

SITE DEVELOPMENT PROJECT AGREEMENT

BY AND BETWEEN

STATE INDUSTRIAL DEVELOPMENT AUTHORITY

AND

THE CITY OF FOLEY

SITE DEVELOPMENT PROJECT AGREEMENT

This **SITE DEVELOPMENT PROJECT AGREEMENT** (“**Agreement**”) is made and entered into by and between the **STATE INDUSTRIAL DEVELOPMENT AUTHORITY** (“**SIDA**”), a non-profit corporation of the State of Alabama organized under Article 2 of Chapter 10 of Title 41 of the Code of Alabama, and **THE CITY OF FOLEY** (“**Grantee**”) each of which is a “**Party**” to this Agreement, collectively, the “**Parties**”. This Agreement shall be effective as of the date all Parties have signed this Agreement, including SIDA who shall be the last signatory (“**Effective Date**”).

RECITALS

WHEREAS, pursuant to Act No. 2023-35 enacted at the 2023 Regular Session of the Legislature of Alabama (the “**SEEDS Act**”), SIDA is authorized to approve site assessment grants and site development grants, and is required to enter into project agreements with each approved grant applicant;

WHEREAS, under the SEEDS Act, a local economic development organization may apply to SIDA for a site development grant if: (i) the site comprised of at least seventy-five (75) contiguous acres, provided that in addition to the seventy-five (75) contiguous acres, other proximate but noncontiguous property may be a part of the site, and (ii) the applicant provides proof that the grant funds that are approved by the authority will be matched by funds on hand with, or contingently committed to the applicant, as determined by the population size of the county where the site is located;

WHEREAS, Grantee submitted to SIDA a Site Evaluation Economic Development Strategy (“**SEEDS**”) Application to receive funds for the development of the Site;

WHEREAS, SIDA has found that the site is comprised of at least seventy-five (75) contiguous acres, provided that in addition to the seventy-five (75) contiguous acres, other proximate but noncontiguous property may be a part of the site and Grantee has proof that the grant funds that are approved by the SIDA will be matched by funds on hand with, or contingently committed to the Grantee, as determined by the population size of the county where the site is located;

WHEREAS, the Site is located in Baldwin County with a population of 150,000 or greater, and Grantee has provided proof that for every dollar of grant funds approved by SIDA, Grantee will contribute one dollar (\$1.00) of additional funds, as required by the SEEDS Act;

WHEREAS, Grantee declared in the Application that the site development to be completed consists of: site purchase; and

WHEREAS, SIDA approved a SEEDS allocation in the amount of Three Million Three Hundred Twenty-Seven Thousand Five Hundred Dollars and No Cents (\$3,327,500.00) to complete the Project, as evidenced by the SIDA resolution dated February 4, 2026.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Section 1. Definitions. In addition to the definitions contained in the SEEDS Act, codified at section 41-10-47.01, *et seq.*, Code of Alabama, the following terms shall have the meanings set forth in this Section:

Application shall mean the SEEDS application submitted by Grantee.

Approved Allocation shall mean the total amount of grant funds approved by SIDA.

Project shall mean the site development work approved by SIDA.

SIDA shall mean the State Industrial Development Authority, a non-profit corporation of the State of Alabama organized under Article 2 of Chapter 10 of Title 41 of the Code of Alabama.

Site shall mean the real property described in the Application intended for use by a Company which conducts an activity listed in section 40-18-372(1) of the Code of Alabama.

Section 2. Purpose and Authority. The purpose of this Agreement is to provide funding to complete the Project in accordance with section 41-10-47.01, *et seq.*, Code of Alabama.

Section 3. Funding. In no event shall the total amount to be paid by SIDA to Grantee under this Agreement exceed the Approved Allocation for full and complete performance of the terms and conditions of this Agreement.

- a. Use of Funds. Funds shall only be used for the Project. The Project must be completed and the Site must be conveyed within six (6) months after the Effective Date of this Agreement.
- b. Receipt of Funds. To receive the Approved Allocation, Grantee shall submit a completed payment request form, attached as **Exhibit A**, including all documentation detailed in **Exhibit B**, attached, to seeds@edpa.org. Upon review and approval of a valid request for payment, in accordance with section 41-10-47.03 of the Code of Alabama, SIDA shall reduce the total amount of the invoice(s) or other documentation submitted to SIDA in proportion to Grantee's applicable matching requirement. Any costs incurred before or after the Term of this Agreement, as specified in Section 5 (Term of Agreement), shall not be eligible for SIDA funding or reimbursement.

Section 4. Reporting Requirements.

- a. Initial Report. No later than thirty (30) days after the closing date which must occur within six (6) months after the Effective Date of this Agreement, Grantee shall submit sufficient documentation to seeds@edpa.org involving the Site conveyance.
- b. Annual Reports. Not later than February 4 of each calendar year, beginning February 4, 2027, and continuing until the earlier of February 4 following date the Site is conveyed or February 4, 2032, Grantee shall submit an annual report to seeds@edpa.org containing the following information: (i) a description of the site work completed at the Site and proof of payment(s) made, (ii) any Site visits held with potential prospects, and (iii) all marketing efforts involving the Site.
- c. Site Database. Not later than thirty (30) days after completion of the Project, Grantee shall provide site information on the Advantage Alabama database website.

Further, upon request by SIDA, Grantee shall provide such other documentation as is reasonably satisfactory to SIDA for reporting purposes.

Section 5. Term of Agreement. This Agreement shall be effective for a term of six (6) years following the Effective Date. Notwithstanding, SIDA's authority to recapture all or a portion of the funds received, as specified in Section 6 (Recapture of Funds), shall survive the expiration of this Agreement.

Section 6. Recapture of Funds. Grantee agrees to use the Approved Allocation only for the Project. If Grantee uses the Approved Allocation for any purpose not approved by SIDA or if the Site is used to conduct a predominant activity not described in section 40-18-372(1) of the Code of Alabama, Grantee shall, at SIDA's sole discretion, be required to repay SIDA all or a portion of the funds received under this Agreement. Additionally, if this Agreement is terminated for cause or convenience, SIDA shall have the authority to recapture all or a portion of the funds received by Grantee under this Agreement.

Section 7. Indemnification. Grantee shall release, save, hold harmless, and indemnify the State, SIDA, officers, employees, attorneys, representatives, and agents acting on behalf of the State or SIDA (collectively, the "Indemnified Parties") from and against (i) any and all third party claims arising from the performance or nonperformance by Grantee of any obligation herein, or arising from or in connection with any activity or omission of Grantee or any of the Grantee's agents, contractors, or employees in connection with the Project, and (ii) all costs, attorney fees, expenses, and liabilities incurred in the defense of any such claim or any action against the Indemnified Parties, or any of them individually, by reason of any such claim, and Grantee, upon notice from SIDA, shall defend the same at Grantee's expense through legal counsel satisfactory to SIDA in its sole discretion. The foregoing indemnity obligation shall include, but is not limited to, indemnification against any claim for payment brought by any contractor, subcontractor, materialman, supplier, laborer, design professional, or the like in connection with work, labor,

and/or materials supplied in connection with the Project. The foregoing indemnity obligation shall survive the expiration or earlier termination of this Agreement.

Section 8. Notices. All notices required by or related to this agreement shall be sent by United States Mail, first class postage affixed, addressed to the receiving parties as described below:

To SIDA:

State Industrial Development Authority
Attn: Sandi Taylor
100 N Union Street
Suite 224
Montgomery, Alabama 36130
sandi.taylor@finance.alabama.gov

With a copy to Commerce:

Department of Commerce
Attn: Erika McKay, General Counsel
401 Adams Avenue
Suite 670
Montgomery, Alabama 36104
erika.mckay@commerce.alabama.gov

To Grantee:

The City Of Foley
Attn: _____

Email: _____

A Party may change its notice information contained in this **Section 8** by providing the other Parties written notice thereof.

Section 9. Amendments. SIDA or Grantee may, from time to time, request amendments to various provisions of this Agreement. Such amendments, which are mutually agreed upon by SIDA and Grantee, must be incorporated as written amendments to this Agreement and approved by all signatory authorities prior to implementation.

Section 10. Miscellaneous.

(a) Integration; Modification or Amendment of this Agreement. This Agreement embodies the entire understanding between the Parties and supersedes all prior

agreements and understandings (whether written or oral) relating to the subject matter hereof. The terms of this Agreement may not be modified, altered, or amended except by agreement in writing signed by both Parties.

- (b) Time is of the Essence. The Parties acknowledge and agree that time is of the essence in the performance of their respective duties under this Agreement. Grantee's failure to properly request the Approved Allocation prior to the expiration of this Agreement shall result in forfeiture of any remaining funds.
- (c) Termination for Convenience. This Agreement may be terminated by either Party with thirty (30) calendar days written notice. Said notice shall specify the reasons for requesting such termination.
- (d) Termination for Cause. If, through any cause, Grantee shall fail to fulfill in a timely manner its obligations under this Agreement, or if Grantee shall violate any of the covenants, agreements, or stipulations of this Agreement, and such failure or violation is not corrected within fifteen (15) calendar days after such notice is given by SIDA to Grantee, SIDA shall thereupon have the right to immediately terminate or suspend this Agreement by giving written notice to Grantee of such termination or suspension and specifying the effective date thereof.
- (e) Debt of the State. It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Ala. Const. art. XI, § 213.
- (f) Severability. If any term or provision of this Agreement is determined to be invalid, illegal, or unenforceable, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement.
- (g) Merit System Exclusion. Grantee nor any contractor, subcontractor, or agent performing services on behalf of the Grantee is not to be considered a merit system employee and is not entitled to any benefits of the Alabama State Merit System.
- (h) Debarment and Suspension. Grantee certifies, by entering into this Agreement, that neither it nor its principals nor any of its contractors, subcontractors, or affiliates are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency, or political subdivision of the State of Alabama. 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 Grantee.

Grantee certifies that it has verified the suspension and debarment status for all contractors and subcontractors receiving funds under this Agreement and shall be

solely responsible for any recoupments or penalties that might arise from non-compliance. Grantee shall immediately notify SIDA if any contractor or subcontractor becomes debarred or suspended, and shall, at SIDA's request, take all steps required by SIDA to terminate its contractual relationship with the contractor or subcontractor for work to be performed under this Agreement.

- (i) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.
- (j) Compliance with Federal, State and Local Laws. In addition to the provisions provided herein, Grantee shall be responsible for complying with any and all other applicable laws, ordinances, codes, executive orders, and regulations of the federal, state, and local governments. Such compliance includes but is not limited to any federal, state, and local permitting, procurement, competitive bidding, public works, public meeting, environmental, historic preservation, land use, or reporting requirements. It is the responsibility of the Grantee to become familiar with these requirements, and SIDA assumes no liability to Grantee for any damages arising out of or in any way connected with Grantee's non-compliance with laws, ordinances, codes, executive orders, and regulations of the federal, state, and local governments.

In compliance with Ala. Act No. 2016-312, Grantee hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

In compliance with Ala. Act No. 2023-409, by signing this Agreement, Grantee provides written verification that Grantee, without violating controlling law or regulation, does not and will not, during the term of the Agreement engage in economic boycotts as the term "economic boycott" is defined in Section 1 of the Act.

By signing this Agreement, the contracting Parties affirm, for the duration of the Agreement, that 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 the Agreement and shall be responsible for all damages resulting therefrom.

- (k) 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 the Agreement shall be deemed null and void.

- (l) Assignment. This Agreement is not assignable without the prior written consent of the SIDA.
- (m) No Waiver. No failure of SIDA to exercise, and no delay in exercising, any right, remedy, power, or privilege hereunder or under applicable law shall operate as a waiver by SIDA of such right, remedy, power, or privilege.
- (n) Cumulative Rights. The rights, remedies, powers, and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers, and privileges provided by law.
- (o) Headings. The section headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.
- (p) Counterparts; Electronic Execution. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic format shall be effective as delivery of a manually executed counterpart of this Agreement.
- (q) Accuracy and Completeness. SIDA makes no representation or warranty, express or implied, as to the accuracy or completeness of the information in this Agreement. SIDA is not liable for any reliance by Grantee or any third party on the information herein.

[Remainder of page intentionally left blank.]

WHEREFORE, the Parties hereto, intending to be legally bound by the provisions herein set forth, have caused this agreement to be signed and delivered by their duly authorized representatives.

[Remainder of page intentionally left blank.]

THE CITY OF FOLEY

By: _____

Name: _____

Title: _____

Date: _____

[Signatures continue on following page.]

**STATE INDUSTRIAL DEVELOPMENT
AUTHORITY**

Ellen McNair, President

Effective Date: _____

EXHIBIT A

**TO THE SITE DEVELOPMENT PROJECT AGREEMENT BY AND BETWEEN THE STATE
INDUSTRIAL DEVELOPMENT AUTHORITY AND**

THE CITY OF FOLEY

SEEDS REQUEST FOR PAYMENT NO. _____

DATE: _____

TO: DEBT MANAGEMENT DIVISION
ALABAMA DEPARTMENT OF FINANCE
100 NORTH UNION STREET; SUITE 224
MONTGOMERY, AL 36130-2617

PAY: *VENDOR NAME: _____
*VENDOR NUMBER: _____
*VENDOR ADDRESS: _____

*Must match in STAARS accounting system

GRANT APPLICATION APPROVAL DATED: _____
TOTAL AMOUNT OF INVOICE(S): _____
AMOUNT REQUESTED: \$ _____

Pursuant to the Site Development Project Agreement, Grantee hereby requests payment in the amount specified above. The amount requested shall be calculated based on the Grantee's matching requirement pursuant to section 41-10-47.04 of the Code of Alabama. Included with this Request for Payment is an invoice detailing the scope of work. Grantee certifies that all conditions for payment under the terms of the Site Development Project Agreement have been satisfied and that the expenditures for which payment is being requested qualify for payment under the Site Development Project Agreement.

THE CITY OF FOLEY

By: _____
Its: _____

EXHIBIT B

**TO THE SITE DEVELOPMENT PROJECT AGREEMENT BY AND BETWEEN THE STATE
INDUSTRIAL DEVELOPMENT AUTHORITY AND**

CITY OF FOLEY

REQUEST FOR PAYMENT LAND PURCHASE

The below documentation shall be required to be submitted by Grantee to seeds@edpa.org for all Site purchases:

1. Appraisal by a local, unbiased, qualified appraiser (purchase price cannot exceed the appraisal price)
2. Title opinion by qualified attorney showing clear and free title
3. Legal description of property
4. Copy of deed (unexecuted)
5. Preliminary closing statement showing estimate of costs (UCC Settlement)
6. Survey
7. Name, address, and contact information of the closing attorney/agent

NOTE: Payment for the purchase of land shall be made by SIDA directly to the closing agent/attorney who shall be registered as a vendor through Alabama Buys. If you should have any questions concerning registration through Alabama Buys, please contact the Alabama Buys help desk at 334-353-0700 or visit <https://alabamabuys.gov>