferable to the State of Kansas / KDADS.
- f. The County may contract for specific project management task related to the design, acquisition or construction phases of the project as deemed appropriate and agreed to by the County and KDADS.

C. KDADS and County will

- a. Develop a schedule of work products through the life of the project with assigned duties for the parties.
- b. Write a scope of work for a contractor to gather public input on the proposed design, potential site selection, and integration of a state psychiatric hospital into the Sedgwick County community and existing behavioral health and criminal justice services. If an existing state or county contract is available for this purpose, the appropriate party will engage their vendor to complete this process with the agreement of the other party.

6. Additional Understandings.

- A. During the process of designing, acquiring and constructing/renovating the state psychiatric hospital, the County will consult with KDADS to ensure the course of action would be satisfactory to KDADS. KDADS will make any final decision on the location of the proposed state hospital and the design specifications for the proposed hospital building or renovation.
- B. The parties recognize that unforeseen events or issues may arise such that this process may not be a comprehensive and precise sequential summary of activities.
- C. The parties understand that future legislative changes and changes to administrative regulations will be needed to establish the state psychiatric hospital in Sedgwick County.
- D. Each of the parties shall designate two (2) liaisons as points of contact for the other party.
- E. In the event the parties determine that an amendment to this MOU is necessary, such amendment shall be in writing and agreed to by both parties.

- F. The County can request funding from KDADS to fulfill a task or project objective with a statement of the work to be completed, an estimate of the total cost, a proposed payment schedule, and an accounting of the actual cost incurred.

This Memorandum of Understanding hereby reflects the understanding of these parties.


SEDGWICK COUNTY, KANSAS


PETER F. MEITZNER, CHAIRMAN
COMMISSIONER, FIRST DISTRICT

KANSAS DEPARTMENT FOR AGING
AND DISABILITY SERVICES


LAURA HOWARD
SECRETARY

ATTEST:


KELLY B. ARNOLD,
COUNTY CLERK



APPROVED AS TO FORM:


JUSTIN M. WAGGONER,
DEPUTY COUNTY COUNSELOR

