

GRANT AGREEMENT

This Grant Agreement is entered into by and between the **Alabama Department of Economic and Community Affairs**, hereinafter referred to as the "Department," and the **City of Foley**, hereinafter referred to as the "Grantee." Department and Grantee may be referred to herein individually as a "party" and collectively as the "parties." The parties hereto agree as follows:

1. PURPOSE AND SCOPE

The purpose of this grant is to provide funding to the City of Foley for an economic development project.

2. TERM OF GRANT AGREEMENT

This Grant Agreement is effective as of **October 1, 2025**, and unless authorized in writing by the Department Director will end **September 30, 2026**.

3. FUNDING

The total amount that the Department agrees to pay the Grantee shall not exceed **\$500,000**. Any Department commitment of funds shall be contingent upon the receipt and availability by the Department of funds under the program for which this Grant Agreement is made.

4. METHOD OF PAYMENT

Payment will be made upon submission of a "payment request." The Department reserves the right to withhold payments or reduce grant funds in the absence of an appropriate expenditure rate. Payment is subject to change if proration of the State General Fund is declared.

The Department, at its discretion, may cancel any warrant issued to the Grantee pursuant to this Grant Agreement and not cashed by the Grantee within forty-five days of the issue date of the warrant. **Payment requests must be received on or before September 30, 2026. Any funds not requested by September 30, 2026, will not be paid.**

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

5. AMENDMENTS

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

6. TERMINATION

The following provisions apply to termination under this Grant Agreement whether termination by the Department or by the Grantee. The performance of work under this Grant Agreement may be terminated in whole or in part for the following circumstances:

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

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

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

Notwithstanding the above, the Grantee shall not be relieved of any liability to the Department for damages sustained by the Department by virtue of any breach of the Grant Agreement by the Grantee and the Department may withhold any payments to the Grantee for the purpose of set-off until such time as the exact amount of damages to the Department for the Grantee is determined.

7. **DEBARMENT AND SUSPENSION**

The Grantee is prohibited from using any contractor or subcontractor that has been debarred, suspended, or otherwise excluded from participation in federal and state programs. The Grantee certifies by entering into this Grant Agreement that neither it nor any of its subcontractors are presently debarred, suspended, proposed from debarment, declared ineligible, or voluntarily excluded from entering into this Grant Agreement by any Federal agency or by any department, agency, or political subdivision of the State. The Grantee certifies that it has verified the suspension and debarment status for all subcontractors receiving funds under this Grant Agreement and shall be solely responsible for any recoupments or penalties that might arise from non-compliance. The Grantee shall immediately notify the Department if any subcontractor becomes debarred or suspended and shall, at the Department's request, take all steps required by the Department to terminate its contractual relationship with the subcontractor for work to be performed under this Grant Agreement.

8. **NON-APPROPRIATION AND PRORATION AND NOT TO CONSTITUTE A DEBT OF THE STATE**

When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the Grant Agreement shall be cancelled, and, to the extent permissible by law, the supplier shall be reimbursed for the reasonable value of

any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the Grant Agreement. To the extent permissible by law, this cost of cancellation may be paid from any appropriations available for that purpose. In the event that proration of appropriated funds from which the State is to pay the supplier is declared by the Governor pursuant to Ala. Code § 41-4-90, the Grantee shall have the option, in addition to the other remedies of the Grant Agreement, of renegotiating the Grant Agreement to extend or change payment terms or amounts, or terminating the contract. In all circumstances, it is agreed that the terms and commitments of this Grant Agreement shall not constitute a debt of the State of Alabama in violation of Ala. Const. art. XI, § 213.

9. CONFLICTING PROVISION

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

10. IMMUNITY AND DISPUTE RESOLUTION

The parties to this Grant Agreement recognize and acknowledge that ADECA is an instrumentality of the State of Alabama and, as such, it is immune from suit pursuant to Ala. Const. art. I, § 14. It is further acknowledged and agreed that none of the provisions and conditions of this Grant Agreement shall be deemed to be or construed to be a waiver by ADECA of such Constitutional Immunity.

In the event of any dispute between the parties, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail, and the dispute involves the payment of money, a party's sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama.

For any and all disputes arising under the terms of this Grant Agreement which are not resolved by negotiation, the parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing, where appropriate, mediators selected from the roster of mediators maintained by the Center for Dispute Resolution of the Alabama State Bar.

11. RIGHT TO AUDIT AND AUDIT REQUIREMENTS

During the term of this Grant Agreement, ADECA shall have the right, consistent with applicable Federal and State law and upon reasonable prior notice to the Grantee, to have access during normal business hours to the Grantee facilities and systems to monitor and audit Grantee administrative, technical, and physical safeguards and compliance with ADECA policies and the State of Alabama IT Policies and other Federal and State laws.

If any Grantee receives more than \$500,000.00 collectively in State General Fund appropriations in their fiscal year from the Department, they must have an audit in accordance with Government Auditing Standards (the Yellow Book) and Generally Accepted Auditing Standards established by the American Institute of Certified Public Accountants.

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

The Grantee certifies by signing this Grant 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 the Department, or to the Federal government under any program where it has not arranged a repayment plan.

Copies of all required audits must be submitted to ADECA and the Alabama Department of Examiners of Public Accounts. Copies may be transmitted by email or traditional mail, at the following addresses:

audit@adeca.alabama.gov

ADECA
ATTENTION: Chief Auditor
401 Adams Avenue
P.O. Box 5690
Montgomery, AL 36103-5690

central.records@examiners.alabama.gov

Alabama Examiners of Public Accounts
ATTENTION: Audit Report Repository
P.O. Box 302
Montgomery, AL 36130-2251

12. DISCLAIMER

The Department specifically denies liability for any claim arising out of any act or omission by any person or agency receiving funds from the Department whether by contract, grant, or by any other means.

No Grantee performing services under any agreement, contract, grant, or any other understanding, oral or written, other than an actual employee of the Department, shall be considered an agent or employee of the State of Alabama or the Department or any division thereof. The State of Alabama, the Department, and their agents and employees assume no liability to any Grantee, 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 Grantee or agency, or any other person.

13. ACCESS TO RECORDS AND RETENTION

The Director of the Department and 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 any other physical or digital records of the Grantee for the purposes of making audits, financial reviews, examinations, excerpts, and transcripts. This right also includes timely and reasonable access to Grantee personnel for the purpose of interview and discussion related to such agreement. The right of access is not limited to the required retention period but shall last as long as the records are retained.

Records shall be maintained for a period of six years after all funds have been expended or returned, or any longer retention period required by law; provided, however, that if any litigation, claim, or audit is started before the expiration of the retention period herein, the records shall be retained until the Department has notified the Grantee in writing that all litigation, claims, or audit findings involving the records have been resolved.

14. ASSIGNABILITY

The Grantee shall not assign any interest in this Grant Agreement and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of the Department thereto provided. However, that claims for money due, or to become due to the Grantee from the Department under this Grant 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 the Department.

15. CONTINGENCY CLAUSE

It is expressly understood and mutually agreed that any Department commitment of funds herein shall be contingent upon receipt and availability by the Department of funds under the program for which this Grant Agreement is made. Payments made by the Department under the terms of this Grant Agreement shall not constitute final approval of documents submitted by the Grantee or of procedures used in formulated requests for payment to the Grantee. Funds appropriated and obliged to this award are available for reimbursement of costs until the end of the performance period set forth in the Grant Agreement.

16. CONFLICT OF INTEREST

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 an award: (1) the individual or a board member of the firm or organization, (2) any member of the individual's immediate family, (3) the individual's partner, or (4) an organization which employs, or is about to employ any of the above. The Grantee certifies by signing this Grant Agreement that no person under its employ or control who presently performs functions, duties, or responsibilities in connection with the Department of grant-funded projects or programs has any personal and/or financial interest, direct or indirect, in this Grant Agreement nor will the Grantee hire any person having such conflicting interest. The Grantee further 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.

17. SUSPENSION OF PAYMENTS

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

Should the Grantee incur an unresolved audit exception, have unresolved questionable costs, or have a finding of inadequacy as a result of any project monitoring by any division of the Department, the Department shall not enter into any other contract, agreement, or grant

agreement with said Grantee until the audit exception, questioned cost, or finding of fiscal inadequacy has been resolved and a repayment schedule has been arranged.

18. DISCLOSURE STATEMENT

Unless otherwise exempt under Ala. Code § 41-16-82, a disclosure statement must be submitted to the Department for all grant proposals in excess of \$25,000.00 and all proposed contracts that meet or exceed the threshold for bid or other formal solicitations under Article 5 of Chapter 4 of Title 41 of the Alabama Code or any law requiring formal solicitation procedures for public contracts.

19. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS

In addition to the provisions provided in the Grant Agreement, the Grantee 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, Alabama procurement law (Ala. Code § 41-16-1 *et seq.*; Ala. Code § 41-4-110 *et seq.*), the Alabama Public Works Law (Ala. Code § 39-1-1 *et seq.*), any State permitting requirements, the Alabama Open Meetings Act (Ala. Code § 36-25a-1 *et seq.*), and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act (Ala. Code § 31-13-1 *et seq.*).

For all Grant Agreements governed by the Alabama Public Works Law or Alabama procurement law, the following shall apply: In compliance with Ala. Code § 41-16-5, the 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.

By signing the Grant Agreement, the parties will affirm for the duration of the Grant 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 Grant Agreement and shall be responsible for all damages resulting therefrom.

By signing the Grant Agreement, the Grantee affirms in compliance with Ala. Code § 41-16-161 that it does not and will not, during the term of the Grant Agreement, engage in economic boycotts.

20. NONDISCRIMINATION

The Grantee shall be and is prohibited from discriminating based on race, color, religion, sex, age, disability, familial status, national origin, or limited English proficiency.

21. REPORTING

The Grantee shall provide a performance report every quarter showing expenditure of funds and project progress. Within 30 days after the final expenditure of funds, a final report must be provided documenting full expenditures and grant accomplishments. Any unexpended funds must be remitted to the Department with the final report.

IN WITNESS WHEREOF, the parties hereto have executed the Grant Agreement as of the date referenced in Paragraph 2 above.

ALABAMA DEPARTMENT OF
ECONOMIC AND COMMUNITY AFFAIRS


KENNETH W. BOSWELL

11/9/2020
DATE

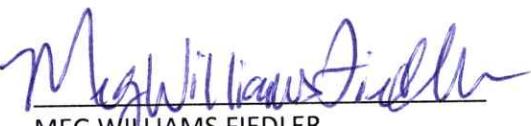
DIRECTOR

CITY OF FOLEY

MAYOR

DATE

This contract has been reviewed for content and legal form and complies with the applicable laws, rules, and regulations of the State of Alabama governing this matter.


MEG WILLIAMS FIEDLER
GENERAL COUNSEL FOR ADECA