

AGREEMENT

PREAMBLE

The purpose of the Downtown Augusta Microenterprise Center shall be to collaborate and establish a Center (the "Center") within the community served by the Downtown Development Authority of Augusta-Richmond County ("the DDA"), Augusta Technical College ("Augusta Tech"), and other Stakeholders. The Center shall provide resources, guidance, and support to entrepreneurs, individuals, and groups interested in starting and developing their own businesses.

1. Governance and Decision-Making of the Augusta Microenterprise Center: The Center shall operate under the governance of a joint committee composed of representatives from the DDA (x4), Community Stakeholders (x4), and Augusta Technical College (x3). The committee shall make decisions regarding the strategic direction, programming, and policies of the Center through consensus-based decision-making.
2. Roles and Responsibilities:
 - a. Academic Collaborators i.e. Augusta Tech and others
 - i. Coordinate in design and build of a physical space with DDA to house the Center and allocate necessary resources for its operations.
 - ii. Offer entrepreneurship courses, workshops, and training programs to students and community members.
 - iii. Support the Center in establishing relevant curricula, academic and career pathways.
 - b. DDA:
 - i. Lead the coordination and management of the Center's activities, excluding programming, events, and mentorship opportunities.
 - ii. Seek funding and grants to support the operation and growth of the Center.
 - iii. Collaborate with the providers (i.e. Augusta Tech and Stakeholders) to develop and implement programming, events, entrepreneurship-related curricula, and mentorship opportunities.
 - iv. Holds lease on 600 Broad Street with the City of Augusta for the development of Phase I - Entrepreneur Microenterprise Center.
 - c. Stakeholders:
 - i. Provide support, guidance, and expertise in their respective areas of specialization to the Center's activities.
 - ii. Aid in collaborating on and facilitating networking opportunities and mentorship programs for aspiring entrepreneurs.
 - iii. Promote the Center's initiatives to engage the broader community in entrepreneurship-related endeavors.

THIS AGREEMENT (the "Agreement") is made and entered into as of this 28th day of July, 2023, by and between the Downtown Development Authority of Augusta-Richmond County, a public body corporate and politic of the State of Georgia ("DDA") and Augusta Technical College, an institute of higher education located in Augusta, Georgia ("Augusta Tech").

WHEREAS, the DDA has received Fiscal Year 2023 Community Project Funds from the Small Business Administration ("SBA") for a downtown Augusta microenterprise center, funded by Congressionally Directed Spending and advocated for by Georgia Senator Raphael Warnock,

WHEREAS, Augusta Tech has an established Entrepreneurship academic program and has previously operated a Small Business Incubator at the institution,

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements between the parties, it is agreed as follows:

1. **Engagement:** The DDA agrees to collaborate with Augusta Tech as the primary but not exclusive academic and programming independent contractor for the downtown Augusta microenterprise center, as part of a larger ecosystem of center ideation and facilitation. The DDA will approve identified opportunities with other educational, civic, for-profit and non-profit and agencies and collaborate, in the spirit of determining appropriateness for success, at the microenterprise center.
2. **Term and Termination:** The term of this agreement shall commence on the date hereof and be up for renewal every ten (10) years. Either party may terminate this Agreement at any time by providing the other party with at least sixty (60) days prior written notice of its intent to terminate this Agreement. In the event the Agreement is terminated, grant purchased FF&E is to remain in place to afford continuity as alternate program managing entity may assume responsibilities. Either party may terminate this Agreement at any time if the other party is in default of this agreement and fails to cure such default within twenty (20) days of written notice of such default. If the DDA or Augusta Tech terminates this agreement, the DDA will have full rights to determine a new primary academic collaborator for administration of the center.
3. **Funding:** Grant monies in the amount of \$2,350,000 have been made available to the DDA by the SBA. These dollars are in a dedicated and wholly segregated account, as per federal and agency accounting standards. The DDA will retain a standard project de minimis rate of 10% for necessary indirect costs of the grant.
4. **Center Scope:** The downtown Augusta Microenterprise Center exists to serve new entrepreneurs as both an incubator and active commerce location. Phase One is located at 600 Broad Street. It features academic and programmatic elements, to be led, in part, by

Augusta Tech with supplementary assistance and guidance from the DDA and other community and project stakeholders.

5. **Center Design and Operation:** Dickinson Architects has been hired by Augusta Tech to design the microenterprise center. The DDA must approve designs before they are finalized, and any quotes or invoices will be routed to the DDA for financial reporting purposes. Dickinson will create a design build and negotiate a contract for its execution. The building must display the SBA logo and acknowledgement of support statement as per the Terms and Conditions. Augusta Tech will take responsibility for the daily operations and ongoing financial operations of the Center beyond grant funding.
6. **Microenterprise Center Governance and Management:** The DDA and Augusta Tech will work with a third party, hired by the DDA, to collaborate and create a thorough and project-specific blueprint with asset mapping for the microenterprise center. Augusta Tech will hire and finance an Executive Director to manage day-to-day operations of the center. The DDA will provide guidance as needed to ensure that appropriate expertise informs decisions and that the overall effort is compliant with funding scope.
7. **Financial and Programmatic Progress Reports:** Augusta Tech and any licensed, insured, and bonded subsidiaries hired to take part in the creation and construction of the center must submit monthly financial and programmatic progress reports to the DDA, due no more than ten (10) days after each month's end. The DDA will provide templates for both financial and programmatic reporting.
8. **Funding Disbursements:** The DDA, as grant award recipient, bears burden of fiduciary duty. DDA will manage the disbursement and reporting of funds in full accordance with SBA Terms and Conditions, with \$126,900 allocated for architectural & engineering fees, \$1,590,480 allocated for construction, and \$632,620 allocated for miscellaneous needs. ALL spending requests and receipts must be submitted to the DDA for review prior to fund disbursement. All funding must be disbursed within the SBA's allotted time period as per the Notice of Award, beginning on July 1, 2023, and ending on June 30, 2024.
9. **Additional Rules and Restrictions:** As per 18 U.S.C. 1913, no federal money used for this project may be used for lobbying. Exhibit "A" to this agreement provides additional guidelines for the U.S. Small Business Administration FY 23 Congressional Community Projects that must be followed and adhered to.
10. **Notice:** Any notices pertaining to this Agreement shall be given in writing and shall be deemed duly given when personally delivered to a party or sent by FedEx, UPS, USPS tracked overnight carrier. A notice sent by overnight carrier shall be deemed given on the day after such notice is deposited with such overnight carrier for delivery. Notice(s) shall be addressed to the appropriate party as follows:

DDA:
Downtown Development Authority of Augusta
1101 Greene Street
Augusta, GA 30901
mwoodard@augustadda.com
jack@tallpines.ltd

Augusta Tech:
Augusta Technical College
3200 Augusta Tech Drive
Augusta, GA 30906
jermaine.whirl@augustatech.edu
ilangham@augustatech.edu

11. Entire Agreement: This agreement contains the entire understanding of the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous negotiations, representations, understandings, agreements and contracts of, by or between the parties, express or implied, oral or written, with respect to the subject matter of this Agreement, all of which are fully merged herein.
12. Amendment: This Agreement may not be altered, amended, enlarged, modified, or changed in any respect except by a writing executed by both parties to this Agreement.
13. Further Assurances: Each party shall, at the request of the other party, at any time and from time to time, promptly execute and deliver, or cause to be executed and delivered, such documents and instruments and take such actions as may reasonably necessary or appropriate to carry out the provisions and intent of this agreement and any instruments delivered pursuant to this Agreement.
14. Governing Law: This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Georgia without regard to conflicts of laws principles thereof.
15. Binding Effect: This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.
16. Severability: If any term or provision contained in this agreement shall be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or in-enforceability shall not affect any other provision hereof; this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been incorporated herein; and the remainder of the terms, provisions, covenants and conditions of

this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

17. Counterparts: This Agreement may be executed via any number of counterparts by original or electronic signatures, each of which shall be deemed to be an original and all of which shall together constitute one and the same instrument. This Agreement shall be binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all the parties to this Agreement.
18. Relationship of the Parties: The relation between DDA and Augusta Tech under this agreement shall be that of independent contractors. Neither party hereto shall be considered an agent, employee, joint venture, partner or fiduciary of the other, and, except as otherwise provided herein, neither party shall have authority to act on behalf of the other party or incur any liability for or on behalf of the other party. Each party to this agreement shall indemnify the other for any liability caused solely by one party's negligence, tort, breach or other act that imposes liability. To the extent allowed by law, and without waiving the right to raise the defense of Sovereign Immunity to claims brought by third parties, each party to this agreement shall indemnify the other for any liability caused solely by one party's negligence, tort, breach or other act that imposes liability.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

DOWNTOWN DEVELOPMENT AUTHORITY OF AUGUSTA

By: Margaret T. Woodard
Name: Margaret Woodard
Title: Executive Director

AUGUSTA TECHNICAL COLLEGE

By: Jermaine Whirl
Name: Jermaine Whirl
Title: President

U.S. Small Business Administration FY 23 Congressional Community Projects

Recipient: Downtown Development Authority of Augusta

Federal Assistance Award Number: SBAHQ23I0080

Award Amount: \$2,350,000

Grants Management Officer:

Name: Phuc Nguyen

Email: Phuc.nguyen@sba.gov

Purpose: SEC. 542. For an additional amount for “Small Business Administration—Salaries and Expenses” Congressional funding has been established which shall be for initiatives related to small business development and entrepreneurship, including programmatic and construction activities, in the amounts and for the projects specified in the table that appears under the heading “Administrative Provisions—Small Business Administration” in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act): Provided, That, notwithstanding sections 13 2701.92 and 2701.93 of title 2, Code of Federal Regulations, the Administrator of the Small Business Administration may permit awards to subrecipients for initiatives funded under this section: Provided further, That none of the funds made available by this section may be transferred for any other purpose.

Project Title: Downtown Augusta Microenterprise Center

Project Summary: To create a microenterprise center to serve as both an incubator and active commerce location for new entrepreneurs.

Award Terms and Conditions

1. Standard Term - Acceptance of the Terms of an Award

By drawing or otherwise obtaining funds from the Small Business Administration (SBA), the non-federal entity acknowledges acceptance of the terms and conditions of the award and is obligated to perform in accordance with the requirements of the award.

Certification Statement: By drawing down funds, the non-federal entity certifies that proper financial management controls and accounting systems, to include personnel policies and procedures, have been established to adequately administer federal awards and funds drawdown. Non-federal entities of Small Business Administration (SBA) earmark agreement must comply with all terms and conditions of their awards, including: (a) terms and conditions included in the SBA Grants Policy effective at the time of award including the requirements of OMB grants administration regulations; (b) requirements of the authorizing statutes and implementing regulations for the program under which the award is funded; (c) applicable requirements or

limitations in appropriations acts; and (d) any requirements specific to the particular award specified in program policy and guidance.

2. Standard Term - Award Expectations

The stipulated reporting requirements as part of this award must be addressed by the project end date. Additional terms and/or conditions may be applied to this award if outstanding financial or programmatic compliance issues are identified by SBA.

3. Standard Term - Administrative and National Policy Requirements

Public policy requirements are requirements with a broader national purpose than that of the Federal sponsoring program or award that an applicant/non-federal entity must adhere to as a prerequisite to and/or condition of an award. Public policy requirements are established by statute, regulation, DOJ, and OMB memorandums, or Executive order. In some cases, they relate to general activities, such as preservation of the environment, while, in other cases they are integral to the purposes of the award-supported activities. An application funded with the release of federal funds through a grant award does not constitute or imply compliance with federal statute and regulations. Funded organizations are responsible for ensuring that their activities comply with all applicable federal regulation requirements.

4. Standard Term - Executive Pay

The Consolidated Appropriations Act, 2020 (Pub. L. 116-94) signed into law on December 20, 2019, restricts the amount of direct salary to Executive Level II of the Federal Executive Pay scale. The Executive Level II salary per E.O. 13756, was increased to \$199,300 effective January 2021.

The law limits the salary amount that may be awarded and charged to SBA assistance agreements and cooperative agreements. Award funds may not be used to pay the salary of any individual at a rate in excess of Executive Level II. This amount reflects an individual's base salary ~~and~~ of fringe and any income that an individual may be permitted to earn outside of the duties to the applicant organization. This salary limitation also applies to subawards/subcontracts under an SBA grant or cooperative agreement.

5. Standard Term - Non-federal Entity Responsibilities

- a. Be responsive to SBA requests for information and communication. Changes to Your organization's contact information, including Your Agreement Officer Representative (AOR) or other key personnel designated representatives, must be reported promptly to SBA.
- b. Cooperate with all programmatic and financial examinations and any accreditation or certification reviews conducted by SBA, its agents, or contractors. You will promptly address and act upon all findings regarding Your project made as part of any such process.
 - Provide full access to all activities supported with project funds to the general public without regard to their participation in any paid membership or subscription plan.
 - Maintain adequate staffing levels for the delivery of client services, including

replacing Key Personnel no more than 60 days after they cease their involvement with the project.

- Participate in SBA surveys and studies regarding the effectiveness and outcomes of the program/project, curriculum, types of assistance, service delivery methods, etc."

- c. Coordinate with SBA and other Agency resource partners operating within Your project service area to maximize the effectiveness of Your efforts and avoid duplication of products and services.
- d. Promote SBA programs, products, and services to clients, as appropriate.
- e. Maintain adequate, readily accessible facilities for assisting clients.
- f. Provide meaningful access to project services for clients with limited English language proficiency and/or disabilities.
- g. Submit and update information to USASpending.gov and other Federal databases, as required.

6. Standard Term - Recipient Integrity and Performance

Appendix XII to 2 CFR Part 200

i. Reporting of Matters Related to Recipient Integrity and Performance

- **Proceedings About Which You Must Report**

Submit the information required about each proceeding that:

- Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- Reached its final disposition during the most recent five-year period; and
- If one of the following:
 - A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
- Any other criminal, civil, or administrative proceeding if:

- It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

- It had a different disposition arrived at by consent or compromise with an acknowledgement of fault on your part; and

- The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

- **Reporting Frequency**

Unless specified otherwise in the Special Terms and Conditions for Your award, the following reporting timelines apply:

For multi-year performance periods, annual financial and performance reports are due thirty (30) days after each year.

Final Financial Reporting – Non-Federal Entities are required to submit at the end of the performance period (form SF-425).

Final Performance Report – The final report is due thirty (30) days after the period of performance and must be sent directly to your assigned Grants Management Officer.

Reports must be emailed to your designated Grants Management Officer:

Grants Management Officer: Phuc Nguyen

Email: OGMEarmark@sba.gov

7. Standard Term - Acknowledgement of SBA Support/Use of SBA's Logo/Publication Requirements.

It is important that Your clients and the general public are aware of the Congressional Community Program and SBA's role in this project, as well as the taxpayer funded support the Agency is providing under this Award. Therefore, You must include the following acknowledgment of support statement on all materials produced in whole or in part with Project Funds:

"Funded [in part] through a Grant with the U.S. Small Business Administration." For purposes of this requirement, the term "materials" includes, but is not limited to, press releases, brochures, pamphlets, handouts, reports, advertisements, books, curricula, websites, video or audio productions, and similar items regardless of the medium employed. The term "materials" does not include stationery or business cards and SBA's logo may not be used on such items.

Where the non-federal entity (You) use Project Funds to produce materials featuring editorial content, You must use the following alternate acknowledgment of support statement (either independently or in conjunction with the SBA logo):

"Funded in part through a Grant with the U.S. Small Business Administration. All opinions, conclusions, and/or recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the SBA."

In addition, You must display signage featuring the SBA logo at all facilities that are open to the

public and which are being used for project activities. Such signage must prominently feature the acknowledgment of support statement identified above.

Where used, the acknowledgment of support statement must be presented in a legible typeface, font size, and (where applicable) color contrast and must appear verbatim and may not be altered or replaced with substitute language. However, on materials with severe space constraints such as signs and banners, You may use “SBA” in the acknowledgment of support statement instead of “U.S. Small Business Administration.”

You may elect to use SBA’s logo on materials produced with Project Funds. You may contact the GMO in order to obtain a high-resolution copy of SBA’s logo and a copy of SBA’s Graphic and Use Guide. Where used, the SBA logo may be positioned in close proximity to Your organization’s logo or may be placed in a prominent location elsewhere in the material. However, SBA’s logo may not be placed in close proximity to any third party’s logo, or used in such a way as may imply that a relationship exists between SBA and any third party (Note: Your organization’s parent entity is not considered a third party). Additionally, in each instance where You use the SBA logo, You must also include the acknowledgment of support statement in reasonably close proximity to the logo.

Neither the SBA logo nor the acknowledgment of support statement may be used in connection with activities outside the scope of this Award. In particular, UNDER NO CIRCUMSTANCES may the SBA logo or acknowledgment of support statement appear on items used in conjunction with fundraising, lobbying, or the express or implied endorsement of any goods, service, entity, or individual. Additionally, You may not use the SBA logo on any social media sites or services without obtaining prior approval from SBA. For further guidance regarding the prior approval process, see Part III(A)(13) above.

8. Standard Term - Mandatory Disclosures

Recipients must disclose in a timely manner, in writing to the SBA awarding agency with a copy to the SBA Office of Inspector General (OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Subrecipients must disclose, in a timely manner, in writing to the prime recipient (pass through entity) and the SBA OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to the awarding agency and to the SBA OIG and OGM at the following addresses:

US Small Business Administration
Attention: Office of Grants Management
409 3rd Street SW, Suite 500
Washington, DC 20416

AND

US Small Business Administration
Office of Inspector General
409 3rd Street SW, 5th Floor
Washington, DC 20416

Failure to make required disclosures can result in any of the remedies for noncompliance, including suspension or debarment.

9. Lobbying Restrictions

Recipients are subject to the restrictions on lobbying.

18 U.S.C. § 1913, No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Member or official, at his/her request, or to Congress or such official, through the proper official channels, requests for any legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter- intelligence, intelligence, or national security activities.

Violations of this section shall constitute as a violation of 31 U.S.C. § 1352(a).

10. Drug-Free Workplace

The Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.) requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. By signing the application, the AOR agrees that the Non-federal entity will provide a drug-free workplace and will comply with the requirement to notify NIH if an employee is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. Government wide requirements for Drug- Free Workplace for Financial Assistance are found in 2 CFR part 182; SBA implementing regulations are set forth in 2 CFR part 382.400. All non-federal entities of SBA grant funds must comply with the requirements in Subpart B (or Subpart C if the non-federal entity is an individual) of part 382.

11. Non- Transferability

This Award may not be transferred or assigned (either in whole or in part) without prior written approval from SBA. Additionally, no interest in this Award may be conferred upon a third party and the Award may not be pledged as collateral or security.

12. Standard Term - Advancing Racial Equity and Support for Underserved Communities

Executive Order: Advancing Racial Equity and Support for Underserved Communities through the Federal Governments (E.O. 13985 can be found at:

<https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government>)

13. Standard Term - Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(G)), as

amended, and 2 C.F.R. PART 175

The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance provided to a private entity, without penalty to the federal government, if the recipient or subrecipient engages in certain activities related to trafficking in persons. 2 C.F.R. § 175.15(b). See <http://www.gpo.gov/fdsys/pkg/CFR-2012-title2-vol1/pdf/CFR-2012-title2-vol1-sec175-15.pdf>.

Award Term from Trafficking in persons.

a. Provisions applicable to a recipient that is a private entity.

1) You, as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not:

- a) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- b) Procure a commercial sex act during the period of time that the award is in effect; or
- c) Use forced labor in the performance of the award or subawards under the award.

2) We as the federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity:

- a) Is determined to have violated a prohibition in paragraph a.1 of this award term; or
- b) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either:
 - i. Associated with performance under this award; or
 - ii. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, "OMB Guidelines to Agencies on and Suspension (Non-procurement)."

b. Provision applicable to a non-federal entity other than a private entity. We as the federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity:

1) Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

2) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either:

- a) Associated with performance under this award; or
- b) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement)," as implemented by our agency at 2 CFR Part 1125.

c. Provisions applicable to any non-federal entity.

1) You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

2) Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

a) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)); and

b) Is in addition to all other remedies for noncompliance that are available to us under this award.

3) You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

1) "Employee" means either:

- An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
- Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2) "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3) "Private entity":

• Means any entity other than a state, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

• Includes:

A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

A for-profit organization.

4) "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

14. Standard Term - Accessibility Provisions

Non-federal entities of federal financial assistance (FFA) from SBA must administer their programs in compliance with federal civil rights law. This means that non-federal entities of SBA funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age, and in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. SBA provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency.

The SBA Office for Civil Rights also provides guidance on complying with civil rights laws enforced by SBA.

Recipients of SBA also have specific legal obligations for serving qualified individuals with disabilities. Please contact the SBA Office for Civil Rights for more information about obligations and prohibitions under federal civil rights laws at 1- 800-827-5722.

15. Standard Term - Accessibility of Facilities and Events

In accordance with the Americans With Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.) and § 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), all facilities You use to provide services to the public in connection with this project must be accessible by persons with disabilities. In addition, all notices, promotional items, brochures, publications, and media announcements informing the public of events, programs, meetings, seminars, conferences and workshops conducted pursuant to this project must include the following accessibility/accommodations notice:

Reasonable accommodations for persons with disabilities will be made if requested at least two weeks in advance. Contact [insert contact information for the person who will make the arrangements]."

16. Standard Term - Data Collection and Performance Measurement:

All non-federal entities are required to collect and report evaluation data to ensure the effectiveness and efficiency of its programs under the Government Performance and Results (GPRA) Modernization Act of 2010 (P.L. 102-62). Non-federal entities must comply with the performance goals, milestones, and expected outcomes.

17. Standard Term - Procurement of Goods and Services:

You are encouraged to follow your own procurement policies and procedures when contracting with Project Funds. Additionally, when using Project Funds to procure supplies and/or equipment, You are encouraged to purchase American-manufactured goods to the maximum extent practicable. American-manufactured goods are those products for which the cost of their component parts that were mined, produced, or manufactured in the United States exceeds 50 percent of the total cost of all their components. For further guidance regarding what constitutes an American-manufactured good (also known as a domestic end product), see 48 C.F.R. Part 25.

18. Standard Term – Recordkeeping

You must maintain complete and accurate records and supporting documentation of sufficient detail to facilitate a thorough financial, programmatic, and/or legal compliance audit or examination of this project. You must make these records available to SBA, its agents, its Office of Inspector General, and/or Federal investigators on demand and provide them with unrestricted access to review and make copies of all products, materials, and data, including those prepared or stored electronically. **Standard Term - Submitting Responses to Conditions and Reporting Requirements.** Unless otherwise identified in the special terms and conditions of award and post award requests, all responses to special terms and conditions of award and post award requests must be submitted to the Office of Grants Management (OGM).

19. Standard Term - FAIN/UEI

The Unique Entity Identifier (formerly DUNS) number means the nine-digit number established and

assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A Unique Entity Identifier number may be obtained from the D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

20. Standard Term – Whistleblower Protection

If you are a Federal employee, or employee of a contractor, subcontractor, or grantee submitting information to the SBA OIG regarding fraud waste or abuse in the SBA's programs or operations, you are probably a whistleblower. Please be aware, however that specific criteria apply to whistleblower protections afforded by law. For example, disclosures by current and former federal employees, applicants for federal employment, and employees of a federal contractor, subcontractor, or grantee have special meaning and protections.

Federal law prohibits governmental personnel from retaliating against an employee who acts as a whistleblower by reporting suspected waste, fraud or abuse to the OIG. Under the Federal prohibited personnel practices, 5 U.S.C. §2302(b)(8), employees may not "take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment" because the person has disclosed information to an OIG which he or she reasonably believes is evidence of (1) a violation of any law, rule, or regulation, or (2) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, so long as the disclosure is not specifically prohibited by law or Executive Order.

Reporting Fraud

The OIG encourages all SBA employees and lenders to be on the lookout for fraud. If you suspect fraud, please report it to the OIG immediately by contacting the OIG Hotline at 1-800-767-0385 or OIGHotline@sba.gov (link sends e-mail).

21. Standard Term – Restrictions on Certain Types of Clients

You may not utilize project resources to provide counseling services to any concern that:

- is other than small;
- is based in a foreign country;
- is engaged in any activity that is illegal under federal, state, or local law or that can reasonably be determined to support or facilitate any activity that is illegal under federal, state, or local law;
- derives more than one-third of its gross annual revenue from legal gambling activities;
- presents live performances of a prurient sexual nature or derives more than a de-minimus amount of revenue from the sale of products or services of a prurient sexual nature;
- is not organized for profit (Exception: To the extent it does not negatively impact the goals or milestones established under this Award or detract from its core purpose, You may use project resources to counsel non-profit organizations that devote a significant portion of their activities to assisting entrepreneurs).

22. Standard Term – Governing Authority/Order of Precedence

This Award is subject to the following requirements and representations, whether stated explicitly

or incorporated by reference:

1. The statutes, regulations, and policy documents cited in Blocks 1 and 14 of the Notice of Award cover page and any other relevant, subsequently enacted laws.
2. Those terms and conditions set forth below.
3. Your accepted application for this Award, including all forms and assurances, and any subsequently approved additions or modifications.

In the event of a conflict between these requirements, the Order of Precedence listed above will determine which prevails. Unless explicitly stated otherwise, all deadlines discussed in this Notice of Award will be measured in terms of calendar days. By signing Block 23 of the Notice of Award cover page, You acknowledge Your acceptance of all these requirements.

Commencement of Construction

- a) Delayed construction starts. If significant construction (as determined by SBA) is not commenced within two years of the Award date or by the date estimated for start of construction in this Award (or the expiration of any extension granted in writing by SBA), whichever is later, this Award will be automatically suspended by a written notification issued by the Grants Management Officer and may be terminated if SBA determines, after consultation with the Recipient, that construction to completion cannot reasonably be expected to proceed promptly and expeditiously.
- b) Early construction starts. The Recipient must make a written request to SBA for early construction start permission (that is, after the date of Award, but before SBA gives formal approval for construction to commence). Costs incurred under a contract are only allowable after SBA determines that the award of the contract is in compliance with all terms and conditions of the Award. If construction commences prior to SBA's determination, the Recipient proceeds at its own risk until SBA's review and concurrence.

Project Sign and Use of SBA Logo

- a) Project sign. The Recipient is responsible for constructing, erecting, and maintaining in good condition throughout the construction period a sign (or signs) in a conspicuous place at the Project site indicating that the Federal Government is participating in the Project. SBA will provide specifications for the sign and may require more than one sign if site conditions so warrant. If the SBA-recommended sign specifications conflict with State or local law, the Recipient may modify such recommended specifications so as to comply with State or local law.
- b) Use of SBA logo. With SBA's prior written permission, the Recipient may use the SBA logo to publicize the Award as well as to amplify the impact of the Award. In such cases, the SBA logo may be displayed on Award-related materials that discuss or advertise the purpose or use of the Project (e.g. websites, social media, fliers, pamphlets, brochures). To seek permission to use the SBA logo, the Recipient must contact the SBA Grants Management Officer and provide a written description of how the Recipient proposes to use the SBA logo. In general, the SBA logo may be used either alone or next to Recipient's logo. The SBA logo may not be used to endorse a third party as interpreted at SBA's sole discretion. The Recipient must not use the SBA logo in a negative or defamatory manner. SBA may rescind such permission at any time.

Efficient Administration of Project

The Recipient agrees to properly and efficiently administer, operate, and maintain the Project for its estimated useful life. If SBA determines at any time during the estimated useful life of the facility that the Project is not being properly and efficiently administered, operated, and maintained, SBA may terminate this Award (if it is still active) and/or may take appropriate enforcement action to protect the Federal Interest in the Project, including requiring the Recipient to repay the Federal Share.

Additional Requirements Related to Construction Projects.

The Recipient and any subrecipients, must, in addition to other statutory and regulatory requirements detailed in these SBA Construction standard terms and conditions and the assurances made to SBA in connection with the Award, comply and require each of its contractors and subcontractors employed in the completion of the Project to comply with all applicable Federal, State, territorial, and local laws, and in particular, the following Federal laws (and the regulations issued thereunder), executive orders, OMB circulars, OMB Uniform Guidance, and local law requirements.

The Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. §§ 3701-3708), which provides work hour standards for every laborer and mechanic employed by any contractor or subcontractor in the performance of a Federal public works project.

The National Historic Preservation Act of 1966, as amended (54 U.S.C. § 300101 et seq.), and the Advisory Council on Historic Preservation Guidelines (36 CFR part 800), which require stewardship of historic properties in projects involving Federal funds.

Preservation of Historical and Archeological Data (54 U.S.C. § 312502), which requires appropriate surveys and preservation efforts if a Federally licensed project may cause 21 irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data.

The Architectural Barriers Act of 1968, as amended (42 U.S.C. § 4151 et seq.), and the regulations issued thereunder, which prescribe standards for the design and construction of any building or facility intended to be accessible to the public or that may house handicapped employees. 6. The Uniform Relocation Assistance and Real Property.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. § 4601 et seq.), and implementing regulations issued at 49 CFR part 24 (“Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs”), which establish uniform policies for the fair and equitable treatment of persons, businesses, or farm operations affected by the acquisition, rehabilitation, or demolition of real property acquired for a project financed wholly or in part with Federal financial assistance.

The Energy Conservation and Production Act (42 U.S.C. § 6834 et seq.), which establishes energy efficiency performance standards for the construction of new residential and commercial structures undertaken with Federal financial assistance.

Executive Order 13717, “Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction”, which requires that new buildings constructed with Federal assistance comply with the earthquake-resistant design provisions of the 2015 editions of the International Building Code (IBC) or the International Residential Code (IRC), nationally recognized building codes promulgated by the International Code Council (ICC), or equivalent codes, consistent with the provisions of and to the extent required by 40 U.S.C. § 3312. 9. Compliance with Local Construction Requirements. The Recipient will comply with current local building codes, standards, and other requirements applicable to the Project.

SBA Contracting Provisions for Construction Projects the Recipient must use the “SBA Contracting Provisions for Construction Projects” as guidance in developing all construction contracts. The “SBA Contracting Provisions for Construction Projects” lists applicable SBA and other Federal requirements for construction contracts.

Property

Standards With respect to any property acquired or improved in whole or in part with Award funds, the Recipient must comply with the Property Standards set forth at 2 CFR §§ 200.310 (“Insurance coverage”) through 200.316 (“Property trust relationship”), and SBA’s regulations at 13 CFR part 314. Property acquired or improved in whole or in part by the Recipient under this Award may consist of real property; personal property, including equipment and supplies; and intangible property, such as money, notes, contractual rights, and security interests. Any property reports required under 2 CFR §§ 200.310 through 200.316, such as periodic inventories and requests for disposition instructions, must be submitted to the Grants Management Officer through the Project Officer on Form SF-428 and/or SF-429, as applicable.

Title

- a) Title to equipment, supplies, and intangible property acquired in whole or in part under this Award generally vests upon acquisition in the Recipient. The use, management and disposition of equipment, supplies, and intangible property acquired in whole or in part under this Award must be in accordance with 2 CFR §§ 200.313 (“Equipment”), 200.314 (“Supplies”), and 200.315 (“Intangible property”).
- b) Title to real property acquired in whole or in part under this Award generally vests upon acquisition in the Recipient, subject to the condition that the Recipient uses the real property for the authorized purpose of the Project. See 2 CFR § 200.311 (“Real property”).

SBA’s Interest in Award Property

- a) General - evidence of title of these SBA Construction standard terms and conditions “Recipient as Trustee”, real property, equipment, and intangible property acquired or improved under this Award must be held in trust by the Recipient as trustee for the public purposes of an Award. This trust relationship exists throughout the duration of the property’s estimated useful life, as determined by SBA, during which time SBA retains an undivided, equitable reversionary interest in the property (“Federal Interest”).
- b) Before advertising for construction bids or at such other time as SBA requires, the Recipient must furnish evidence, satisfactory in form and substance to SBA, that title to real property required for the Project (other than property of the United States and as provided in 13 CFR § 314.7(c) (“Title”)) is vested in the Recipient and that such easements, rights-of-way, State or local government occupancy or use permits, long-term leases, or other property interests or access rights required for the Project have been or will be obtained by the Recipient within an acceptable time, as determined by SBA. All liens, mortgages, other encumbrances, reservations, reversionary interests, or other restrictions on title or the Recipient’s interest in the property must be disclosed to SBA.
- c) For all Projects involving the acquisition, construction, or improvement of a building, infrastructure, or other real property, as determined by SBA, the Recipient must execute and furnish to SBA, prior to initial Award disbursement or at such other time as SBA requires, a lien, covenant, or other

statement, satisfactory to SBA in form and substance, of SBA's interest in the property acquired or improved in whole or in part with the funds made available under this Award. SBA may permit such statement to be recorded after initial Award disbursement in the event that grant funds are being used to acquire such property or for authorized costs, such as design and engineering services. The statement must specify the estimated useful life of the Project and must include the disposition, encumbrance, and the Federal Share compensation requirements, as well as any other requirements specified by SBA in its reasonable discretion.

- d) This lien, covenant, or other statement of the Federal interest must be perfected and placed of record in the real property records of the jurisdiction in which the property is located, all in accordance with applicable law. SBA may require an opinion of counsel for the Recipient to substantiate that the document was validly executed and properly recorded.
- e) Facilities in which the SBA assistance is only a small part of a larger project, as determined by SBA, may be exempted from the requirements.
- f) In extraordinary circumstances and at SBA's discretion, SBA may choose to accept another instrument to protect SBA's interest in the Project property, such as an escrow agreement or letter of credit, provided that SBA determines such instrument is adequate and a recorded statement.
- g) The terms and provisions of the relevant instrument must be satisfactory to SBA. The costs and fees for escrow services or letters of credit must be paid by the Recipient.
- h) Recording SBA's Interest in Personal Property. For all Projects involving the acquisition or improvement of significant items of equipment or other tangible personal property, including but not limited to watercraft, motor vehicles, machinery, equipment, removable fixtures, or structural components of buildings, the Recipient must execute a security interest, covenant, or other statement of SBA's reversionary interest in the personal property acceptable in form and substance to SBA, which statement must be perfected and placed of record in accordance with applicable law (usually accomplished by filing a Uniform Commercial Code Financing Statement (Form UCC-1), as provided by State law), with continuances re-filed as appropriate
- i) SBA's Interest and the estimated useful life. The Recipient acknowledges that SBA retains an undivided equitable reversionary interest in property acquired or improved in whole or in part with grant funds made available through this Award throughout the estimated useful life (as determined by SBA) of the Project, except in applicable instances set forth 2 CFR 200.

Unauthorized Use of Award Property

The Recipient agrees that if any interest in property acquired or improved in whole or in part with Award funds is disposed of, encumbered, or alienated in any manner, or no longer used for the authorized purposes of the Award during the Project's estimated useful life without SBA's written approval, SBA will be entitled

to recover the Federal Share. Examples of 25 alienation of Award property include sale or other conveyance of the Recipient's interest, leasing or mortgaging the property, or granting an option for any of the foregoing. If, during the Project's estimated useful life, the property is no longer needed for the purposes of the Award, as determined by SBA. See 2 C.F.R. §§ 200.311, 200.313.

Calculating the Federal Share

For purposes of any lien or security interest, the amount of the Federal Share is the portion of the current fair market value of any property (after deducting any actual and reasonable selling and repair expenses incurred to put the property into marketable condition) attributable to SBA's participation in the Project.

Insurance and Bonding

- a) **Insurance.** The Recipient must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided for property owned by the Recipient. Federally owned property need not be otherwise insured unless required by the Terms and Conditions of the Award. See 2 CFR § 200.310 ("Insurance coverage").
- b) **Bonding.** If the Award exceeds the simplified acquisition threshold as defined at 2 CFR § 200.1, SBA may accept the Recipient's or subrecipient's bonding policy and requirements if SBA or the pass-through entity determines that the Federal Interest is adequately protected. If not, the following minimum requirements will apply:
 - a. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
 - b. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to ensure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. See 2 CFR § 200.326 ("Bonding requirements").

Leasing Restrictions

Leasing or renting of facilities or property is prohibited unless specifically authorized by SBA. The Recipient agrees that any leasing or renting of any facilities or property involved in this Project will be subject to the following:

- a) That said lease arrangement is consistent with the authorized general and special purpose of the Award;
- b) That said lease arrangement is for adequate consideration;

- c) That said lease arrangement is consistent with applicable SBA requirements concerning but not limited to nondiscrimination and environmental compliance; and
- d) That all revenue derived from said leasing arrangement shall be subject to “Program Income” of these SBA Construction standard terms and conditions.

Eminent Domain

The Recipient will use funds solely for the authorized purpose of the Project. Pursuant to Executive Order 13406, “Protecting the Property Rights of the American People,” the Recipient agrees:

- a) Not to exercise any power of eminent domain available to the Recipient (including the commencement of eminent domain proceedings) for use in connection with the Project for the purpose of advancing the economic interests of private parties; and
- b) Not to accept title to land, easements, or other interests in land acquired by the exercise of any power of eminent domain for use in connection with the Project for such purposes. The Recipient agrees that any use of the power of eminent domain to acquire land, easements, or interests in land, whether by the Recipient or any other entity that has the power of eminent domain, in connection with the Project without the prior written consent of SBA is an unauthorized use of the Project. If the Recipient puts the Project to an unauthorized use, the Recipient must compensate SBA for the Federal Share in accordance with CFR (“Unauthorized use of property”) and (“Federal share”), as the same may be amended from time to time.

Disposal of Real Property

During the estimated useful life of the Project, if SBA and the Recipient determine that property acquired or improved in whole or in part with Award funds is no longer needed for the original purposes of this Award, SBA may, in its discretion, approve use of the property in other Federal grant programs or in programs that have purposes consistent with those authorized by the standard terms and conditions.

Reporting on Property

- a) Real Property status reports and requests for disposition. In accordance with 2 CFR § 200.330 “Reporting on real property”, the Recipient must submit reports using Form SF-429 (Real Property Status Report), including appropriate attachments, at least annually on the status of real property in which SBA retains an interest, which generally includes real property acquired or improved under the award, unless such interest extends 15 years or longer. If SBA’s interest is for a period of 15 years or longer, unless otherwise specified in a specific award condition, the Recipient must submit an annual report for the first three years of the award and thereafter submit a real property status report every five years. If the Recipient wishes to dispose of real property acquired or improved under an SBA award, the Recipient must request disposition instructions, including the submission of Form SF-429, with appropriate attachments, from the Grants Management Officer in accordance with 2 CFR 200.311(c).
- b) Tangible Personal Property status reports and requests for dispositions. The Recipient must submit periodic reports as specified in the terms of the Award using Form SF-428 (Tangible Personal Property Report), including appropriate attachments thereto, concerning tangible personal property that is Federally owned or tangible personal property in which SBA retains an interest. In addition,

if the Recipient wishes to dispose of tangible personal property acquired or improved under an SBA award, the Recipient must request disposition instructions, including the submission of Form SF-428, with appropriate attachments, from the Grants Management Officer in accordance with 2 CFR 200.313(e).

Alternative 1: To be used if the project DOES NOT appear to have any environmental consequences:
Environmental Impact

Based upon the Recipient's Technical Proposal, SBA has determined that this project does not currently require review under the National Environmental Policy Act (NEPA)(42 U.S.C. § 4321 et seq.). Subsequent modifications to the project may require SBA to reexamine this determination. Additionally, the Recipient must provide written notice to SBA immediately upon discovering that the project will affect the environment or historical or archeological sites, or have an impact upon the quality of life, the cultural context, or the customary use of a given parcel of property or geographic area. The written notice must describe the anticipated effect or impact in detail. If, as a result of the notice, SBA determines that a NEPA review of the project is necessary, no Award funds will be made available to cover the cost of those activities giving rise to the environmental impact until such time as the NEPA review has been completed.

Alternative 2: To be used if the Recipient HAS provided detailed information about the proposed construction in the Application:

Environmental Impact Provision

1. SBA has determined that an environmental review of this project is necessary under the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321 et seq. The Recipient must prepare an environmental assessment within thirty (30) days of the effective date of this Notice of Award, or as or as soon thereafter as possible. If the Recipient determines that another state or federal agency has prepared an environmental assessment, it may submit a copy of that assessment in lieu of preparing its own assessment. SBA, however, may require the submission of additional information. The environmental assessment must determine whether the proposed project would have a significant environmental impact that might necessitate preparation of an Environmental Impact Statement ("EIS"). The Recipient must submit the environmental assessment to the SBA Office of Procurement and Grants Management.
2. No construction can occur and no funds will be disbursed under the grant for construction purposes until SBA: (a) reviews the environmental assessment; (b) determines whether an is required; (c) complies with any other requirements that may exist under the NEPA and any other applicable environmental law that SBA determines in its discretion may apply; and (d) provides written notice to the recipient of its determination.
3. If an EIS is required, no funds will be disbursed under the grant unless disbursement is permitted under law and until (a) the EIS is completed; (b) SBA complies with any other requirements that may exist under law; and (c) SBA provides written notice to the recipient of its determination.

Alternative 3: To be used if the Recipient HAS NOT provided detailed information about the proposed construction in the Application:

Environmental Impact Provision

1. SBA has determined that an environmental review of this project may be necessary under the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321 et seq. The Recipient is required to prepare a detailed summary of proposed construction, with the following information:
 - a) Whether construction is taking place on previously developed or undeveloped property.
 - b) What types of properties are immediately adjacent to the project site (e.g., residential, commercial, industrial, undeveloped).
 - c) Whether construction will result in the development of new buildings or additions or expansions to existing buildings or whether construction will be limited to the renovation/rehabilitation of existing facilities.
 - d) A description of all proposed construction.
2. No funds may be used for construction until SBA notifies the Recipient whether a NEPA environmental review will not be required. If SBA determines that a NEPA environmental review is required, it will notify the Recipient. The Recipient must prepare an environmental assessment within thirty (30) days of receiving Notice from SBA, or as soon thereafter as possible. If the recipient determines that another state or federal agency has prepared an environmental assessment, it may submit a copy of that assessment in lieu of preparing its own assessment. SBA, however, may require the submission of additional information. The environmental assessment must determine whether the proposed project would have a significant environmental impact that might necessitate preparation of an Environmental Impact Statement (EIS). The Recipient must submit the environmental assessment to the SBA Office of Procurement and Grants Management.
3. No construction can occur and no funds will be disbursed under the grant for construction purposes until SBA: (a) reviews the environmental assessment; (b) determines whether an EIS is required; (c) complies with any other requirements that may exist under the NEPA and any other applicable environmental law that SBA determines in its discretion may apply; and (d) provides written notice to the recipient of its determination.
4. If an EIS is required, no funds will be disbursed under the grant unless disbursement is permitted under law and until (a) the EIS is completed; (b) SBA complies with any other requirements that may exist under law; and (c) SBA provides written notice to the recipient of its determination.

Definitions

The definitions listed below apply to all SBA Awards. Additional definitions relating to a particular SBA program may be found in the grant program regulations, Program Announcement, and/or Special Terms

and Conditions.

Earmark – Earmarks are grants that are appropriated by Congress prior to a peer review. The term "earmark" is a reference to the Congressional Record where the awards are written into legislation specifically with the grant applicant's name, activity, and dollar amounts.

- a. **Client** – an entity receiving technical assistance under this Award. A Client may be an existing small business concern, or an individual interested in owning and operating a small business concern.
- b. **Client Information** – files and records concerning a Client, as well as any information that could be used to identify, contact, or locate a Client. Does not include statistics or similar data that is not attributed to a particular Client.
- c. **Entity**, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
 - a. A governmental organization, which is a state, local government, or Indian Tribe;
 - b. A foreign public entity;
 - c. A domestic or foreign nonprofit organization;
 - d. A domestic or foreign for-profit organization; and
 - e. A Federal agency, but only as a subrecipient under an award or subaward to a nonfederal entity.
- e. **Key Personnel** – those individuals who play a crucial role in the conduct of a project. Examples include directors, managers, counselors, and instructors, but not support staff.
- f. **Program Income** – additional funds generated through the conduct of project activities. Includes, but is not limited to, income derived from service or event fees, sales of commodities, repayments of interest or principal on loans made with Project Funds, and usage or rental fees. Does not include interest earned on advances of Federal funds.
- g. **Unique entity identifier (UEI)** means the identifier required for SAM registration to uniquely identify business entities.
- h. **You** – the non-federal entity organization (recipient) for the Award.

EXHIBIT B

Augusta Technical College (ATC) shall be responsible for providing comprehensive programming to support the acceleration of new client businesses and the growth of incubated businesses within the designated office and coworking space. The programming shall include but not be limited to the following:

1. **Designated Office and Coworking Space:** ATC shall provide a designated area equipped with office infrastructure and coworking facilities for the benefit of client businesses. Staffing and support of these spaces should be provided through secure 24/7 building access, which includes handling incoming mail and packages for clients.
2. **Meeting Rooms:** ATC shall ensure the availability of hi-tech ready meeting rooms within the premises for business meetings, workshops, and events.
3. **Technology:** ATC shall provide dependable high-speed internet connectivity and necessary technological equipment and on-demand client support to facilitate the operations of the client businesses.
4. **Programming:** ATC shall curate a robust calendar of Business Accelerator Intensives, Workshops, and Events designed to foster new innovations and support small businesses, along with services for existing small-to-medium-sized enterprises. These workshops and events should be tailored to meet the specific needs of the businesses.
5. **Services:** ATC shall provide ready access to legal, financial, and business-specific research materials, counsel, and advisement, along with programs, lectures, and other services to support clients' learning and development. This shall include knowledgeable staff, as well as consultation from industry experts.
6. **Market Research and Financial Projections:** ATC staff shall assist the client businesses in conducting market research and developing financial projections to support their growth and sustainability. This assistance may include technical and practical support.
7. **Bank/Investor Access:** ATC shall facilitate access to relevant banking and investment institutions to help incubated businesses explore funding opportunities (including grants) and secure necessary financial backing.
8. **Program Evaluation, Reporting, and Improvement:** ATC shall regularly evaluate the effectiveness of the provided programming, project the target and projections, and report to the Downtown Development Authority on a quarterly basis. The report shall include the actual outcomes and achievements of the incubated businesses, as well as a plan to address any shortfalls. Based on the feedback received, ATC shall make necessary improvements and enhancements to ensure the programs meet the evolving needs of the businesses.

9. **Access to Industry Networks and Resources:** ATC shall leverage its network and resources to provide incubated businesses with access to relevant industry connections, experts, and potential partners. This includes facilitating networking events and fostering collaborations to support business growth.
10. **Mentoring and Peer Learning Opportunities:** ATC shall establish mentoring programs or facilitate peer learning sessions where experienced entrepreneurs and successful business owners can provide guidance, insights, and support to the incubated businesses.
11. **Marketing and Promotion Support:** ATC shall actively promote all programming offerings according to best business practices, along with promoting the client businesses and their achievements through various marketing channels, both within the local community and broader networks, including social media. This can include showcasing success stories, organizing demo days, and facilitating media coverage.
12. **Access to Funding Opportunities:** ATC shall actively explore and share information about funding opportunities, grants, and financial incentives available to incubated businesses. ATC shall assist businesses in preparing funding applications and connecting them with potential investors.
13. **Continued Professional Development:** ATC shall offer ongoing professional development opportunities for client businesses, including workshops, seminars, and training sessions to enhance their skills and knowledge in areas such as marketing, financial management, and business operations.

ATC shall ensure the provision of these programming services on a minimum quarterly basis. ATC shall be responsible for staffing, marketing, and promotion of the programs. Furthermore, ATC shall ensure responsiveness to the needs of the participants in an expedited manner, addressing any concerns or queries promptly.

Both parties agree to work collaboratively to achieve the objectives outlined above and shall communicate regularly to assess the effectiveness of the programming and make necessary adjustments as required.

This section of the Memorandum of Understanding represents the agreed-upon responsibilities of Augusta Technical College (ATC) in supporting the acceleration and growth of client businesses utilizing the services of the project.

Exhibit C

STATE OF GEORGIA)
)
RICHMOND COUNTY) LEASE AGREEMENT

THIS LEASE AGREEMENT, made this _____ day of _____, 2023,
by and between AUGUSTA, GEORGIA, a political subdivision of the State of Georgia,
hereinafter referred to as “Lessor” and DOWNTOWN DEVELOPMENT AUTHORITY OF
AUGUSTA (“DDA”), hereinafter referred to as “Lessee”;

WITNESSETH:

1. Premises: The Lessor, for and in consideration of the rents, covenants, agreements, and stipulations hereinafter set forth, to be paid, kept and performed by the Lessee, does hereby lease unto the said Lessee, and said Lessee hereby agrees to lease and take upon the terms and conditions which hereinafter appear, the following property located at 600 Broad Street, Augusta, Georgia, to wit: approximately 13,168 square feet of office space, Parcel No. 0471304000.
2. Term: The term of this Lease shall begin on the _____ day of _____, 2023, and shall end on the 31st day of December, 2033, at midnight, unless sooner terminated by either Lessor or Lessee as herein provided. At the expiration of the initial term, Lessee shall have the option to renew for another ten year term.
3. Rental: Lessee shall pay to Lessor during the term of this Lease a yearly rental payment in the amount of \$1.00 payable in advance on the first day of the Lease term.
4. Use of Premises: The Premises shall be used for a Downtown Augusta Microenterprise Center funded and in compliance with the Small Business

Exhibit C

Administration ("SBA") guidelines. It shall not be used for any other purpose without the advance written consent of Lessor. The Premises shall not be used for any illegal purpose, in any manner that creates a nuisance or trespass, or in any manner so as to invalidate the insurance or increase the rate of insurance on the Premises.

5. Ownership: The premises shall remain the property of the Lessor throughout the term of the lease.

6. Destruction of or Damage to Premises: If the Premises are totally destroyed by storm, fire, flood, lightning, earthquake or other casualty, this Lease shall terminate as of the date of such destruction.

7. Assignment and Subletting: Lessee may not sublease their rights or obligations under this lease. Lessee may, however, at its discretion permit Augusta Technical College or other academic collaborators to manage the day-to-day operations of the Downtown Augusta Microenterprise Center.

8. Signs: Any and all signs placed on the Premises by Lessee with the consent of the Lessor shall be maintained in compliance with rules and regulations governing such signs and the Lessee shall be responsible to Lessor for any damage caused by installation, use, or maintenance of said signs, and Lessee agrees upon removal of said signs to repair all damages incident to such removal. SBA signage and logos shall be permitted and displayed as required by the SBA.

9. Repairs, Alterations and Additions: Any and all repairs, alterations and additions made to the Premises hereby leased by the Lessee, shall be and remain a part of said Premises hereby leased by the Lessee, and shall be surrendered to the Lessor by the

Exhibit C

Lessee at the expiration of the term of this Lease. Any alterations or additions to the Premises and any repairs, which may affect the physical appearance of the Premises, shall not be made without the advance written approval of the Lessor with such approval being timely and reasonable. Any and all repairs, alterations and additions to the Premises shall be performed in a good and workmanlike manner using appropriate historic or new materials and equipment and in compliance with all safety codes and regulations. In the event that any repairs, additions, alterations or improvements are made by the Lessee after obtaining the written consent of the Lessor through a contractor, the Lessee agrees that it will closely supervise such work and see that all laborers and materialmen are promptly paid so that no lien will accrue or be filed against the Premises; and in the event that the Lessee hires laborers and/or purchases material itself for the improvement of the Premises, it will promptly pay all charges for such labor and materials when the same become due so that no liens will accrue or be filed against the Premises and no claim can be asserted against Lessor for such payment. Lessor shall have the right to call upon the Lessee for a statement or other information concerning the payment of any contractor, laborer and/or materialman who may have furnished labor or materials for the improvement on the Premises and Lessee covenants and agrees that it will immediately give full information in regard to all such to the Lessor upon demand. Lessee, however, shall have the right to remove Lessee's personal property in the nature of trade and/or business fixtures from the Premises at the expiration of this Lease, but Lessee shall, at its own expense, repair any damage to the Premises which may result from the removal therefrom of any such personal property of Lessee. Nothing in this paragraph or in this

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Lease shall be constructed to authorize the Lessee to remove from the Premises any heating or air conditioning equipment, any electric wiring, electric fixtures, switches, duct-work, pipes, plumbing fixtures, ceiling fans, or any similar materials or equipment which may have been installed by Lessee. Said materials shall become the property of Lessor upon the termination of this Lease, but shall also remain part and parcel of the premises upon the execution of the transfer of the property.

10. Utilities, Maintenance, and Insurance: Upon the execution of this lease, Lessee shall be responsible for any and all utilities, maintenance costs, and insurances through the remainder of the Lease. Lessee may delegate these costs to the operator of the Downtown Augusta Microenterprise Center, but the Lessee is ultimately responsible.

11. No Estate in Land: This contract shall create the relationship of Lessor and Lessee between the parties hereto and no estate shall pass out of Lessor during the term of the lease.

12. Termination: Upon failure of the Lessee to fulfill any of its obligations contained in this Lease, the Lessor shall send the Lessee written notice of such default. The Lessee shall have thirty (30) days from receipt of such written notice to cure the default described in the notice. Should the Lessee fail to cure the default within the thirty (30) day period, the Lessor shall have the option to terminate this Lease and, upon such termination, the Lessee shall immediately surrender possession of the Premises back to the Lessor.

13. Holding Over and Extension: At the expiration of this lease, Lessor shall offer Lessee a Ten Year extension, provided that the Downtown Augusta Microenterprise

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Center truly does serve the public interest in its temporary stewardship of this government owned property. If Lessee remains in possession of Premises after expiration of the term without Lessor's acquiescence and without any express agreement of parties, Lessee shall be a tenant at will at the market rental rate calculated at the end of this Lease; and there shall be no renewal of this Lease by operation of law.

14. Exculpation and Indemnification: The Premises are being leased to Lessee "AS IS", and Lessee accepts said Premises in its present condition and acknowledges that it has inspected the same and found the Premises to be suitable for its intended use. If any repairs to the improvements located on the premises covered by this Lease are required during the term of this Lease, the cost of same shall be paid by Lessee. It is an express condition of this Lease Agreement that, except when caused solely by its negligence, Lessor, its officers, agents, and employees, shall be free from any and all claims, debts, demands, liabilities, or causes of action of every kind or character, whether in law or in equity, by reason of any death, injury, or damage to any person or persons or damage or destruction of property or loss of use thereof, whether it be the person or property of Lessee, its invitees, licensees, agents, or employees, or any third persons, from any cause or causes whatsoever arising from any event or occurrence in or upon the Premises or any part thereof or otherwise arising from Lessee operations under and indemnify and save harmless the Lessor, its officers, agents, and employees, against and from any and all such claims, demands, debts, liabilities, and causes of action (other than those caused solely by Lessor's negligence) including reasonable attorney's fees and costs to be incurred by Lessor in defending same.

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Lessee specifically agrees that its operations shall be conducted in compliance with all federal, state and local environmental laws, rules and regulations and agrees to indemnify and hold harmless Lessor and including without limitation, members of the Augusta Georgia Commission harmless from and against all liabilities, losses, suits, claims, demands, judgments, fines, damages, costs and expenses (including all costs for investigation and defense thereof, including but not limited to court costs, expert fees and reasonable attorneys' fees) which may be incurred by, charged to or recovered from the foregoing (i) by reason or on account of damages to or destruction of the property of Lessor, or any property of , injury to or death of any person, resulting from or arising out of Lessee's use of the premises (except when such damages, destruction, injuries or death arise solely by reason of Lessor's negligence), or (ii) arising out of the failure of Lessee to keep, observe or perform any of the agreements or conditions of this Agreement. Lessee will refer to Lessor promptly upon notice thereof, any claim made or suit instituted against it which, in any way, affects Lessor or its insurer, and either Lessee shall defend or compromise same following notice from Lessor, then Lessor shall have the right to compromise and defend the same to the extent of its interests, with all cost to be borne by Lessor.

15. Rights Cumulative: All rights, powers and privileges conferred hereunder upon Lessor shall be cumulative but not restrictive to those given by law.

16. Service of Notice: Any notice, demand, request, approval, consent, or other communication (hereinafter referred to as "notice"), which Lessor or Lessee may be required to permit to give to each other shall be in writing and shall be mailed in an official United States Post Office, certified or registered mail, return receipt requested, with adequate postage prepaid, to the other party at the address as each party as

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designated in this Lease or shall have changed by proper notice in writing to the other.

Such addresses are as follows:

<u>Lessor:</u>	Augusta, Georgia Office of the Mayor 535 Telfair Street, Suite 200 Augusta, GA 30901
<u>With Copy to:</u>	General Counsel Augusta Law Department 535 Telfair Street, Building 3000 Augusta, GA 30901
<u>Lessee:</u>	Executive Director DDA 1101 Greene Street Augusta, GA 30901 mwoodard@augustadda.com jack@tallpines.ltd
<u>With Copy to:</u>	James S. Murray Turner Padget 209 7 th Street, 3 rd Floor Augusta, GA 30901

If notice is not an answer or reply to a previous notice from the other party, the time of rendition of such shall be the date when the receipt is signed, refused or returned unclaimed. If the notice is an answer or reply to a previous notice from the other party, the time of rendition of such shall be the date postmarked by the United States Postal Service. In the event of a postal strike or other interference with the regular delivery of mail, notices may be served in person or by telegram in lieu of certified or registered mail, but shall be effective upon receipt.

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17. Waivers of Rights: No failure of Lessor to exercise any power given it hereunder or to insist upon strict compliance by Lessee with any of its obligations hereunder and no custom or practice of the Lessor at variance with the terms hereof shall constitute a waiver of Lessor's right to demand strict compliance with terms hereof.

18. Time of Essence: Time is of the essence of this Agreement.

19. Inspection by Lessor: Lessor, its authorized officers, employees, agents or representatives shall have the right to enter upon the premises to make inspections during regular business hours when a representative of the Lessee is present, or at any time in case of emergency and/or to determine whether Lessee has complied with and its complying with the terms and conditions of this agreement; provided, however, that said inspection shall in no event unduly disrupt or interfere with the operation of the Lessee.

20. Taxes: Lessee shall pay all personal property taxes legally assessed against its equipment, furniture or other personal property located on the Premises.

21. Insurance: Lessee hereby agrees to maintain at all times, at Lessee's expense, the following insurance coverage:

- a. Comprehensive General Liability: Lessee shall procure and shall maintain during the life of the Lease, such Comprehensive General Liability and Broad Form Property Damage Insurance as shall protect Lessee and any subcontractor performing Work covered by this Lease from claims for damages for bodily injury, including accidental death, as well as from claims for property damages, which may arise from operations under the Lease, whether such operations are by the Lessee or by any subcontractor

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or by anyone directly or indirectly employed by either of them. The amount of insurance shall not be less than the following:

<u>General Aggregate</u>	<u>\$2,000,000.00</u>
<u>Products Comp/Ops Aggregate</u>	<u>\$2,000,000.00</u>
<u>Personal and Advertising Injury</u>	<u>\$1,000,000.00</u>
<u>Each Occurrence</u>	<u>\$1,000,000.00</u>
<u>Fire Damage (Any one fire)</u>	<u>\$50,000.00</u>
<u>Medical Expenses (Any one person)</u>	<u>\$5,000.00</u>

b.

- b. Certificates of Insurance: Certificates acceptable to the Lessor shall be attached to the signed Lease Documents when they are transmitted to the Lessor for execution. The Lessor shall be an additional named insured on all insurance certificates.

24. Open Records: The Lessee acknowledges that all records relating to this Agreement and the services to be provided under this Agreement may be a public record subject to Georgia's Open Records Act. (O.C.G.A. § 50-18-70, et seq.). Lessee shall cooperate fully in responding to such request and making all records, not exempt, available for in section and copying as provided by law. Lessee shall notify Lessor immediately of any request made under the Open Records Act and shall furnish Lessor with a copy of the request and the response to such request.

25. Governing Law: This Agreement shall be governed and interpreted by the laws of the State of Georgia and rules of the SBA.

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26. Venue: All claims, disputes and other matters in question between the Lessor and the Lessee arising out of or relating to the Agreement, or the breach thereof, shall be decided in the Superior Court of Richmond County, Georgia. The Lessee, by executing this Agreement, specifically consents to venue in Richmond County and waives any right to contest the venue in the Superior Court of Richmond County, Georgia.

27. Entire Agreement: This Lease contains the entire agreement of the parties and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. No failure of either party to exercise any power given it hereunder, or to insist upon strict compliance by either party of any obligations hereunder and no custom or practice of the parties at variance with the terms hereof. This Agreement may only be amended by writing signed by both parties.

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

AUGUSTA, GEORGIA

DOWNTOWN DEVELOPMENT
AUTHORITY OF AUGUSTA

Lessor

Lessee

By: _____

Hon. Garnett L. Johnson, Mayor

By: _____

Margaret Woodard, Executive Director

Attest: _____

Lena J. Bonner, Clerk

Sworn to and subscribed before me this ____

day of _____, 2023.

Notary Public