

STATE OF ALABAMA        )

COUNTY OF BALDWIN    )

## **SUBRECIPIENT FUNDING AGREEMENT**

THIS AGREEMENT is made and entered into by and between the Baldwin County Commission, the honorable county governing body of Baldwin County, Alabama, a political subdivision of the State of Alabama, hereinafter referred to as the "COMMISSION," and the City of Spanish Fort, Spanish Fort Police Department, hereinafter referred to as the "SUBRECIPIENT":

### **WITNESSETH**

WHEREAS, the COMMISSION has received approval from the Alabama Law Enforcement Agency, an agency of the State of Alabama having responsibility for Homeland Security at the state level, for a \$49,969.00 grant (the "Grant") from the State Homeland Security Grant Program through the Alabama Law Enforcement Agency (ALEA) to be utilized by the COMMISSION as follows:

**The COMMISSION will use the Homeland Security Grant Program funds, in the amount of \$49,969.00, for the purchase of expandable soft target/crowded place equipment listed in the grant Budget Detail Worksheet (BDW) in the Sub-Grantee Agreement between the Commission and ALEA. These items will be released to the SUBRECIPIENT for use in local public safety and law enforcement activities and programs.**

WHEREAS, the Alabama Law Enforcement Agency desires to have the COMMISSION purchase and utilize the aforementioned equipment under the Homeland Security Grant Program, and therefore, in consideration of the public benefits moving each to the other, it is mutually agreed by and between the COMMISSION and the SUBRECIPIENT as follows:

### **I. AUTHORITY**

The COMMISSION has the authority to act as a pass-through entity as prescribed by the Alabama Law Enforcement Agency to expend Homeland Security Grant Program grant funds on behalf of the SUBRECIPIENT, conveyed by the Alabama Law Enforcement Agency, a state agency, pursuant to, without limitation, Section 11-1-10 of the Code of Alabama (1975).

The SUBRECIPIENT represents and warrants to the County that it is authorized by law to receive grant-funded items from the COMMISSION, and such activity will not be in violation of Article IV, Section 94, or amendments thereto, of the Constitution of Alabama 1901, or any other constitutional or statutory provision.

### **II. SERVICES**

The STATE OF ALABAMA will reimburse the COMMISSION in accordance with all applicable statutes, rules and regulations related to the Grant, up to a maximum of \$49,969.00 in Homeland Security Grant funds for the following activities to be carried out by the COMMISSION on behalf of the SUBRECIPIENT.

### **III. APPROPRIATION**

The SUBRECIPIENT will submit a request to the COMMISSION that details the items requested to be purchased with grant funds and any other such pertinent information as may be needed as determined by the COMMISSION. Under certain conditions, the request for services or an item contained in the request may have to be bid by the COMMISSION's Purchasing Officer/Department. All grant funds must be expended no later than October 31, 2021.

The SUBRECIPIENT shall assist in providing documentation to the COMMISSION for expenditures, as follows:

1. The SUBRECIPIENT shall submit price quotations.
2. The SUBRECIPIENT shall provide evidence that the matching funds, if required, are being paid or have been expended. If using volunteer hours for the purpose of satisfying the matching funds, the SUBRECIPIENT shall provide monthly time sheets of volunteer hours worked for auditing purposes.
3. The SUBRECIPIENT shall provide any additional information deemed necessary by the COMMISSION.

In the event the project is bid, the parties agree to comply with applicable provisions of the Alabama Competitive Bid Law, Alabama Public Works Law and other applicable law.

SUBRECIPIENT agrees to supply to the COMMISSION, within 30 days from a written request to do so, all applicable data that is necessary for the COMMISSION to ensure the proper expenditure of the subject grant funds.

SUBRECIPIENT shall, on a quarterly basis, file with the COMMISSION a report of its activities related to the subject grant funds.

### **IV. TERM AND TERMINATION**

This Agreement shall cover services provided by the COMMISSION to the SUBRECIPIENT during the time period of November 1, 2020 to October 31, 2021, or until said Agreement is otherwise terminated as herein provided. The SUBRECIPIENT and the COMMISSION further agree that this Agreement may be terminated at any time by either party upon the issuance of a thirty (30) day written notice to the other of intent to terminate the same. In the event of termination by either party, the SUBRECIPIENT shall refund to the COMMISSION any portion of the Grant proceeds which the COMMISSION is required to pay back, forfeit, or reimburse pursuant to the Grant.

### **V. NON-DISCRIMINATION AND COMPLIANCE**

The SUBRECIPIENT hereby covenants and agrees that, in performing its responsibilities and obligations hereunder, the SUBRECIPIENT, its officers, agents or employees will not, on the grounds of race, color, sex, religion, national origin, disability or age, discriminate or permit discrimination against any person or groups of persons in any manner. The SUBRECIPIENT further agrees to comply with all applicable laws, ordinances and regulations, and this Agreement shall be subject to the terms and conditions contained in the **Cooperative Agreement** between the Baldwin County Commission and the Alabama Law Enforcement Agency, which is hereby expressly incorporated into and made a part of this Agreement. The SUBRECIPIENT also agrees to comply with all applicable state or federal regulations in receiving, disbursing, and accounting for said property purchased by the COMMISSION on behalf of the

SUBRECIPIENT with grant funds as set out in **Cooperative Agreement**. The SUBRECIPIENT also agrees to assist the COMMISSION, as deemed necessary by the COMMISSION, in complying with the terms and conditions contained in **Cooperative Agreement**, including, but not limited to, reporting and audit requirements. The SUBRECIPIENT further agrees to comply with all COMMISSION procurement policies and procedures. The SUBRECIPIENT must adequately safeguard all property and must ensure that it is used solely for authorized purposes. The SUBRECIPIENT should also keep accurate records regarding the use and status of the property and ensure the proper use, maintenance, protection, and preservation of such property.

The SUBRECIPIENT shall furnish all records pertaining to the property to the COMMISSION, upon request. The COMMISSION shall perform annual site visits, which will include examination of such property and corresponding records kept by the SUBRECIPIENT to ensure the integrity of the property and its use. Theft, destruction, or loss of property shall be reported to the COMMISSION immediately. Property will only be transferred for property disposal if it is certified as no longer serviceable and coordinated in advance with the COMMISSION and the Alabama Law Enforcement Agency.

## **VI. INDEMNITY**

The SUBRECIPIENT hereby covenants with the COMMISSION that it shall fully indemnify and hold the COMMISSION, its Commissioners, departments, employees, supervisors, agents, representatives and attorneys completely harmless from any and all claims, demands, notices, violations, findings, actions or orders of whatsoever kind or character which may arise from, or which are in any way related to, the work done and duties or obligations performed by the COMMISSION pursuant to this Agreement or services provided or performed by the SUBRECIPIENT or any of its officers, agents or employees, including, without limitation, attorney fees and legal expenses and costs incurred as a result of the COMMISSION enforcing, defending or complying with this Agreement, or otherwise addressing or defending any actions or claims related in any way to this Agreement. This provision shall survive the expiration or termination of this Agreement.

If in any event the COMMISSION is required to pay back, forfeit, or reimburse any portion of the grant funding subject hereto, SUBRECIPIENT shall voluntarily and immediately remit and submit to COMMISSION an amount equaling such portion required to be paid back, forfeited or reimbursed.

The provisions of this Section VI. Indemnity shall survive the termination of this Agreement.

## **VII. NO THIRD-PARTY BENEFICIARIES OR AGENCY**

It is the intent of the parties of this Agreement that they be the only parties to the Agreement and to expressly exclude third party beneficiaries. Nonparties to the Agreement may not claim benefits under the Agreement. The creation of an agency is strictly prohibited, and SUBRECIPIENT is forbidden to act on behalf or bind the COMMISSION for any purpose or reason.

## **VIII. INDEPENDENT CONTRACTOR**

It is agreed between COMMISSION and SUBRECIPIENT that the SUBRECIPIENT is an independent contractor. SUBRECIPIENT acknowledges that it is an independent contractor, and SUBRECIPIENT shall at all times remain as such in performing hereunder. SUBRECIPIENT is not an employee, servant, partner, or agent of the COMMISSION and has no authority, whether express or implied, to contract for or bind the COMMISSION in any manner. The parties agree that the SUBRECIPIENT shall be solely responsible for and shall have full and unqualified control over

developing and implementing its own means and methods, as it deems necessary and appropriate in performing hereunder, and that COMMISSION's interests herein are expressly limited to the results of said services. The SUBRECIPIENT is not entitled to unemployment insurance benefits, and SUBRECIPIENT is responsible for and obligated to pay any and all federal and state income tax on any monies paid pursuant to this Agreement.

#### **IX. CHOICE OF LAW**

This Agreement in all respects, including without limitation its formation, validity, construction, enforceability, and available remedies, shall be governed by the laws of the State of Alabama, without regard to Alabama conflict of law principles.

#### **X. AMENDMENT**

This Agreement may be amended or modified only by the written consent and agreement of the parties to this Agreement at the time of such amendment.

#### **XI. WAIVER**

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce every provision of this Agreement.

#### **XII. BINDING EFFECT**

This Agreement shall inure to the benefit of, and shall be binding upon, each of the parties hereto and their respective successors and assigns.

#### **XIII. ENTIRE AGREEMENT**

This Agreement and the documents referred to in this Agreement constitute the entire agreement between the parties, and there are no other representations, conditions, covenants or agreements which shall be binding upon the parties.

#### **XIV. RULE OF CONSTRUCTION**

The parties hereto acknowledge that each party and its counsel have reviewed and revised this Agreement, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments hereto.

#### **XV. MISCELLANEOUS**

Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural and vice versa, unless context requires otherwise.

## **XVI. CAPTIONS**

The captions used in connection with the sections of this Agreement are for convenience only and shall not be deemed to construe or limit the meaning of the language contained in this Agreement, or be used in interpreting the meanings and provisions of this Agreement.

## **XVII. REPRESENTATIONS AND WARRANTIES**

The SUBRECIPIENT represents and warrants that it has the authority to enter into this Agreement on the terms and conditions contained herein, and the COMMISSION represents and warrants that it has the authority to enter into this Agreement on the terms and conditions contained herein.

## **XVIII. SEVERABILITY**

In the event that any of the provisions, or portions thereof, of this Agreement shall be held void or unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

## **XIX. NUMBER OF ORIGINALS**

There is only one original of this Agreement which shall be retained by the COMMISSION.

**IN WITNESS WHEREOF**, the parties hereto, by and through their duly authorized representatives, have executed this Agreement as the date of approval of the Chairman of the Baldwin County Commission.

**City of Spanish Fort  
Spanish Fort Police Department  
7361 Spanish Fort Blvd.  
Spanish Fort, AL 36555**

BY: \_\_\_\_\_  
MICHAEL M. MCMILLAN  
MAYOR, CITY OF SPANISH FORT

ATTEST:

NAME: \_\_\_\_\_

\_\_\_\_\_  
REBECCA A. GAINES  
CITY CLERK, CITY OF SPANISH FORT

/\_\_\_\_\_  
DATE

STATE OF ALABAMA  
COUNTY OF BALDWIN

I, \_\_\_\_\_, a Notary Public in and for said County in said State, hereby certify that MICHAEL M. MCMILLAN, whose name as MAYOR of the CITY OF SPANISH FORT, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said CITY OF SPANISH FORT on the day the same bears date.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public, Baldwin County, Alabama  
My Commission Expires: \_\_\_\_\_

**BALDWIN COUNTY COMMISSION**

BY: \_\_\_\_\_ / \_\_\_\_\_  
JOE DAVIS, III / DATE  
AS ITS: CHAIRMAN

ATTEST:

\_\_\_\_\_  
WAYNE A. DYESS / DATE  
AS ITS: COUNTY ADMINISTRATOR

STATE OF ALABAMA  
COUNTY OF BALDWIN

I, \_\_\_\_\_, a Notary Public in and for said County in said State, hereby certify that JOE DAVIS III, whose name as Chairman of the BALDWIN COUNTY COMMISSION, and WAYNE A. DYESS, whose name as County Administrator of the BALDWIN COUNTY COMMISSION, the governing body of Baldwin County, Alabama, a political subdivision of the State of Alabama, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of such instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said commission on the day the same bears date.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public, Baldwin County, Alabama  
My Commission Expires: \_\_\_\_\_