

STATE OF ALABAMA        )  
COUNTY OF BALDWIN     )

**RESOLUTION #2023-135  
OF THE  
BALDWIN COUNTY COMMISSION**

**A RESOLUTION TO APPROVE THE USE OF ARPA FUNDS FOR CITY OF LOXLEY  
WATER CAPACITY IMPROVEMENTS PROJECT**

**WHEREAS**, Baldwin County, Alabama, (the "County") has received American Rescue Plan Act State and Local Fiscal Recovery Funds ("ARPA funds") and is charged with ensuring that such funds are expended in accordance with state and federal law; and

**WHEREAS**, ARPA funds may be used for necessary investments in water and sewer infrastructure ("eligible water and sewer ARPA infrastructure projects"); and

**WHEREAS**, pursuant to 603(c)(3) of the ARPA, PL 117-2, March 11, 2021, 135 Stat 4, the County may transfer ARPA funds to municipalities, water and sewer authorities, and other public third-party providers ("third-party providers") in order to make these necessary investments; and

**WHEREAS**, the County has identified, with assistance from an independent consultant, an eligible ARPA infrastructure project to serve the County's citizens, to wit: the addition of a groundwater production well project in Loxley Alabama (the "Project"); and

**WHEREAS**, the County desires to enter into an agreement with the City of Loxley ("City"), a municipality, to carry out the ARPA infrastructure project for a public purpose; and

**WHEREAS**, the Baldwin County Commission (the "Commission") has determined that appropriating ARPA funds through a subrecipient agreement with the City; to make necessary investments in water and sewer infrastructure is a necessary, eligible, and reasonable use of these funds; and

**WHEREAS**, the Commission has reviewed the proposed agreement with the City attached to this Resolution (the "Agreement"), and desires to enter into the Agreement and to formally appropriate funding for the Project upon execution of the Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION AS FOLLOWS:**

1) The County hereby makes a one-time allocation of up to \$750,000 of its ARPA funds to be awarded to and used by the City of Loxley for the cost of the Project, to add capacity to the City's water system through the installation of a new groundwater production well capable of producing approximately 1,000 gallons per minute.


2) The Commission Chair is hereby authorized to execute the Agreement on behalf of the County.

3) Notwithstanding the provisions of this Resolution to the contrary, expenditure of the funds for the purposes described herein for costs associated with the project shall be contingent on compliance with applicable state and federal laws related to competitive procurement of goods and services.

4) The expenditure of ARPA funds for the purposes described herein shall be further contingent on the continued appropriation and availability of ARPA funds for this purpose and in no event shall be used for any expenses not obligated by December 31, 2024, and expended by December 31, 2026.

**IN WITNESS WHEREOF**, the Baldwin County Commission has caused this Resolution to be executed in its name and on its behalf by its Chairman on the 5<sup>th</sup> day of July, 2023.



  
\_\_\_\_\_  
Charles F. Gruber, Chairman  
Baldwin County Commission

  
\_\_\_\_\_  
Roger H. Rendleman  
County Administrator

**AGREEMENT  
BALDWIN COUNTY – CITY OF LOXLEY WATER CAPACITY IMPROVEMENTS**

<b>Entity Name</b> CITY OF LOXLEY		<b>Unique Entity Identifier</b> [REDACTED]	<b>Project Number for This Agreement</b> 01003-513-230606-0037
<b>Entity Address</b> 1089 S, Hickory Street Loxley, AL 36551		<b>Entity Point of Contact</b> Richard Teal, Mayor	<b>Point of Contact Email Address</b> mayor@cityofloxley.com
<b>County Federal Award Identification Number (FAIN)</b> [REDACTED]	<b>Federal Award Date</b> May 20, 2021	<b>Period of Performance Start and End Date</b> 7/5/2023 – 8/31/2024	<b>Initial Budget Period Start and End Date</b> 7/5/2023 – 9/30/2023
<b>Amount of Federal Funds Obligated to the agency by this agreement</b> \$750,000.00	<b>Total Amount of Federal Funds Obligated to the Entity</b> \$6,547,832	<b>Total Amount of the Federal Award Committed to the entity by the County</b> \$750,000.00	
<b>Federal Award Project Description:</b> This water source infrastructure project, eligible under SLFRF to support drinking water source 5.13, is for the construction of a new approximately 1,000 gpm groundwater production well.			
<b>Federal Awarding Agency:</b> DEPARTMENT OF THE TREASURY	<b>Pass-Through Entity:</b> BALDWIN COUNTY	<b>Awarding Official Name and Contact Information:</b> Roger H. Rendleman, County Administrator Baldwin County Commission 312 Courthouse Square, Suite 17 Bay Minette, Alabama 36507	
<b>Assistance Listing CFDA Number and Name</b> 21.027 - CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS			<b>Identification of Whether the Award is for Research and Development</b> NO
<b>Indirect Cost Rate for the Federal Award</b>  N/A	<b>Award Payment Method</b>  REIMBURSEMENT	<b>What is the entity's status?</b>  SUBRECIPIENT	<b>Type of Contract</b>  GRANT: REIMBURSEABLE
<b>Fill out Next Section only for Subrecipients or Beneficiaries receiving over \$50,000</b>			
<b>Subaward Number</b> ARPA-0018	<b>In the Entity's Preceding Fiscal Year, did the Entity receive 80% of its annual gross revenue from federal funds?</b>  NO		<b>In the Entity's Preceding Fiscal Year, did the Entity receive \$25M of its annual gross revenue from federal funds?</b>  NO
<b>SAM.gov Registered?</b> YES			

If the answer to these questions is "yes," is total compensation for entity's 5 highest paid executives listed on SAM.gov? Choose an item.  
If not, provide the name and the total compensation below.

**Fill out Next Section only for Water/Sewer Projects**

<b>Expenditure Category (EC)</b> EC 5.13	<b>Project Status</b> Design
<b>Projected/Actual Construction Start Date</b> Projected September 2023	<b>Projected/Actual Initiation of Operations Date</b> Projected June 2024
<b>Location Type</b> 12648 Jenkins Pit Rd Spanish Fort, AL 36527	<b>Location Details</b>  Parcel # 33-04-19-0-000-001.164  PPIN: 356604
<b>NDPES Permit Number</b> N/A	<b>Public Water System ID Number</b> (Drinking Water State Revolving Fund Projects Only)  AL0000048
<b>Median Household Income of Service Area</b> \$ 81,525	<b>Lowest Quintile Income of Service Area</b> \$ 24,403

**SUBRECIPIENT AGREEMENT**

**BETWEEN  
BALDWIN COUNTY, ALABAMA  
AND  
CITY OF LOXLEY  
FOR**

**American Rescue Plan Act Subrecipient Grant Funding  
for Qualifying Water/Sewer Infrastructure Projects**

THIS AGREEMENT (herein called the "Agreement") entered this 5th day of July 2023, by and between Baldwin County, Alabama (herein called the "County") and the City of Loxley (herein called the "Subrecipient"), a municipality, SAM.gov Unique ID No. [REDACTED]; and

WHEREAS, the County has received a Coronavirus State and Local Fiscal Recovery Fund ("SLFRF") grant under the American Rescue Plan Act ("ARPA funds") from the U.S. Department of the Treasury ("Treasury") on May 20, 2021; and

WHEREAS, the County may utilize ARPA funds to municipalities to facilitate water and sewer infrastructure projects; and

WHEREAS, consistent with Alabama Code (1975) §11-1-10, the County may provide funds to a municipality if deemed in the public interest by the County Commission to do so for the purposes of any beneficial development of the municipality;

WHEREAS, the County has made a determination that this is a reasonable, appropriate, and lawful expenditure as the project serves a public purpose benefiting a significant portion of the community; and

WHEREAS, the County wishes to engage the Subrecipient to assist the County in utilizing such funds.

NOW, THEREFORE, it is agreed between the parties hereto that:

**I. SCOPE OF SERVICES**

**A. Scope of Work**

The Subrecipient will be responsible for administering activities of an infrastructure grant set forth in Attachment A in a manner satisfactory to the County and consistent with any standards required as a condition of providing these funds. Attachment A shall include a full description of the project including schedule milestones, project budget, and project staffing.

**B. Compliance**

All activities funded with ARPA funds must comply with any rules and regulations the County is required to comply with as provided by Treasury. Subrecipient certifies that the activities carried out under this Agreement will meet the ARPA requirements.

C. Levels of Accomplishment – Goals and Performance Measures

This water infrastructure project is to construct a new approximately 1,000 gpm groundwater production well. The new well construction will include the installation of approximately 350 vertical feet of 12-inch inner casing and approximately 600 vertical feet of 20-inch outer casing. The project will also include well pumping equipment and appurtenances along with site fencing, driveway improvements, and other required site work.

D. Period of Performance and Budget Period

Services of the Subrecipient shall commence on July 5th, 2023, and are expected to be complete on August 31, 2024. The terms of this Agreement and the provisions herein shall be extended to cover any additional time-period during which the Subrecipient remains responsible for carrying out the approved activities. At a minimum, all activities must comply with the period of performance as outlined by Treasury including, but not limited to:

- All funds obligated by December 31, 2024;
- All funds spent by December 31, 2026;
- Project costs incurred prior to March 3, 2021, are ineligible;
- For projects started prior to March 3, 2021, project costs are eligible if costs were incurred after March 3, 2021.

The budget periods associated with these projects are:

- July 5<sup>th</sup>, 2023, until September 30, 2023, and
- October 1, 2023, until August 31, 2024.

E. Staffing

Subrecipient shall ensure adequate and appropriate staffing as identified in Attachment A are allocated to each activity. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. Any changes in the key personnel assigned or their general responsibilities under this project are subject to the prior approval of the County.

F. Performance Monitoring

The County will monitor the performance of the Subrecipient against goals and performance standards as provided in this Agreement. The County's Project Monitor is:

Frank Lundy, P.E., Operations Manager  
Highway Department  
Central Annex II  
22070 Highway 59

Robertsdale, Alabama 36567  
flundy@baldwincountyal.gov

Substandard performance as determined by the County will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the County, Agreement suspension or termination procedures will be initiated.

At a minimum, monitoring will include the following:

1. The Subrecipient must submit to the County evidence that acceptable procurement processes under both the Public Works Law, codified as Title 39 of the Alabama Code (1975), and federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, codified as 2 C.F.R. Part 200, have been followed for County review prior to entering contracts where ARPA funds expected to be utilized to reimburse the Subrecipient.
2. Once per month during the period of performance, the Subrecipient will provide a status update in writing to the Project Monitor as to the progress of the project, as to the progress of the project, including a description of the status of procurement efforts, anticipated milestones, and once in the construction phase, completion percentage as certified by a licensed architect/engineer. Whenever practical, this update should coincide with reimburse requests pursuant to Section III of this Agreement. It is understood that this obligation is ongoing until the project is completed, irrespective of whether the initial cap as defined in Section III has been reached.
3. The Subrecipient must inform the County's Project Monitor immediately upon discovery of all issues or potential delays in the project, as well as a plan to mitigate any concerns.
4. Occasional site visits by the County's Project Monitor will be accommodated by the Subrecipient with twenty-four hour notice.
5. Subrecipient shall submit a monitoring questionnaire in the format prescribed by the County by December 31, 2023. A final monitoring questionnaire shall be submitted no later than May 31, 2024. These monitoring questionnaires will be used by the County to complete formal monitoring reports. The County's Project Monitor reserves the right to increase the frequency of formal monitoring as set forth in this subsection based upon the timeliness of submission of progress reports pursuant to this Agreement and/or delays in project administration.

**II. BUDGET**

Construction with Contingencies	\$962,700
Design/Engineering/Project Management	\$191,143
Other	\$18,564

Total Project Cost:

\$1,172,407

**Total Cost Covered by this Agreement**

**\$750,000**

No indirect costs will be charged to this Agreement. In addition, the County may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the County. Any amendments to the budget must be approved in writing by both the County and the Subrecipient.

**III. PAYMENT**

County will reimburse Subrecipient up to \$750,000.00 in costs actually incurred by the Subrecipient to support the construction of the project with contingencies, "Construction with Contingencies," in accordance with Attachment A hereto for Scope of Services and Schedule of Activities, provided there has been submission of properly supported invoices to the County and subject to due diligence and policies and procedures of the County. All other costs shall be covered by the Subrecipient. For the avoidance of doubt, design and engineering costs are not included in the scope of this Agreement and are to be covered by the Subrecipient. Payments will also be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in 2 C.F.R. Part and the 202 OMB Compliance Supplement Part 3.

Payments up to \$712,500.00 ("initial cap") will be made upon submission Partial Payment Request(s), utilizing the Reimbursement Request Form provided herein as Attachment B, which must be supported by documentation that the service was properly procured, paid invoices, a certification by a licensed engineer/architect on behalf of the Subrecipient as to percentage of project completed, and submission of timely progress reports and monitoring questionnaires as provided in Section I(F). Partial Payment Requests shall be sent no more than monthly.

Partial Payment Requests should reflect only the County's proportionate share for the construction of the project. Based on the estimated construction budget for this project, the County's share of the contractor's monthly paid pay applications will be 77.91% (\$750,000/\$962,700). By way of example, the Subrecipient's pay request for a 10% complete project should be supported with an invoice showing payment to the contractor(s) of \$96,270 and should request reimbursement of \$75,000 from the County. Reimbursement pursuant to Partial Payment Requests will continue until the initial cap is reached.

When the project has been completed, a final Reimbursement Request Form (Attachment B) for the project shall be sent to the County in the amount of the balance (\$750,000 less the amount previously requested) along with documentation showing a certification of satisfactory completion of the project, payment by the Subrecipient of any outstanding invoices relating thereto, and submission of any outstanding progress reports or monitoring questionnaires as required by Section I(F). This final request should be submitted only after notice of completion has been published pursuant to Alabama Code 1975 § 39-1-1.

It is expressly agreed and understood that the total amount to be paid by the County under this Agreement shall not exceed \$750,000 and further understood that Subrecipient is responsible for



any other remaining costs associated with this project including, specifically, design and engineering costs.

**IV. NOTICES**

Notices required by this Agreement shall be in writing and delivered via certified mail (postage prepaid). Any notice delivered or sent as aforesaid shall be effective on the date of delivery. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written amendment to this Agreement.

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

For the County	For the Subrecipient
Roger H. Rendleman County Administrator Baldwin County Commission 312 Courthouse Square, Suite 17 Bay Minette, Alabama 36507 roger.rendleman@baldwincountyal.gov	Richard Teal, Mayor City of Loxley 1089 S. Hickory Street Loxley, Alabama 36551 mayor@cityofloxley.com

**V. GENERAL CONDITIONS**

A. General Compliance

The Subrecipient agrees to comply with the requirements of 2 C.F.R. Part 200 and the 202 OMB Compliance Supplement Part 3. The Subrecipient also agrees to comply with all other applicable federal, state, and local laws, regulations, and policies governing the funds provided under this Agreement. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. Immigration Law

Section 31-13-1, et seq., of the Code of Alabama 1975 imposes conditions on the award of County contracts. Firms must agree to fully comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. Architects and engineers should review and adhere to these guidelines as appropriate to their project type.

C. Boycott Certificate.

Section 41-16-5 of the Code of Alabama 1975 imposes conditions on the award of County contracts. The firm must certify that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

D. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement.

E. Hold Harmless

The Subrecipient shall hold harmless, defend, and indemnify the County, its Commissioners, departments, department heads, employees and agents (collectively referred to in this section as "County") from any and all claims, demands, actions, suits, charges, including the County's attorney fees, and judgments whatsoever that relate to or arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement or the Subrecipient's failure to comply with federal, state or local law. This indemnification provision shall survive the expiration or termination of this Agreement. Nothing contained herein shall be construed to limit or modify the laws of the State of Alabama as they same may apply to the County regarding any immunity, absolute or qualified, or limitations of liability to which the County is otherwise entitled at law.

F. Insurance & Bonding

Prior to performing services hereunder, the Subrecipient shall provide the County with an insurance certificate evidencing that Subrecipient has in effect, throughout the term of this Agreement, comprehensive general liability coverage in a minimum amount of one million dollars for both bodily injury liability and property damage liability for each occurrence and naming the County as additional insured; and workers' compensation insurance in the amounts required by Alabama statute.

G. Liability

The Subrecipient agrees to repay to County any and all ARPA funds provided to the Subrecipient by the County, including interest at eighteen percent (18%) interest which County has determined that its agents or assigns have caused to have been expended in violation of this Agreement and/or any federal, state, or local laws or policies governing the use of ARPA funds. This provision shall be in addition to, and shall not be deemed to waive, any rights or remedies of the County under the law.

H. Amendments

The County or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the County's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release either the County or Subrecipient from its obligations under this Agreement.

The County may, in its discretion, amend this Agreement to conform with federal, state, or local governmental guidelines, policies, and available funding amounts, or for other reasons. Such modifications will be incorporated only by written amendment signed by both County and Subrecipient.

I. Suspension or Termination

The County may suspend or terminate this Agreement if the Subrecipient materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

1. Failure to comply with any of the rules, regulations, or provisions referred to herein, or such statutes, regulations, and ARPA guidelines, policies, or directives as are applicable at any time;
2. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement;
4. Submission by the Subrecipient to the County reports that are incorrect or incomplete in any material respect; or
5. In the event the Subrecipient receives notice that it has been suspended or debarred from receiving federal funds.

This agreement may also be terminated upon mutual agreement of the parties.

This Agreement may also be terminated by either the County or the Subrecipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the County determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the County may terminate the award in its entirety.

J. ARPA Award Requirements

Subrecipient shall, at all times, comply with the requirements of 2 C.F.R. Part 200, Appendix II and the ARPA Award, which is attached hereto, and adopted herein, as Attachment C.

VI. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

The Subrecipient agrees to comply with 2 C.F.R. Part 200 as well as the 202 OMB Compliance Supplement Part 3 and agrees to adhere to the accounting principles and

procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

B. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- a) Records providing a full description of each activity undertaken;
- b) Records required to determine the eligibility of activities;
- c) Records documenting compliance with federal non-discrimination policies;
- d) Financial records;
- e) If the project exceeds \$10 million, a Project Labor Agreement, report of prioritization of local hires, and any Community Benefits Agreements;
- f) If any supplemental funds are utilized for this project above the ARPA funds provided in this Agreement that requires compliance with Davis-Bacon wage rates or project report of employment, documentation of such compliance;
- g) If any supplemental funds are utilized for this project above the ARPA funds provided in this Agreement that requires compliance with National Environmental Policy Act (NEPA) procedures, documentation of such compliance;
- h) Documentation demonstrating compliance with competitive bidding requirements for construction projects under both federal and state law;
- i) Documentation demonstrating compliance with the ARPA Award including, but not limited to, those provisions set forth in Attachment C.

2. Retention

The Subrecipient shall retain all financial records, supporting documents, and all other records pertinent to the Agreement until December 31, 2031. The retention period begins on the date of the execution of this Agreement.

3. Close out

The Subrecipient's obligation to the County shall not end until all close out requirements are completed. Activities during this close out period shall include, but are not limited to, making final payments, disposing of program assets (including the return of all accounts receivable to the County), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Subrecipient has control over ARPA funds.

4. Audits & Inspections

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the County, grantor agency, and federal agencies or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within thirty (30) days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current County policy concerning subrecipient audits and OMB Circular A-133 (federal single audit required is more than \$750,000 is expended in federal funds – including SLFRF – during a fiscal year).

C. Project and Expenditure Reporting

The Subrecipient shall provide project and expenditure information, including any programmatic information required under the Treasury's Compliance and Reporting Guidelines, thirty (30) days before County is required to provide quarterly project and expenditures reports to the Treasury. Subrecipient shall provide information to the County at the end of each quarter. Information required to be kept by Subrecipient may include, but not be limited to, project expenditures, project activities, status of project, project start date, project end date, compliance with civil rights requirements, and Davis-Bacon wage rates, if required by any supplemental funding for this project.

D. Procurement

The Subrecipient shall demonstrate, and keep records of, competitive bidding requirements for construction projects that were followed, including, specifically, requirements under Alabama's Public Works Law, codified as Code of Alabama (1975) § 39-2-1, *et seq.*, and Uniform Guidance, codified as 2 C.F.R. §§ 200.318 through 200.323, as well as any procurement requirements of the Subrecipient's organization or agency.

**VII. PERSONNEL & PARTICIPANT CONDITIONS**

A. Civil Rights

1. Compliance

The Subrecipient cannot deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 *et seq.*, and the Department's implementing regulations, 31 C.F.R. Part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 *et seq.*, and the Department's implementing regulations, 31 C.F.R. Part 28;

Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 C.F.R. Part 23.

B. Affirmative Action

1. Women- and Minority-Owned Businesses (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are African Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians.

2. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

3. Subcontract Provisions

The Subrecipient will include the provisions of Subsections VIII.A, Civil Rights, and VIII.B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions: Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for the following: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

D. Conduct

1. Assignability

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the County in its sole and absolute discretion. Any consent to assignment shall not be considered consent to any subsequent assignment.

2. Subcontracts

- a) Approvals: The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the prior,

written consent of the County in its sole and absolute discretion prior to the execution of such agreement.

- b) Monitoring: The Subrecipient will continuously monitor the performance of all subcontracted services and the project itself on a regular basis to ensure contract compliance with this Agreement. Results of monitoring efforts shall be summarized quarterly in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.
- c) Content: The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.
- d) Selection Process: The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements under federal and state law. Executed copies of all subcontracts shall be forwarded to the County along with documentation concerning the selection process.
- e) Licenses: All subcontractors engaged in the project shall be fully qualified and properly licensed under state and local law to perform such services. The Subrecipient shall ensure that all prime subcontractors are insured in accordance with state, local and federal requirements.

### 3. Conflict of Interest

The Subrecipient agrees to abide by following:

- a) The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees, or agents engaged in the award and administration of contracts supported by federal funds.
- b) No employee, officer, or agent of the Subrecipient shall participate in the selection, or in the award or administration of, a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.
- c) No covered persons who exercise or have exercised any functions or responsibilities with respect to SLFRF-assisted activities, 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 in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the SLFRF-assisted activity, or with respect to the proceeds from the SLFRF-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this

paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the County, the Subrecipient, or any designated public agency.

4. Lobbying

The Subrecipient hereby certifies that:

No federal appropriated funds have been paid or will be paid, by or on behalf of it, 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.

5. Bribery and Fraud Prohibition

The non-federal entity or applicant for an ARPA award must disclose, in a timely manner, in writing to Treasury or the County all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the ARPA award. Non-federal entities that have received an ARPA award, including the term and condition outlined in appendix XII to Uniform Guidance, are required to report certain civil, criminal, or administrative proceedings to SAM (currently FAPIIS). Failure to make required disclosures can result in any of the remedies described in § 200.339. (See also 2 C.F.R. Part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313.)

6. Religious Activities

The Subrecipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities.

**VIII. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

**IX. SECTION HEADINGS AND SUBHEADINGS**

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

**X. WAIVER**

The County's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the County to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.



**XI. APPLICABLE LAW; VENUE**

This Agreement shall be construed and interpreted in accordance with the laws of the State of Alabama and proper venue for any action arising hereunder shall lie in Baldwin County and each party hereto consents to the jurisdiction of such courts.

**XII. ATTORNEY FEES**

Notwithstanding anything contained herein to the contrary, should the County employ an attorney to enforce any of the terms and conditions of this Agreement, or to recover damages for the breach of the terms and conditions hereof, it shall be entitled to recover from Subrecipient all reasonable costs, damages, and expenses, including reasonable attorneys' fees, incurred in connection therewith, provided that the county is the prevailing party in any action to enforce the terms and conditions of this agreement or recover damages for the breach of the terms and conditions of this agreement.

**XIII. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the County and the Subrecipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written, between the County and the Subrecipient with respect to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

**Baldwin County Commission, Alabama**

**City of Loxley, Alabama**

By \_\_\_\_\_  
Charles F. Gruber, Chairman

By \_\_\_\_\_  
Richard Teal, Mayor

Attest \_\_\_\_\_  
Roger H. Rendleman, County Commissioner

**Attachment A****SCOPE OF SERVICES AND SCHEDULE OF ACTIVITIES**

## A. General Scope and Budget

The subrecipient is to construct a new approximately 1,000 gpm groundwater production well. The new well construction will include the installation of approximately 350 vertical feet of 12-inch inner casing and approximately 600 vertical feet of 20-inch outer casing. The project will also include well pumping equipment and appurtenances along with site fencing, driveway improvements, and other required site work.

The estimated cost of the construction with contingencies is \$962,700.00. The Agreement provides for reimbursement by the County up to \$750,000.00 to cover costs associated with the construction with contingencies. Any deviations or additions to this scope must be approved by the Commission before proceeding. All other expenses, especially design, engineering, construction management, and construction costs above \$750,000.00 are not included in the scope of this Agreement and are to be covered by the Subrecipient.

## B. Key Personnel

**City of Loxley**

- Richard Teal, Mayor
- Robert Davis, Public Works Director
  
- **Engineering Firm – Goodwyn Mills Cawood, LLC**
  - Denise King, P.E. Project Manager
  - Nathan McKinley, P.E., Engineer
  - Dustin Till, P.E., Design Engineer
  - Kerry Hannah, Inspector
  
- **Contractor(s)**
  - This attachment will be modified upon the completion of the competitive bid process consistent with state law and Uniform Guidance for the addition of key personnel of the successful bidder.

**Baldwin County Commission**

- Charles Gruber, Chairman
- Roger H. Rendleman, County Administrator
- Frank Lundy, P.E., Operations Manager (Project Monitor)

C. Project Schedules/Milestones

Water Production Well Project

- |                                     |                            |
|-------------------------------------|----------------------------|
| 1. Detailed Design & Permitting     | November 2022 – May 2023   |
| 2. Develop Bid & Contract Documents | June 2023                  |
| 3. Advertise / Open / Award Bids    | July 2023 – August 2023    |
| 4. Construction                     | September 2023 – June 2024 |
| 5. Closeout                         | July 2024 – August 2024    |

All work and administrative requirements pursuant to Alabama law and under this Agreement must be completed by August 31, 2024.

ATTACHMENT B

Investing in Alabama Counties  
Coronavirus State and Local Fiscal Recovery Fund  
(Number) Reimbursement Request

Grantee

Subrecipient

Roger H. Rendleman, County Administrator  
Baldwin County Commission, Alabama  
312 Courthouse Square, Suite 17  
Bay Minette, Alabama 36507

Richard Teal, Mayor  
City of Loxley  
1029 S. Hickory Street  
Loxley, Alabama 36551

(Date)

**City of Loxley Water Capacity Improvements Project – 01003-513-230606-0037**

(Section to reflect Payment Process outlined in the Subrecipient Agreement)

(Section to list Supporting Documentation submitted with reimbursement request)

(Section for update of performance reports, including project status, completion percentage, and any necessary comments)

'By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812)."

Richard Teal, Mayor

The City of Loxley will retain all financial records, supporting documents, and all other records pertinent to this Reimbursement Request until December 31, 2031.

ATTACHMENT C

- I. Compliance with Applicable Law and Regulations.
  - A. Subrecipient agrees to comply with the requirements of section 603 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) (the "Act"), regulations adopted by Treasury pursuant to section 603(f) of the Act, codified as 31 C.F.R. Part 35, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
  - B. Federal regulations applicable to an award include, without limitation, the following:
    1. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Uniform Guidance, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
    2. 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.
    3. 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.
    4. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 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 80 and Treasury's implementing regulation at 31 C.F.R. Part 19.
    5. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in Uniform Guidance, Appendix XII to Part 200 is hereby incorporated by reference.
    6. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
    7. New Restrictions on Lobbying, 31 C.F.R. Part 21. Subrecipient must certify that it will not, and has not, used federal appropriated funds to 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.

8. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
  9. Generally applicable federal environmental laws and regulations. Subrecipient must 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). All violations must be reported to the County, Treasury, and the Regional Office of the Environmental Protection Agency.
- C. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
1. 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;
  2. 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;
  3. 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;
  4. 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
  5. 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.
- II. Remedial Actions. In the event of Subrecipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.
- III. Hatch Act. Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of state or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
- IV. False Statements. Subrecipient understands that making false statements or claims in connection with this award 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 awards or contracts, and/or any other remedy available by law.

- V. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [REDACTED] awarded to Baldwin County, Alabama by the U.S. Department of the Treasury."
- VI. Debts Owed the Federal Government.
- A. Any funds paid to Subrecipient (1) in excess of the amount to which Subrecipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that 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 Subrecipient shall constitute a debt to the federal government.
- B. Any debts determined to be owed to the federal government must be paid promptly by Subrecipient. 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 Subrecipient 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.
- VII. Disclaimer.
- A. The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient 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 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 Subrecipient does not in any way establish an agency relationship between the United States and Subrecipient.
- VIII. Protections for Whistleblowers.
- A. In accordance with 41 U.S.C. § 4712, Subrecipient 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:
1. A member of Congress or a representative of a committee of Congress;
  2. An Inspector General;
  3. The Government Accountability Office;
  4. A Treasury employee responsible for contract or grant oversight or management;

5. An authorized official of the Department of Justice or other law enforcement agency;
  6. A court or grand jury; or
  7. A management official or other employee of Subrecipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- C. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.
- IX. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.
- X. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.
- XI. The following terms and conditions must be built into any bid or resulting contract documents with any contractor engaged to perform work on the project:
- A. Contractor must agree to the terms and conditions included above.
  - B. Contractor must use strong labor standards, including payment of a competitive and prevailing wage in the County.
  - C. Contractor must adopt and follow high safety standards and provide training based upon the appropriate licensures, certifications, and industry standards.
  - D. Contractor should prioritize local hiring consistent with the racial, gender, geographic, urban, rural, and economic diversity of the County.
  - E. For contracts/subcontracts over \$100,000, work performed by mechanics and laborers are subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3702 and 3704), as supplemented by 29 C.F.R. Part 5, including, specifically, safety standards, limitations on hours in a work week and overtime for any work spent over 40 hours, and proper documentation for all employees.
    - (1) A contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall not require or permit any laborer or mechanic, in any workweek in which the laborer or mechanic is employed on that work, to work more than 40 hours in that workweek, except as provided 40 U.S.C. Chapter 37; and
    - (2) when a violation of clause (1) occurs, the contractor and any subcontractor responsible for the violation are liable—
      - (A) to the affected employee for the employee's unpaid wages; and
      - (B) to the Government, the District of Columbia, or a territory for liquidated damages as provided in the contract.