

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 2/11/16

Action Requested By:
Community
Development

Agenda Item Type
Resolution

Subject Matter:

Resolution authorizing the Mayor to accept FY 2015 State of Alabama Emergency Solutions Grant (ESG) funds and assume the responsibility for the total amount of local matching funds.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to accept \$200,000.00 of FY 2015 State of Alabama Emergency Solutions Grant (ESG) funds and assume the responsibility for the total amount of local matching funds.

Note: If amendment, please state title and number of the original

Item to be considered for: Select...

Unanimous Consent Required: Select...

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Resolution authorizing the Mayor to accept \$200,000.00 of FY 2015 State of Alabama Emergency Solutions Grant (ESG) funds and assume the responsibility for the total amount of local matching funds. ESG funds are specifically for homeless activities. These funds will assist local non-profit agencies with providing housing and supportive services to homeless individuals/families.

Associated Cost: 200,000.00

Budgeted Item: No

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: Michael B. Jordan

Date: 1/6/16

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Community Development Council Meeting Date: 2/11/16

Department Contact: Turkessa Coleman-Lacey Phone # 256-427-5418

Contract or Agreement: "Agreement Between the City of Huntsville and ADECA"

Document Name: FY2014 Emergency Solutions Grant (ESG) Program

City Obligation Amount: 0.00

Total Project Budget: \$200,000.00

Uncommitted Account Balance: 0.00

Account Number: _____

Procurement Agreements

Not Applicable

Not Applicable

Grant-Funded Agreements

State Other

Grant Name:

Emergency Solutions Grant (ESG) ADECA

Department	Signature	Date
1) Originating	<i>M. J. Jones</i>	1/6/16
2) Legal	<i>Thay Carter</i>	1/26/16
3) Finance	<i>M. Sargo</i>	1-27-16
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

RESOLUTION NO. 16-

WHEREAS the United States Department of Housing and Urban Development has awarded the State of Alabama a grant under the Stewart B. McKinney Homeless Assistance Act, and;

WHEREAS the City of Huntsville, Alabama has received a portion of those funds from the State of Alabama, Department of Economic and Community Affairs (ADECA) and;

WHEREAS the City of Huntsville, Alabama assumes the responsibility for the total amount of local matching funds;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor of the City of Huntsville be authorized, requested and directed to accept funding from the Alabama Department of Economic and Community Affairs for Emergency Solutions Grant Funds, including all understandings and assurances contained therein; to act in connection with the acceptance of the funds and to provide additional information as may be required. Said award being substantially similar in words and figures to that document identified as "Letter of Award for Emergency Solutions Grant funds from the State of Alabama" consisting of a total of 10 pages, and Attachment 1, with the date of February 11, 2016 appearing on the margin of the first page, together with the signature of the President or President Pro-Tem of the City Council, a copy of said document being permanently kept on file in the Office of the City Clerk Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 11th day February, 2016

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 11th day of February, 2016

Mayor of the City of Huntsville,
Alabama

OFFICE OF THE GOVERNOR

ROBERT BENTLEY
GOVERNOR



STATE OF ALABAMA

ALABAMA DEPARTMENT OF ECONOMIC
AND COMMUNITY AFFAIRS

JIM BYARD, JR.
DIRECTOR

LETTER OF AWARD

November 12, 2015

The Honorable Tommy Battle
Mayor of Huntsville
308 Fountain Circle
Huntsville, Alabama 35801

Dear Mayor Battle:

RE: Fiscal Year 2015
Emergency Solutions Grants Program
Agreement Number: HESG-15-008

On behalf of Governor Robert Bentley, I am pleased to inform you that your application for the Emergency Solutions Grants Program is approved in the amount of \$200,000.00. Your application was reviewed in accordance with the State's Emergency Solutions Grants Action Plan based on the information provided to us.

Two copies of the grant agreement, along with the attachment to the agreement, have been mailed to your program administrator. Please sign both copies and return one copy to us, attention: Maureen Neighbors, as soon as possible. Please retain the second copy and the attachment for your files. In addition to signing the grant agreement, it will be necessary for you to submit certain start-up information. The required submissions have been emailed to your program administrator. No payment requests will be processed until the grant agreement and all required submissions have been received and approved. In those instances where the awarded amount is less than the requested amount, it will be necessary to revise the program budget. Additionally, your program budget may need to be revised to comply with project activity caps established by the U.S. Department of Housing and Urban Development's ESG regulations.

A compliance workshop has been scheduled for December 2, 2015, to assist in the completion of the start-up documentation and to convey important program compliance information. The compliance workshop will be held at 9:00 a.m., in Room 342 of the Alabama Center for Commerce. The address is 401 Adams Avenue, Montgomery, Alabama. It is very important that the ESG program administrator attend the compliance workshop. Unless otherwise stated, we request that the start-up documents be submitted after the compliance workshop. The start-up documents can

be found on our website at <http://www.adeca.alabama.gov/Divisions/ced/cdp/Pages/ESG.aspx> and are also listed below.

1. A Subrecipient Budget form and Second-tier Subrecipient Budget form for each private nonprofit organization that will provide assistance. Administration funds for local units of government should be documented on a Second-tier Subrecipient Budget form. All budgets should be checked as an "Original Budget," numbered as "1," and must be signed and dated. The Subrecipient Budget should be the total of the Second-tier Subrecipient Budgets. Please submit all budget forms along with the signed grant agreement as soon as possible.
 2. A list of all second-tier subrecipients which includes the telephone number, e-mail address, and name of a contact person at each site. Please include the address for each second-tier subrecipient site.
 3. Identify the person who will be responsible for administering the grant to ensure that applicable laws, rules, and regulations are met. (Please designate someone other than an elected official to administer this grant. The designee must not be an employee at a second-tier subrecipient agency.) You are reminded that ultimate responsibility for adherence to all applicable laws, rules, and regulations rests with the Subrecipient for the duration of the grant.
 4. A standard Certification form to identify the persons and their signatures used to draw down funds. Also, be sure to include your Federal Identification Number (FEIN) for your jurisdiction or organization.
 5. Form W-9, Request for Taxpayer Identification Number and Certification.
 6. Designation of person(s) to receive ESG program correspondence.
 7. Environmental Review documentation for private nonprofit Subrecipients:
 - ESG Non-profit Level of Environmental Review Form
 - ESG Non-profit Level of Environmental Review Form AttachmentEnvironmental Review documentation for local unit of government Subrecipients:
 - Level of Review Determination Form (including any other applicable forms and documentation)
- If you have questions, please contact this office immediately.
8. A State of Alabama Disclosure Statement form (Requested by Act 2001-955). This form is only required if the Subrecipient is a private nonprofit organization.
 9. A copy, when applicable, of deeds, mortgages and appraisals.

10. Completed "Certification of Local Government Approval for Nonprofit Organizations Receiving ESG Funds from State Grantees" form. This form is only required when private nonprofit organizations (serving as the Subrecipient or second-tier subrecipient) will provide emergency shelter activities. This form does not need to be completed annually for projects funded at the same sites as the prior year. Local units of government have the opportunity to withdraw any prior approval.
11. If applicable, provide a certification that any building with major rehabilitation costs (in excess of 75 percent of the value of the building before rehabilitation) or any building with conversion costs (in excess of 75 percent of the value of the building after rehabilitation) will be dedicated as a homeless shelter for ten years; and any building with renovation costs (75 percent or less of the value of the building before rehabilitation) will be dedicated as a homeless shelter for three years.
12. A revised Schedule listing the beginning and ending dates for each ESG activity.
13. A completed Certificate of Compliance with the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. This is only required if the Subrecipient is a private nonprofit organization.
14. The E-Verify Program for Employment Verification Memorandum of Understanding. This is only required if the Subrecipient is a private nonprofit organization.
15. A completed Certification of Compliance with the Transparency Act Requirements. Please submit this certification via email as soon as possible. The original certification must be submitted along with the other start-up documents.
16. A completed Certifications by the Chief Elected Official form (for local unit of government Subrecipients) or a completed Certifications by the Authorized Official (for private nonprofit Subrecipients).

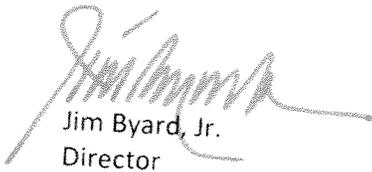
In addition to the submissions, we would like to bring your attention to the following:

- a. In accordance with Federal regulations, the Subrecipient must obligate its grant amount within one hundred twenty (120) days after the effective date of its agreement with ADECA. Please submit copies of contracts with second-tier subrecipients or participating agencies to ADECA. We must receive copies of the contracts before any payment requests will be processed.
- b. The Subrecipient shall submit Performance Reports, as requested, to the State on all open grants and shall continue to submit reports until all funds are spent and the grant is officially closed. The final report shall be submitted within forty-five (45) days after ESG funds are expended and other reports shall follow the Consolidated Plan regulations. The content of the report shall follow the requirements prescribed.

- c. The Subrecipient will be accountable for all funds received through this program. In addition, through an agreement with the second-tier subrecipients, the Subrecipient must maintain accountability over all funds. Records shall be kept which detail the expenditure of grant funds and accurately document such expenditures.
- d. The Subrecipient and each second-tier subrecipient must comply with the ESG regulations and carry out the activities proposed in the application.
- e. In accordance with Federal regulations, homeless services providers receiving ESG funds are required to participate in a Homeless Management Information System (HMIS). Data relating to services provided to program participants must be entered into HMIS or a comparable database. Please submit a letter from the local continuum of care confirming arrangements for use of HMIS services. If applicable, submit a letter detailing arrangements for reporting in a comparable database.
- f. Administration and HMIS activities are each capped at five (5) percent of the award amount.
- g. Requests for payment will not be processed until a copy of the Subrecipient's ESG policies and procedures has been submitted to ADECA.
- h. Agencies providing emergency shelter and rapid re-housing assistance are prohibited from reserving rapid re-housing funds for persons exiting shelter.
- i. Submit a resolution in which the City acknowledges its responsibility for supplying the total amount of match.

If you have any questions, please call Shonda Gray, ESG Program Manager, at (334)353-0288. We welcome the opportunity to assist you in making your program a success.

Sincerely,



Jim Byard, Jr.
Director

JB:MEN:km

Enclosures

cc: Turkessa Coleman Lacey, Program Administrator
Accounting
Elaine Dobbs-Patterson

ATTACHMENT A

1. Shelter and Housing Standards.
 - (a) Lead-Based Paint Remediation And Disclosure. The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations in 24 CFR Part 35, subparts A, B, H, J, K, M, and R apply to all shelters assisted under the ESG program and all housing occupied by program participants.
 - (b) Minimum Standards For Emergency Shelters. Any building for which Emergency Solutions Grants (ESG) funds are used for conversion, major rehabilitation, or other renovation, must meet state or local government safety and sanitation standards, as applicable, and the minimum safety, sanitation, and privacy standards provided in 24 CFR Part 576.403 (b). Any emergency shelter that receives assistance for shelter operations must also meet the minimum safety, sanitation, and privacy standards provided in 24 CFR 576.403 (b). The Subrecipient or its second-tier or lower tier subrecipients may also establish standards that exceed or add to these minimum standards.
2. Conflicts Of Interest. Organizational conflicts of interest. The provision of any type or amount of ESG assistance may not be conditioned on an individual's or family's acceptance or occupancy of emergency shelter or housing owned by the Subrecipient, a second-tier or lower tier subrecipient, or a parent or subsidiary of the subrecipient. No subrecipient may, with respect to individuals or families occupying housing owned by the subrecipient, or any parent or subsidiary of the subrecipient, carry out the initial evaluation required under 24 CFR Part 576.401 or administer homelessness prevention assistance under 24 CFR Part 576.103.

Individual Conflicts of Interest. For the procurement of goods and services, the Subrecipient and its second-tier or lower tier subrecipients must comply with the codes of conduct and conflict of interest requirements under 24 CFR 84.42. For all other transactions and activities, the following restrictions apply:

Conflicts Prohibited. No person covered described in the paragraph below who exercises or has exercised any functions or responsibilities with respect to activities assisted under the ESG program, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under the program, may obtain a financial interest or benefit from an assisted activity; have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity; or have a financial interest in the proceeds derived from an assisted activity, either for him or herself or for those

with whom he or she has family or business ties, during his or her tenure or during the one-year period following his or her tenure.

Persons Covered. The conflict-of-interest provisions listed in subsection 3 above apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of the Subrecipient or its second-tier or lower tier subrecipients.

Contractors. All contractors of the Subrecipient or its second-tier or lower level subrecipients must comply with the same requirements that apply to subrecipients under this section.

3. Faith-Based Activities. Organizations that are directly funded under the ESG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the programs or services funded under ESG. If an organization conducts these activities, the activities must be offered separately, in time or location, from the programs or services funded under ESG, and participation must be voluntary for program participants.

Any religious organization that receives ESG funds retains its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that the religious organization does not use direct ESG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide ESG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, an ESG-funded religious organization retains its authority over its internal governance, and the organization may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

An organization that receives ESG funds shall not, in providing ESG assistance, discriminate against a program participant or prospective program participant on the basis of religion or religious belief.

ESG funds may not be used for the rehabilitation of structures to the extent that those structures are used for inherently religious activities. ESG funds may be used for the rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under the ESG program. Where a structure is used for both eligible and inherently religious activities, ESG funds may not exceed the cost of those portions of the rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to ESG funds. Sanctuaries, chapels, or other rooms that an ESG-funded religious congregation uses as its principal place of worship, however, are ineligible for funded improvements under the program. Disposition of real property after the term of the grant, or any change in use of the property during the term of the

grant, is subject to government-wide regulations governing real property disposition (see 24 CFR Parts 84 and 85).

4. **Affirmative Outreach.** The Subrecipient or its second-tier or lower tier subrecipients must make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. If it is unlikely that the procedures that the Subrecipient or its second-tier or lower tier subrecipients intends to use to make known the availability of the facilities, assistance, and services will reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for those facilities and services, the Subrecipient or its second-tier or lower tier subrecipients must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services. The Subrecipient or its second-tier or lower tier subrecipients must take appropriate steps to ensure effective communication with persons with disabilities including, but not limited to, adopting procedures that will make available to interested persons information concerning the location of assistance, services, and facilities that are accessible to persons with disabilities. Consistent with Title VI and Executive Order 13166, the Subrecipient or its second-tier or lower tier subrecipients are also required to take reasonable steps to ensure meaningful access to programs and activities for limited English proficiency (LEP) persons.

5. **Environmental Review Responsibilities.**

(1) Activities under this part are subject to environmental review by ADECA under 24 CFR Part 58. The Subrecipient or its second-tier or lower tier subrecipients shall supply all available, relevant information necessary for ADECA to perform for each property any environmental review required by 24 CFR Part 58. The Subrecipient or its second-tier or lower tier subrecipients also shall carry out mitigating measures required by ADECA or select alternate eligible property. ADECA may eliminate from consideration any application that would require an Environmental Impact Statement (EIS).

(2) The Subrecipient or its second-tier or lower tier subrecipients, or any contractor of the subrecipient or its second-tier or lower tier subrecipients, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project under this part, or commit or expend HUD or local funds for eligible activities under this part, until ADECA has performed an environmental review under 24 CFR Part 58 and the Subrecipient has received ADECA approval of the property.

6. **Displacement, Relocation, and Acquisition.**

(a) **Minimizing displacement.** Consistent with the other goals and objectives of Emergency Solutions Grants (ESG), the Subrecipient or its second-tier or

lower tier subrecipients must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under the Emergency Solutions Grants (ESG) Program.

- (b) Temporary relocation not permitted. No tenant-occupant of housing (a dwelling unit) that is converted into an emergency shelter may be required to relocate temporarily for a project assisted with ESG funds, or be required to move to another unit in the same building/complex. When a tenant moves for a project assisted with ESG funds under conditions that trigger the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), 42 U.S.C. 4601-465 5, as described in 24 CFR Part 576.408 (c), the tenant should be treated as permanently displaced and offered relocation assistance and payments consistent with 24 CFR Part 576.408 (c).
- (c) Relocation assistance for displaced persons as provided in 24 CFR Part 576.408 (c).
- (d) Real property acquisition requirements. The acquisition of real property, whether funded privately or publicly, for a project assisted with Emergency Solutions Grants (ESG) funds is subject to the URA and Federal government-wide regulations at 49 CFR Part 24, subpart B.
- (e) Appeals. A person who disagrees with the Subrecipient's or its second-tier or lower tier subrecipients' determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be eligible, may file a written appeal of that determination with ADECA under 49 CFR 24.10. A low-income person who disagrees with the Subrecipient's or its second-tier or lower tier subrecipients' determination may submit a written request for review of that determination by ADECA.

7. Nondiscrimination and Equal Opportunity.

- (1) The Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations at 24 CFR Part 100 *et seq.*; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959-1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at 24 CFR Part 107; Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR Part 1; the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) and implementing regulations at 24 CFR Part 146; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at Part 8 of this title; Title II of the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*; 24 CFR Part 8; Section 3 of the Housing and Urban Development Act of 1968

(12 U.S.C. 1701u) and implementing regulations at 24 CFR Part 135, except that homeless individuals have priority over other Section 3 residents; Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964-1965 Comp., p. 339; 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970 Comp., p. 803; 3 CFR, 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264, respectively) (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR Chapter 60; Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971-1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245) (Women's Business Enterprise).

(2) Equal Access to HUD-Assisted or Insured Housing.

- (i) Eligibility for HUD-assisted or insured housing. A determination of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the Federal Housing Administration shall be made in accordance with the eligibility requirements provided for such program by HUD, and such housing shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.
- (ii) Prohibition of inquiries on sexual orientation or gender identity. No owner or administrator of HUD-assisted or HUD-insured housing, approved lender in an FHA mortgage insurance program, nor any (or any other) recipient or subrecipient of HUD funds may inquire about the sexual orientation or gender identity of an applicant for, or occupant of, HUD-assisted housing or housing whose financing is insured by HUD, whether renter- or owner-occupied, for the purpose of determining eligibility for the housing or otherwise making such housing available. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity. This prohibition on inquiries does not prohibit lawful inquiries of an applicant or occupant's sex where the housing provided or to be provided to the individual is temporary, emergency shelter that involves the sharing of sleeping areas or bathrooms, or inquiries made for the purpose of determining the number of bedrooms to which a household may be entitled.

8. Disclosure Requirements. The disclosure requirements and prohibitions of 31 U.S.C. 1352 and implementing regulations at 24 CFR Part 87; and the requirements for funding competitions established by the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3531 *et seq.*).

ATTACHMENT 1

FY15 ESG AGREEMENT

STATE OF ALABAMA)
MONTGOMERY, ALABAMA)

AGREEMENT NO. **HESG-15-008**

AGREEMENT

THIS AGREEMENT is effective as of this **2nd** day of **September, 2015**, by and between the **City of Huntsville** (herein called "Subrecipient") and the Alabama Department of Economic and Community Affairs (herein called "ADECA" and "Pass-through Entity").

Subrecipient's Name: City of Huntsville

Subrecipient's DUNS Number: 112481325

Federal Award Identification Number ("FAIN"): E15-DC-01-0001

Federal Award Date: August 5, 2015

Subaward Period of Performance Start Date and End Date: September 2, 2015 through June 2, 2017

Amount of Federal Funds Obligated by this Agreement: \$200,000.00

Total Amount of Federal Funds Obligated to Subrecipient: \$200,000.00

Total Amount of Federal Award: \$200,000.00

Federal Award Project Description: ESG Program for the State of Alabama

Name of Federal Awarding Agency: U. S. Department of Housing and Urban Development (HUD)

Pass-through Entity: Alabama Department of Economic and Community Affairs (ADECA)

Contact Information for Pass-through Entity's Official: Jim Byard, Jr., ADECA Director

Identification of Whether Subaward is Research and Development: No

Indirect Cost Rate for Federal Award: Not applicable to the Subrecipient

WITNESSETH THAT:

WHEREAS, ADECA desires to engage the Subrecipient to carry out certain activities or services hereinafter described in connection with an undertaking which is expected to be financed or partially financed through the Federal Assistance authorized under the State's Emergency Solutions Grants (ESG) Program.

NOW THEREFORE, the parties hereto do mutually agree as follows:

ADECA hereby agrees to engage the Subrecipient, and the Subrecipient hereby agrees to carry out the activities hereinafter set forth in connection with the State's ESG Program administered by ADECA, under ESG Project Number **HESG-15-008** made to the Subrecipient from the federal award (FAIN **E15-DC-01-0001**) identified herein above.

The Subrecipient, in assisting ADECA during the period of this Agreement and with the Federal Assistance provided for in this Agreement, shall perform all the necessary services stated in this Agreement.

Upon execution of this Agreement, ADECA agrees to provide to the Subrecipient the Federal Assistance under Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11371 et seq., (the "Act") authorized by the Letter of Award. Such Federal Assistance is subject to the terms and conditions of this Agreement, all applicable laws, and regulations, and all other requirements of ADECA, the State, or HUD, now or hereafter in effect. This Agreement is effective with respect to such Federal Assistance as of the date specified above, and consists of (1) the Letter of Award and submissions made with respect thereto; (2) the Subrecipient's ADECA-approved Application specified herein, including any assurances, certifications, maps, schedules, and other submissions; (3) the HUD ESG Program Regulations published at 24 CFR Part 576, and State Policies; (4) the State's One-Year Annual Action Plan developed for the ESG Program (the State's federal grant application) that is submitted to and approved by HUD, including any assurances, certifications, maps, schedules, and other submissions; and (5) the following General Terms and Conditions:

A. DEFINITIONS

Except to the extent modified or supplemented by this Agreement, any term defined in Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11371 et seq., or the HUD Emergency Solutions Grants Program Regulations at 24 CFR Part 576, shall have the same meaning when used herein.

1. "Agreement" means this Agreement as described above, and any amendments or supplements hereto.
2. "Applicant" means the entity designated as such in the Letter of Award and herein as the Subrecipient.
3. "Application" means the Subrecipient's Application for Federal Assistance that has been approved by ADECA and designated as such per the Letter of Award.
4. "Certifications" means the certifications submitted with the grant application and the certifications listed in the Letter of Award pursuant to the requirements of 24 CFR Part 576.

5. "Federal Assistance" means the Federal assistance, grant(s), funds, and any loan(s) secured by loan guarantee(s), provided by ADECA to the Subrecipient under this Agreement.

6. "Federal Award" means the federal grant awarded from the federal awarding agency to the State of Alabama and administered by ADECA as the State Administering Agency, and which is identified by its "Federal Award Identification Number" (FAIN). Herein this Agreement, the Federal Award is FAIN **E15-DC-01-0001**.

7. "Letter of Award" means the letter to the Subrecipient from ADECA confirming approval of the Subrecipient's Application and setting forth requirements which shall be satisfied by the Subrecipient prior to execution of this Agreement.

8. "Schedule" means the schedule of project activities submitted with the Subrecipient's application for ESG funds which sets forth the proposed start dates and completion dates for the work activities and administrative services to be performed.

9. "Principal" means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Subrecipient.

10. "Program" means the Emergency Solutions Grants (ESG) Program, project, or other activities, including the administration thereof, with respect to which Federal Assistance is being provided under this Agreement.

11. "State" means the State of Alabama.

12. "Subrecipient" means the entity signing this Agreement who is the Applicant or entity designated as a recipient for grant or loan assistance in the Letter of Award.

13. "Second-tier subrecipient" means each entity with which the Subrecipient contracts for work to be performed or services to be provided as set out in the scope of services.

B. SCOPE OF SERVICES

1. The Subrecipient agrees to do, perform, and carry out in an expedient, satisfactory, and proper manner, as determined by ADECA, the work activities and administrative services described in the Subrecipient's ADECA-approved Application submitted for Federal Assistance under this ESG project and the terms of this Agreement. The Subrecipient further agrees that all activities carried out under the terms of this Agreement shall satisfy all requirements of ADECA, and shall be as described in the Subrecipient's ADECA-approved Application unless otherwise expressly directed by ADECA.

2. The Subrecipient agrees to permit and to facilitate reviews by ADECA of the work activities and administrative services described in the Subrecipient's ADECA-approved Application and herein this Agreement at Montgomery or at other places as ADECA may determine.

3. The Subrecipient shall submit to ADECA progress reports describing the progress of the work activities and administrative services described in the Subrecipient's ADECA-approved Application and herein this Agreement when requested by ADECA.

4. The Subrecipient agrees to accept responsibility for ensuring compliance by second-tier subrecipient entities to which it makes funding assistance hereunder available.

C. CHANGES

1. ADECA or the Subrecipient may, from time to time, request changes in the scope of services to be performed by the Subrecipient under this Agreement. Such changes, including any increase or decrease in the amount of the Subrecipient's compensation, which are mutually agreed upon by and between ADECA and the Subrecipient, shall follow ADECA's governing policy and be incorporated in written amendments to this Agreement.

2. Notwithstanding the terms stated in Section C.1. herein this Agreement, ADECA may, from time to time, approve a revision to the Subrecipient's budget document and/or scope for the ESG project under this Agreement without a formal written amendment to this Agreement. However, for such revision to be valid, it shall be on a standard ADECA "ESG Budget/Final Financial Report" form and approved by ADECA. In no case shall the revision change the total amount of compensation identified under the terms stated in Section F. herein this Agreement without a formal amendment to this Agreement.

D. PERSONNEL

1. It shall be the responsibility of the Subrecipient, when necessary, to hire personnel or to contract or subcontract for the work to be performed as set out in the Scope of Services, to include the work activities and administrative services described in the Subrecipient's ADECA-approved Application and herein this Agreement. All persons so hired or under contract or subcontract shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

2. The Subrecipient shall provide to ADECA a sampling of all contracts and subcontracts for said work or services as and when requested by ADECA.

E. TIME OF PERFORMANCE

The Subrecipient shall commence performance of this Agreement on **September 2 2015**, and shall obligate its Grant amount by **December 31, 2015**. The full Grant amount shall be expended by **June 2, 2017**.

1. ADECA retains the right to rescind all or any part of the Federal Assistance committed by this Agreement and the Letter of Award. Such right may be exercised if action or the lack of action by or on behalf of the Subrecipient indicates to ADECA that the work activities and administrative services described in the Subrecipient's ADECA-approved Application, and/or the terms of this Agreement, are not adhered to or are not progressing according to the Schedule and/or this Agreement.

2. The Subrecipient, by execution of this Agreement, certifies that the Subrecipient will implement the work activities and administrative services described in the Subrecipient's ADECA-approved Application and the terms of this Agreement substantially in compliance with the Schedule and/or this Agreement, and that failure to do so may affect the Subrecipient's continued capacity to participate in ADECA's future Federal Assistance and other funding decisions.

F. METHOD OF PAYMENT

1. ADECA and the Subrecipient have agreed upon a total payment of ESG funds not to exceed **\$200,000.00**.

2. The Subrecipient will be paid on an advance payment basis provided that it maintains a cash management plan, maintains or demonstrates the willingness and ability to maintain both written procedures to minimize the transfer of funds and their disbursement by the Subrecipient and financial management systems that meet the standards for fund control and accountability in accordance with 2 CFR §200.305. If the advance requested exceeds thirty (30) days, the Subrecipient must provide a written explanation with the invoice requesting advance funds and is subject to approval by ADECA. Source documentation and a follow-up invoice must be submitted to account for the actual expenditures made against advances.

3. The Subrecipient will be paid on a reimbursement basis when the above requirements for advances cannot be met, the federal awarding agency has a specific conditions per 2 CFR §200.305, or the Subrecipient requests, in writing, payment by reimbursement.

4. The Subrecipient agrees to match the expenditures incurred in the execution of activities stated herein with matching cash or "in-kind" services as shown in the approved (original or revised) "ESG Budget/Final Financial Report." Payment of funds are subject to and dependent upon the availability of Federal funds awarded to ADECA for the program purposes herein stated.

5. This Agreement, authorized by the State of Alabama on **September 2, 2015**, under the Letter of Award of State ESG funds for ESG Project Number **HESG-15-008** is hereby accepted by the Subrecipient.

6. The Subrecipient agrees to comply with, and to accept responsibility for compliance by any private non-profit entity carrying out ESG grant activity on behalf of the Subrecipient in accordance with, the terms and conditions of this Agreement, applicable laws, applicable regulations, and all requirements of ADECA, the State, or HUD, now or hereafter in effect, pertaining to the Federal Assistance provided.

7. In addition to the above clauses, the Subrecipient and its Contractors, Subcontractors and Vendors shall agree with, and shall adhere to, the terms stated in Section K herein this Agreement.

G. CLOSEOUT PROCEDURES

On or after the completion date stated in the Schedule for the work activities and administrative services described in the Subrecipient's ADECA-approved Application and herein this Agreement, the Subrecipient shall follow the ADECA Community and Economic Development Division's established ESG Program closeout procedures when closing the ESG project under this Agreement. The Subrecipient may access ADECA's ESG Program closeout documents from the ADECA Community and Economic Development Division's ESG Program staff and on the ADECA website at www.adeca.alabama.gov.

H. RECORD RETENTION

1. Financial records, supporting documents, statistical records, and all other non-Federal entity (to include ADECA, the Subrecipient, Contractors, Subcontractors and Vendors) records pertinent to a Federal award (to include the ESG project under this Agreement) must be retained for a period of at least three years from the date of ADECA's submission of the final expenditure report on this Federal Award to HUD, or for Federal awards that are renewed quarterly or annually, from the date of ADECA's submission of the quarterly or annual financial report, respectively, as reported to HUD (as the Federal awarding agency) or pass-through entity (the State, and ADECA) in the case of the Subrecipient.

2. Because Federal agencies (to include HUD) may have different record retention requirements, each of ADECA's Divisions will have its own record retention requirements so as to comply with the appropriate Federal record retention requirements. For the ADECA Community and Economic Development Division's ESG Program record retention requirements applicable to this Federal Award and the ESG project under this Agreement, the following record retention requirements are applicable:

The Subrecipient is required to keep all records relating to the ESG project under this Agreement for a period of at least five years past notification by ADECA that the ESG project under this Agreement has been closed out or all audit findings related thereto have been resolved, whichever is longer. Where ESG funds are used to renovate an emergency shelter or to convert a building into an emergency shelter, records must be retained until ten (10) years after the date the ESG funds are first obligated for the renovation or conversion.

3. When applicable, the Subrecipient, Contractors, Subcontractors and Vendors shall comply with the Alabama Competitive Bid Law (codified at §41-16-54, *Code of Alabama 1975*), which requires that all original bids, together with all documents pertaining to the award of a contract, shall be retained in accordance with a record retention period of at least seven years.

I. INCORPORATION OF SUBMISSIONS MADE UNDER THE LETTER OF AWARD

The submissions made pursuant to the Letter of Award are incorporated into this Agreement by reference to said Letter. The Subrecipient, by execution of this Agreement, further certifies that:

1. The Subrecipient has complied with all applicable requirements of 24 CFR Part 58, and the Subrecipient's applicable environmental review forms will be submitted for approval by ADECA.

2. Where applicable, the Subrecipient has consulted with other State agencies, as appropriate, and has obtained applicable permits and/or has satisfied other conditions imposed from those State agencies which have authority to review ESG project applications, and/or issue permits, and/or retain other responsibilities in regard to local or State projects.

J. OFFICE OF MANAGEMENT AND BUDGET (OMB) UNIFORM GUIDANCE FOR FEDERAL AWARDS

For any and all contracts or grants made by a non-Federal entity under a Federal award, the non-Federal entity must comply with 2 CFR Part 200, the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which includes but is not limited to, Subpart B (2 CFR 200.100), General Provisions; Subpart C (2 CFR 200.200), Pre-Federal Awards Requirements and Contents of Federal Awards; Subpart D (2 CFR 200.300), Post Federal Award Regulations; Subpart E (2 CFR 200.400), Cost Principles; Subpart F (2 CFR 200.500), Audit Requirements; and all accompanying Appendices.

For any and all contracts made by a non-Federal entity under a Federal award, 2 CFR 200.326 requires provisions covering the following (as found in Appendix II to Part 200) be included and adhered to as applicable and unless specifically excluded by other Federal regulations:

1. TERMINATION OF AGREEMENT

(a) A clause addressing a termination for cause and convenience must be included in all contracts in excess of \$10,000. The following provisions apply to termination under this grant agreement, whether termination by ADECA or by the Subrecipient. The performance of work under this agreement may be terminated in whole or in part for the following circumstances:

(1) **Termination for Convenience.** This Agreement may be terminated by either party with thirty (30) days written notice. Said notice shall specify the reasons for requesting such termination. If ADECA determines that continuation of the work will serve no useful public purpose, then this Agreement may be terminated by ADECA, and the Subrecipient shall be entitled to necessary expenses incurred through the date of termination or the date services are last provided, whichever occurs first.

(2) **Termination for Cause.** If, through any cause, the Subrecipient shall fail to fulfill in a timely manner its obligations under this Agreement, or if the Subrecipient shall violate any of the covenants, agreements, or stipulations of this Agreement, and such failure or violation is not corrected within fifteen (15) days after such notice is given by ADECA to the Subrecipient, then ADECA shall thereupon have the right to immediately terminate or suspend this Agreement by giving written notice to the Subrecipient of such termination or suspension and specifying the effective date thereof.

(b) In the event of termination, either for convenience or for cause, all property, finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, computer tapes, computer programs, and reports prepared by the Subrecipient under this Agreement shall, at the option of ADECA, and if in accordance with applicable State and Federal regulations, become the property of ADECA. The Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

(c) Notwithstanding the above, the Subrecipient shall not be relieved of liability to ADECA for damages sustained by ADECA by virtue of any breach of the Agreement by the Subrecipient, and ADECA may withhold any payments to the Subrecipient for the purpose of setoff until such time as the exact amount of damages due ADECA from the Subrecipient is determined.

2. HEARING ON APPEAL

(a) The Subrecipient shall have the right to appeal any determination to terminate made by ADECA; however, if the Subrecipient has failed to submit its appeal, in writing, within ten (10) calendar days from written notice of the termination, and/or has failed to request and receive approval from ADECA for extension of such, then the Subrecipient shall have no further right of appeal.

(b) A hearing shall be conducted at ADECA's offices in Montgomery, Alabama, or any other appropriate location at ADECA's discretion, with a written notification of the time, place, and subject matter provided by ADECA to the Subrecipient.

3. **EQUAL EMPLOYMENT OPPORTUNITY**

In accordance with 41 CFR 60-1.4(b) and Executive Order 11246 (as amended by Executive Order 11375), for any federally assisted construction contract as defined by 41 CFR 60-1.3, the Contractor, during the performance of this Agreement, hereby agrees as follows:

(a) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be

imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The Applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the Applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The Applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order.

In addition, the Applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the Applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has

been received from such Applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

4. **COPELAND "ANTI-KICKBACK" ACT**

For all prime construction contracts in excess of \$2,000, the Subrecipient or Contractor shall comply with the Copeland "Anti-kickback" Act, 40 U.S.C. 3145, as supplemented by U.S. Department of Labor regulations (29 CFR Part 3), which prohibits a Contractor or Subrecipient from inducing any person employed in the construction, completion, or repair of a public work from giving up any compensation to which he or she is entitled to receive. In the event of a suspected or reported violation of the Copeland "Anti-Kickback" Act, ADECA shall report such violation to the Federal awarding agency [HUD].

5. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

In the event this contract or grant award is for an amount in excess of \$100,000 and involves the employment of mechanics and laborers, the Subrecipient or Contractor shall comply with the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3701-3708, specifically 40 U.S.C. 3702 and 3704, as supplemented by U.S. Department of Labor regulations (29 CFR Part 5). Said Act includes provisions which provide that a contractor must compute the wages of mechanics and laborers on the basis of a standard 40-hour work week. If an employee works in excess of 40 hours during a work week, the employee must be compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours. Further, neither a laborer nor a mechanic can be required to work in unsanitary, hazardous or dangerous conditions.

6. **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**

If the Federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and ADECA or the Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment of performance of experimental, developmental, or research work under that "funding agreement," ADECA or the Subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the Federal awarding agency [HUD].

7. **CLEAN AIR ACT and FEDERAL WATER POLLUTION CONTROL ACT**

In the event this contract or grant award is for an amount in excess of \$150,000, the Subrecipient or Contractor shall 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, 33 U.S.C. 1251-1387. ADECA shall report any suspected or reported violation to the Federal awarding agency [HUD] and to the Environmental Protection Agency.

8. ENERGY CONSERVATION

The Subrecipient or Contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. 6201 et seq.

9. DEBARMENT AND SUSPENSION

(a) The Subrecipient is prohibited from using any contractor or subcontractor or vendor that has been debarred, suspended, or otherwise excluded from participation in federal assistance programs (Executive Orders 12549 and 12689).

(b) The Subrecipient shall require participants in lower tier covered transactions to include the certification on Government-wide Debarment and Suspension (Non-Procurement) for it and its principals in any proposal submitted in connection with such lower tier covered transactions (see 2 CFR Part 180.300). The Excluded Parties List System is available for access from the System of Award Management website at <https://www.SAM.gov>.

(c) The Subrecipient certifies, by entering into this Agreement, that neither it nor its principals, nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement or any contract or subcontract hereto related, by any federal agency or by ADECA and/or any department, agency, or political subdivision of the State. The term "principal" for purposes of this Agreement means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Subrecipient.

(d) The Subrecipient certifies that it has verified the suspension and debarment status for all subcontractors receiving funds under this Agreement, and that it shall be solely responsible for any recoupments or penalties that might arise from non-compliance. The Subrecipient shall immediately notify ADECA if any subcontractor becomes debarred or suspended, and shall, at ADECA's request, take all steps required by ADECA to terminate its contractual relationship with that subcontractor for work to be performed under this Agreement.

10. BYRD ANTI-LOBBYING ACT

In the event this contract or grant award is for an amount equal to, or in excess of, \$100,000, the Subrecipient or Contractor shall comply with the Byrd Anti-Lobbying Act, 31 U.S.C. 1352, and shall file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of

Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award (ADECA).

The Subrecipient will require that the language of the paragraph above be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements).

11. PROCUREMENT OF RECOVERED MATERIALS

2 CFR 200.322 provides that a non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of completion, where the purchase price of the item exceeds \$10,000.00 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000.00; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the Environmental Protection Agency guidelines.

K. OTHER APPLICABLE FEDERAL AND STATE LAWS

In addition to the above Sections, the Subrecipient agrees that the Subrecipient and its Contractors, Subcontractors and Vendors shall agree with, and shall adhere to, the following:

1. TOBACCO SMOKE

Public Law 103-227, Title X, Part C, also known as the Pro-Children Act of 1994 (20 U.S.C. 6083) prohibits smoking in any portion of any indoor facility owned or leased or contracted for by an entity used routinely or regularly for the provision of health, daycare, education, or library services to children under the age of 18 if the services are funded by federal programs either directly or through State or local governments by federal grant, contract, loan, or loan guarantee.

2. DRUG-FREE WORKPLACE REQUIREMENTS

In accordance with the provisions of Title V, Subtitle D of Public Law 100-690 or Public Law 111-350 (41 U.S.C. 8101 *et. seq.*), the "Drug-Free Workplace Act of 1988," all grantees (to include ADECA, the Subrecipient, Contractors, Subcontractors and Vendors) must maintain a drug-free workplace and must publish a statement informing employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled

substance is prohibited in the workplace and establishing the actions that will be taken against employees violating these prohibitions. Failure to comply with these requirements may be cause for debarment.

3. TRANSPARENCY ACT

Awards under Federal programs are included under the provisions of Public Law 109-282, the "Federal Funds Accountability and Transparency Act of 2006" ("FFATA"). Under this statute, the State is required to report information regarding executive compensation and all subgrants, contracts and subcontracts in excess of \$25,000 through the Federal Subaward Reporting System (<https://www.fsrs.gov/>) and in accordance with the terms found in Federal regulations at 2 CFR Part 170, including Appendix A. Therefore, the Subrecipient, Contractors, Subcontractors and Vendors who meet this threshold will be required to furnish this information to the ADECA Community and Economic Development Division which is funding the Subrecipient through this Agreement. Specific reporting processes will be provided by the applicable ADECA Division to the Subrecipient. Active enrollment in the System for Award Management is a condition of payment under Section F herein this Agreement.

4. POLITICAL ACTIVITY

The Subrecipient shall comply with the Hatch Act (5 U.S.C. 1501, *et seq.*) regarding political activity by public employees or those paid with Federal funds. None of the funds, materials, property, or services contributed by the Subrecipient or ADECA under this Agreement shall be used for any partisan political activity or to further the election or defeat of any candidate in public office.

5. HUMAN TRAFFICKING PROVISIONS

The award is subject to the requirements of Section 106(g) of the "Trafficking Victims Protection Act of 2000" (22 U.S.C. 7104).

6. PURCHASES OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

As stated in Section 507 of Public Law 103-333, it is the sense of Congress that to the extent practicable, all equipment and product purchases with funds from this Agreement should be American made.

7. MANDATORY DISCLOSURES

Pursuant to 2 CFR 200.113, the Subrecipient must disclose, in a timely manner, in writing to ADECA, all violations of Federal criminal law involving fraud, bribery, or gratuity violations.

8. NOT TO CONSTITUTE A DEBT OF THE STATE

It is agreed that the terms, conditions, and commitments contained herein this Agreement shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment No. 26.

9. CONFLICTING PROVISION

If any provision of this Agreement shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the course of this Agreement, be enacted, then that conflicting provision in this Agreement shall be deemed null and void.

10. IMMUNITY AND DISPUTE RESOLUTION

a. The parties to this Agreement recognize and acknowledge that ADECA is an instrumentality of the State of Alabama, and as such, is immune from suit pursuant to Article I, Section 14, Constitution of Alabama 1901. It is further acknowledged and agreed that none of the provisions and conditions of this Agreement shall be deemed to be or construed to be a waiver by ADECA of such Constitutional Immunity. The Subrecipient's sole remedy for the settlement of any and all disputes arising under the terms of this Agreement shall be limited to the filing of a claim with the Board of Adjustment for the State of Alabama pursuant to §41-9-60 *et seq*, Code of Alabama 1975.

b. For any and all disputes arising under the terms of this Agreement, the parties hereto agree, in compliance with the recommendations of the Governor and Attorney General, when considering settlement of such disputes, to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation.

11. DISCLAIMER

a. ADECA specifically denies liability for any claim arising out of any act or omission by any person or agency receiving funds from ADECA whether by this Agreement, a contract, a grant, a loan, or by any other means.

b. No Subrecipient, Contractor, or agency performing services under any agreement, contract, grant, or any other understanding, oral or written, other than an actual employee of ADECA, shall be considered an agent or employee of the State of Alabama or ADECA or any Division thereof. The State of Alabama, ADECA, and their agents and employees assume no liability to any Subrecipient, Contractor or agency, or any third party, for any damages to property, both real and personal, or personal injuries, including death, arising out of or in any way connected with the acts or omissions of any Subrecipient, Contractor or agency, or any other person.

12. ACCESS TO RECORDS

The ADECA Director, the Comptroller General of the United States (if Federal funds), the Chief Examiner of Public Accounts, or any of their duly authorized representatives, shall have the right of access to any pertinent books, documents, papers, and records of the Subrecipient for the purpose of making audits, financial reviews, examinations, excerpts and transcripts. This right also includes timely and reasonable access to the Subrecipient's personnel for the purpose of interview and discussion related to such agreement. This right of access is not limited to the required record retention period, but shall last as long as the applicable records are retained.

13. ASSIGNABILITY

The Subrecipient shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of ADECA thereto. Provided, however, that claims for money due, or to become due to the Subrecipient from ADECA under this Agreement may be assigned to a bank, a trust company, or other financial institution through a valid court order and without such approval. Notice of such assignment or transfer shall be furnished promptly to ADECA.

14. CONTINGENCY CLAUSE

a. It is expressly understood and mutually agreed that any ADECA commitment of funds herein shall be contingent upon receipt and availability by ADECA of funds under the ESG Program for which this Agreement is made. If this Agreement involves Federal funds, the amount of this Agreement will be adjusted by the amount of any federal recessions and/or deferrals.

b. Payments made by ADECA under the terms of this Agreement shall not constitute final approval of documents submitted by the Subrecipient or of procedures used in formulating requests for payment to the Subrecipient.

15. CONFLICT OF INTEREST

a. A conflict of interest, real or apparent, will arise when any of the following has a financial or other interest in the firm or organization selected for award: (i) the individual, (ii) any member of the individual's immediate family, (iii) the individual's partner, or (iv) an organization which employs or is about to employ any of the above.

b. The Subrecipient certifies by signing this Agreement that no person under the Subrecipient's employ or control who presently performs functions, duties, or responsibilities in connection with ADECA of grant-funded projects or programs has any personal and/or financial interest, direct or indirect, in this Agreement, nor will the Subrecipient hire any person having such conflicting interest.

c. The Subrecipient certifies that it will maintain a written code of standards governing the performance of persons engaged in the award and administration of contracts and subgrants.

16. INDIRECT COST

In accordance with 2 CFR 200.331(a)(1)(xiii) and (a)(4), and 2 CFR 200.414, subrecipients of federal awards may charge indirect costs to the award unless statutorily prohibited by the federal program and in accordance with any applicable administrative caps on federal funding. ADECA will not negotiate indirect cost rates with subrecipients, but will accept a federally negotiated indirect cost rate or the 10% de minimis rate of the modified total direct cost (MTDC) as defined in 2 CFR 200.68. If requesting the 10% de minimis rate, subrecipients must submit a certification that the entity has never received a federally approved indirect cost rate. Subrecipients are allowed to allocate and charge direct costs through cost allocation. However, in accordance with 2 CFR 200.403, costs must be consistently charged as either indirect or direct costs but not charged as both or inconsistently charged to the federal award. Once chosen, the method must be used consistently for all federal awards until such time as a negotiated rate is approved by the subrecipients' federal cognizant agency.

17. AUDIT REQUIREMENTS

a. All Subrecipients of federal funds must follow the Audit requirements identified in the Office of Management and Budget Uniform Administrative Requirements, 2 CFR Part 200, Subpart F – Audit Requirements. Additionally, if any Subrecipient receives more than \$500,000, collectively, in State General Fund appropriations in their fiscal year, from ADECA, they must have an audit in accordance with Government Auditing Standards (the Yellow Book) and Generally Accepted Auditing Standards established by the AICPA.

b. Nothing contained in this Agreement shall be construed to mean that ADECA cannot utilize its auditors regarding limited scope audits of various ADECA funds. Audits of this nature shall be planned and carried out in such a way as to avoid duplication or not to exceed the audit coverage limits as stated in the said Uniform Administrative Requirements.

c. Copies of all required audits must be submitted to:

Alabama Department of Economic and Community Affairs (ADECA)
ATTENTION: Chief Audit Executive
401 Adams Avenue
P.O. Box 5690
Montgomery, Alabama 36103-5690

And an additional copy to:

Alabama Department of Examiners of Public Accounts

ATTENTION: Audit Report Repository

P. O. Box 302251

Montgomery, Alabama 36130-2251.

d. All entities that have a single audit must submit the reporting package and data collection form to the Federal Audit Clearinghouse in accordance with 2 CFR Part 200, Subpart F §200.512.

**18. AUDIT EXCEPTIONS / UNRESOLVED QUESTIONED COSTS /
OUTSTANDING DEBTS**

The Subrecipient certifies by signing this Agreement that it does not have any unresolved audit exceptions, unresolved questioned costs or finding of fiscal inadequacy as a result of project monitoring. It further certifies that no money is owed to any Division of ADECA or to the Federal government under any program where it has not arranged a repayment plan.

19. SUSPENSION OF PAYMENTS

a. Payments under this Agreement may be suspended in the event that there is an outstanding audit exception under any program administered by any Division of ADECA, or in the event there is an amount owing to any Division of ADECA, or an amount owing to the Federal government under any program administered by any Division of ADECA that is not received in a reasonable and timely manner.

b. Should the Subrecipient incur an unresolved audit exception or have unresolved questioned costs or finding of fiscal inadequacy as a result of any project monitoring by any Division of ADECA, then ADECA shall not enter into any other contract, agreement, grant, etc., with the Subrecipient until the audit exception or questioned cost or finding of fiscal inadequacy has been resolved.

c. ADECA shall not enter into another contract, agreement, grant, etc., with any individual, agency, company, or government under any program administered by any Division of ADECA that has not arranged a repayment schedule.

20. DISCLOSURE STATEMENT

Unless otherwise exempt under §41-16-82, *Code of Alabama 1975*, a disclosure statement must be submitted to ADECA for any and all proposals, bids, contracts or grant proposals in excess of \$5,000.00.

21. **COMPLIANCE WITH OTHER APPLICABLE FEDERAL, STATE, AND LOCAL LAWS**

a. In addition to the provisions provided herein, the Subrecipient shall be responsible for complying with any and all other applicable laws, ordinances, codes and regulations of the Federal, State, and local governments, including, but not limited to, the Alabama Competitive Bid Law (§41-16-1 *et seq*, *Code of Alabama 1975*), the Alabama Public Works Law (§39-1-1 *et seq*, *Code of Alabama 1975*), any State permitting requirements, the Alabama Open Meetings Act (§36-25a-1 *et seq*, *Code of Alabama 1975*), and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act (§31-13-1, *et seq*, *Code of Alabama 1975*).

b. By signing this Agreement, the parties affirm that for the duration of this Agreement they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of this Agreement and shall be responsible for all damages resulting therefrom.

c. It is the purpose of ADECA to provide to the Subrecipient this Federal Assistance allocated under the ESG Program in order that the Subrecipient can provide certain work activities and administrative services described in the Subrecipient's ADECA-approved Application and herein this Agreement.

d. It shall be the responsibility of the Subrecipient to carry out the performance of the said work activities and administrative services and the terms of this Agreement in a satisfactory and proper manner in accordance with all Federal, State, and local laws.

e. It shall be the responsibility of the Subrecipient to see that all contracts or subcontracts for the said work activities and administrative services and the terms of this Agreement are executed and performed in accordance with all applicable Federal, State and local laws.

f. ADECA shall not be liable for the failure on the part of the Subrecipient and/or any Contractor, Subcontractor or Vendor, to perform the said work activities and administrative services and the terms of this Agreement in accordance with all applicable laws and regulations.

g. This Agreement is subject to the regulations of the U.S. Department of Housing and Urban Development, 24 CFR Part 576, as published for effect and as may be amended from time to time.

h. Incorporated herein as part of this Agreement are Attachment A and the Certifications signed by ADECA as part of the State's One-Year Annual Action Plan developed for the ESG Program (the State's federal grant application) that is submitted to and approved by HUD for the State's ESG Funds awarded to the State, which Certifications include but may not be limited to the following:

- (1) Shelter and housing standards (24 CFR Part 576.403).
- (2) Conflicts of interest (24 CFR Part 576.404).
- (3) Faith-based activities (24 CFR Part 5.109 and 24 CFR Part 576.406).
- (4) Affirmative outreach (24 CFR Part 576.407(b)).
- (5) Environmental review responsibilities (Public Law 112-141 and 24 CFR Part 58).
- (6) Displacement, Relocation, and Acquisition (24 CFR Part 576.408).
- (7) Nondiscrimination and Equal Opportunity (24 CFR Part 5.105).
- (8) Disclosure Requirements (24 CFR Part 5.105).

i. It shall be the responsibility of the Subrecipient to follow the property management requirements established in 24 CFR Part 200.

22. CENTRALIZED OR COORDINATED ASSESSMENT SYSTEM

The Subrecipient shall ensure that all projects funded under this Agreement will use the centralized or coordinated assessment system developed by the local continuum of care in accordance with HUD-established requirements. A victim service provider may choose not to use the centralized or coordinated assessment system developed by the local continuum of care.

23. RECORDKEEPING AND REPORTING

The Subrecipient must have policies and procedures to ensure the requirements of this part are met. The policies and procedures must be established in writing and implemented by the Subrecipient and its second-tier or lower level subrecipients to ensure that ESG funds are used in accordance with the requirements. In addition, sufficient records must be established and maintained to enable ADECA and HUD to determine whether ESG requirements are being met as provided in 24 CFR 576.500.

The Subrecipient shall submit performance reports and other program information as required by ADECA in a timely manner as specified by ADECA and federal program laws and regulations. The contents of the reports shall follow the requirements prescribed by

HUD and ADECA. It is expressly agreed that full compliance with programmatic, fiscal, and reporting requirements is a condition for the provision of funds under this Agreement. Failure to submit such reports in a timely manner could result in the termination or suspension of funds.

- a. The Subrecipient shall ensure that agencies which will provide direct services to program participants under this Agreement shall report client-level data in the Homeless Management Information System (HMIS) utilized by the local continuum of care.
- b. Victim services or legal services provider agencies may report client-level, longitudinal data in a comparable database which generates unduplicated, aggregate reports based on the data.
- c. HMIS or comparable database activities must comply with HUD's standards on participation, data collection, and reporting under a local HMIS.

IN WITNESS WHEREOF, ADECA and the Subrecipient have executed this Agreement as evidenced by their signatures below:

ADECA

Alabama Department of Economic
and Community Affairs

Jim Byard, Jr.

Jim Byard, Jr., Director

October 29, 2015

(Date)

ATTEST:

Shari M. Fowler

(Name)

Administrative Assistant

(Title)

October 29, 2015

(Date)

This contract/grant has been reviewed for content, legal form, and complies with all applicable laws, rules and regulations of the State of Alabama governing these matters.

Claudia Kennedy Smith AWT

Claudia Kennedy Smith
General Counsel for ADECA

SUBRECIPIENT

City of Huntsville
HESG-15-008

Tommy Battle

Authorized Official

11-18-15

(Date)

ATTEST:

Carol Ashley

(Name)

Administrative Aide

(Title)

11-17-15

(Date)