

FUNDING AGREEMENT

THIS AGREEMENT, made and entered into, by and between the City of Columbia, Missouri, a municipal corporation (hereinafter "City"), and BURRELL, INC., a nonprofit corporation of the State of Missouri (hereinafter "Agency") with an effective date of the last party's execution of this Agreement.

WITNESSETH:

WHEREAS, on March 13, 2020, the President of the United States declared that the outbreak of COVID-19 constituted a national emergency and the Governor of the State of Missouri declared a state of emergency in the State of Missouri;

WHEREAS, on March 16, 2020, the City Manager of Columbia, Missouri, issued a declaration of emergency and the City Council adopted Resolution 46-20 in support of the declaration of the state of emergency;

WHEREAS, On March 21, 2021, the American Rescue Plan Act (ARPA) was signed into law and established the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund to provide support to state, territorial, local and Tribal governments in responding to the economic and public health impacts of COVID-19 and its impacts on their communities, residents and businesses;

WHEREAS, Agency is in need of funds to construct a crisis center with a Rapid Access Unit and an Adult Crisis Stabilization Unit in Columbia, Missouri ("Project"), and Agency will utilize its Project, after construction, to provide behavioral health services to low income persons residing in Columbia, Missouri;

WHEREAS, the City identified Agency's Project and Services as a community need;

WHEREAS, City has determined that the program, service or capital expenditure does not conflict with or contravene the statutory purpose of ARPA and that the program, service or capital expenditure does not include a term or condition that undermines efforts to stop the spread of COVID-19;

WHEREAS, Agency represent and warrant that Agency is equipped, competent, and able to provide all of the work for the Project in accordance with the terms of this Agreement; and

WHEREAS, City has determined that Agency's Project will thereby address the public health and economic needs of those impacted by the pandemic within the City of Columbia city limits, as well as addressing longstanding health and economic disparities which amplified the impact of the pandemic in disproportionately impacted communities within Columbia, resulting in more severe pandemic impacts. City has further determined that the proposed Project is related and reasonably proportional to the public health or negative economic impact of COVID 19, and desires to use ARPA funding for the proposed Project and related services.

NOW, THEREFORE, in consideration of the mutual covenants set out in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Parties agree as follows.

Article I-Project Scope

1. Project Scope. The Scope of Agency's Project includes:

- a. Construction. Agency must use the funds for the construction of nonprofit crisis center on Agency's property at 90 East Leslie and 107 East Texas, Columbia, MO 65202, within the city limits of Columbia, Missouri.
- b. Services Covenant. Once construction of the Project is complete, Agency must use the completed Project to provide behavioral crisis services to persons residing within the City of Columbia, Missouri, for a period of twenty years. This services covenant shall survive termination of the Agreement.

Article II-Amount of Funding

1. Amount of Funding. Subject to the terms and conditions of this Agreement and contingent upon zoning and regulatory approvals, the City agrees to provide Agency THREE MILLION DOLLARS (\$3,000,000.00) to construct the Project for the purposes of providing the related community services.
2. Matching Funds. No matching funds are required.
3. Subject to the availability of federal funding for this project, payments under this Agreement are dependent upon the availability of funds, as determined by the City. This contract may be terminated if funding becomes unavailable in whole or in part, and the City shall have no obligation to continue payment following written notification to Agency that such funds are no longer available for such purposes.
4. Reversion of Assets. Upon expiration of this agreement, the Agency must transfer to the City any ARPA funds on hand at the time of expiration and any accounts receivable attributable to the use of ARPA funds.

Article III-Levels of Accomplishment, Goals and Performance Measures

1. The Agency must construct its Project over the period of this agreement, in accordance with the following:
 - a. The Agency agrees to begin utilization of city funds within 90 days of the Effective Date.
 - b. The Agency agrees that 50% of the funds will be expended by December 31, 2025.
 - c. The Agency agrees that all work shall be completed, funds expended, and all close out requirements accomplished prior to December 31, 2026.
 - d. The Agency's obligations shall not end until all close-out requirements are completed. Activities during the closeout period shall include, but are not limited to: making final payments; disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Agency), and determining custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Agency has control over city's funds, including program income.
 - e. Should progress on the Project fall short of the above listed milestones, the amount of funding, time frame for project completion, and the ability of the Agency to complete the project

may be reviewed by the City's designated Department Director and City Council, and be subject to termination without reimbursement of additional expenditures.

Article IV-General Requirements

1. Within ten calendar days of the City's notice to proceed with construction of the Project, Agency must provide the City with a list of the subcontractors for the construction of the Project in Columbia, Missouri for the contract period. At a minimum, the list shall include the following:
 - a. A list of all services/activities that will be performed.
 - b. An estimated time line and schedule for performance and/or completion of the services/activities.
 - c. A detailed line item budget and total guaranteed not-to-exceed price for each activity/service.
2. The City will review the list of the proposed construction of the Project. If requested by the City, Agency shall make any requested modifications, changes, additions, and/or additional elaboration, provided that the City's changes align with the standards of care and Agency's core mission and values. Additionally, if requested by the City, Agency shall also make any requested modifications, changes, additions, and/or additional elaboration, as needed to comply with laws.
3. After City's final approval of the list of the proposed construction of the Project, Agency must plan, organize, and direct services in accordance with the approved list.
4. As a result of potential needed changes, Agency may modify the list of the proposed Project at any time during the effective period of the contract. The Agency must submit any such revised list to the City for review and approval. City must review and respond within ten days.
5. Agency shall be solely responsible for the construction, maintenance and operation of the Project. Agency shall secure all necessary licenses, permits, zoning and/or regulatory approvals before beginning work on the Project, keep necessary records as required, and do all work in such manner as to comply with all ordinances and laws of the city, county, state, and nation as apply to the Project herein outlined.
6. Agency must provide detailed reporting as required by American Rescue Plan Act (ARPA) requirements. To the extent applicable to this Project, the Agency shall not obligate funds for payment for construction activities under this agreement until the Agency has completed an environmental review of the site on which construction will occur and a release of funds has been obtained by the Agency from the U.S. Treasury.
7. Agency shall provide the City a quarterly a summary of expenditures by percent complete and dollar amount.
8. Missouri Prevailing Wage Laws. Agency shall comply with all requirements of the prevailing wage law of Missouri as set forth in Sections 290.210 to 290.340, including the latest amendments, rules, and regulations thereto.
9. Construction Safety Program Requirements. Agency shall comply with the Construction Safety Program Requirements set forth in Section 292.675 RSMo., including any rules or regulations related thereto.

Article V-Payments and Invoicing

1. The total payments to Agency for all services and expenses shall not exceed the amount specified in Article II, section 1.
2. Agency shall submit invoices monthly. Invoices shall be due by the 15th day of the month following the month in which Agency provided services under the contract. Agency shall perform the services prior to invoicing the City.
3. Agency shall invoice the City on the Agency's original descriptive business invoice form and submit the invoice to the following email address: grants@como.gov.
4. Upon the receipt and approval of an invoice and report(s) prepared according to the terms of the contract, City will pay Agency monthly. Upon presentation of proper documentation by the Agency, the City will reimburse the Agency for the Agency's costs of construction and inspection services, including all improvements to the real property, in Columbia, Missouri. Final payment shall not be made until compliance with the all requirements are met. Documentation needed to secure payment shall include the following: payment request form; paid invoices; documentation of Davis-Bacon (if applicable) and state prevailing wage compliance, lien waivers from contractors, material suppliers, subcontractors; and copies of all contracts executed by the Agency that include applicable requirements and regulations contained in this agreement.
5. If City denies a request by Agency for payment or reimbursement, City will provide Agency with written notice of the reason(s) for denial. After receipt of such written notice, Agency shall have fifteen (15) calendar days to cure the cause for denial of payment or reimbursement.
6. Notwithstanding any other payment provision of the contract, if Agency fails to perform required work or services, fails to submit reports when due, or is indebted to the United States or the City of Columbia, City may withhold payment or reject invoices under the contract.
7. Agency shall submit the final invoice no later than November 15, 2026. The City shall have no obligation to pay any invoice submitted after the due date.
8. Other than the payments and reimbursements specified in the contract, no other payments or reimbursements shall be made to Agency. City shall not pay nor be liable for any other additional costs including but not limited to taxes, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.
9. If Agency is overpaid by City, the Agency, upon notification by City, shall provide the City with (a) a check payable as instructed by the City or (b) deduct the overpayment from the present invoice and, if necessary, any future invoice(s), as requested by the City. City's notification must include documentation of the overpayment.
10. Duplicate Sources of Funding: Agency certifies that the expenditure of City ARPA funds is essential to the construction of the Project and the provision of the services covered by this Agreement. Agency is expected, to the greatest extent possible, to maximize funding from all other sources for the program and services covered under this agreement. Agency shall, upon

request, furnish to the City information about other sources of funding, including, but not limited to purchase of service agreements, for the program and services covered under this Agreement. Agency certifies that funds provided by the City under this Agreement shall not be a duplication of reimbursement from any other source of funding for the services covered by this Agreement. City reserves the right, upon reasonable notice to Agency, to perform an audit of payments received and funds expended by Agency from all sources to verify compliance with this provision.

Article VI-Term

1. Term. The "Term" of this Agreement shall commence on the Effective Date, and shall continue until December 31, 2026.

Article VII-Termination

1. By Mutual Agreement. This Agreement may be terminated at any time during its Term upon mutual agreement by both Parties.

2. For Convenience.

a. City reserves the right to terminate the contract at any time, for the convenience of the City, without penalty or recourse, by giving written notice to the Agency at least thirty (30) calendar days prior to the effective date of termination. Agency shall be entitled to receive reimbursements for services and supplies delivered to and accepted by Agency in accordance with the requirements of the Agreement which are received prior to the effective date of termination.

b. Due to Improper award. City may terminate the Agreement for convenience if the Agreement was not properly awarded, when there is clear evidence that the contract or subaward was improper, the City documents that determination that it was not properly awarded, and the original contract or subaward was entered into by the City in good faith.

3. Termination for Default.

a. Events of Default. A Party shall be considered in Default of this Agreement upon:

1. The failure to perform or observe a material term or condition of this Agreement, including but not limited to any material Default of a representation, warranty or covenant made in this Agreement;

2. The Party (a) becoming insolvent; (b) filing a voluntary petition in bankruptcy under any provision of any federal or state bankruptcy law or consenting to the filing of any bankruptcy or reorganization petition against it under any similar law; (c) making a general assignment for the benefit of its creditors; or (d) consenting to the appointment of a receiver, trustee or liquidator;

3. The purported assignment of this Agreement in a manner inconsistent with the terms of this Agreement;

4. The failure of the Party to provide information or data to the other Party as required under this Agreement, provided that the Party entitled to the information or data under this Agreement requires such information or data to satisfy its obligations under this Agreement.

b. Upon the occurrence of an event of Default, the City may cancel the Agreement. The City

may give Agency an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than thirty calendar days from notification, or at a minimum, the Agency must provide the City within ten working days from the notification a written plan detailing how the Agency intends to cure the breach. If Agency fails to cure the breach within thirty calendar days or such further date that the City has specified in writing in response to Agency's written plan, the City will issue a notice of cancellation terminating the Agreement immediately. If it is determined the City improperly cancelled the contract, such cancellation shall be deemed a termination for convenience in accordance with the contract.

Article VIII-Bankruptcy or Insolvency

1. Upon filing for bankruptcy or insolvency proceedings by or against the Agency, whether voluntary or involuntary, or upon the appointment of a receiver, trustee or assignee for the benefit of creditors, the Agency must notify the City immediately. Upon learning of any such actions, the City reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Agency responsible for any damages.

Article IX-Insurance

1. Agency shall maintain, on a primary basis and at its sole expense, at all times during the life of this Agreement the following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as the City's review or acceptance of insurance maintained by Agency is not intended to, and shall not in any manner limit or qualify the liabilities or obligations assumed by Agency under this Agreement. Coverage to be provided as follows by a carrier with A.M. Best minimum rating of A-VI. With the City's Risk Manager's written approval, coverage may be provided through a self-insurance program.

- a. **Workers' Compensation & Employers Liability.** Agency shall maintain Workers' Compensation in accordance with Missouri State Statutes or provide evidence of monopolistic state coverage. Employers Liability with the following limits: \$500,000 for each accident, \$500,000 for each disease for each employee, and \$500,000 disease policy limit.
- b. **Commercial General Liability.** Agency shall maintain Commercial General Liability at a limit of \$1,000,000 Each Occurrence, \$2,000,000 Annual Aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.
- c. **Builder's Risk.** Agency, prior to notice to proceed with the construction project or commencement of work, whichever occurs first, agrees to maintain a Builder's Risk coverage form providing coverage to protect the interests of the federal government, City, Agency, contractors, sub-contractors, architects, and engineers, including minimum coverage of \$500,000 for property in transit and property on or off-premises, which shall become part of the building, or Project. Builders Risk coverage shall be written on a All-Risk, Replacement Cost, and Completed Value Form basis in an amount at least equal to 100% of the projected completed value of the Project as well as subsequent modifications of that sum. Agency agrees to maintain wind, earthquake or flood coverage with no more than a \$25,000 flat-rate deductible. Higher deductibles must be authorized by the City. Agency agrees to endorse the policy with a manuscript endorsement eliminating the automatic termination of coverage in the event the building is occupied in whole or in part, or put to its intended use, or partially accepted by Agency.

- d. Business Auto Liability. Agency shall maintain Business Automobile Liability at a limit of \$1,000,000 Each Occurrence. Coverage shall include liability for Owned (if applicable), Non-Owned & Hired automobiles. In the event Agency does not own automobiles, Agency agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.
2. Agency may satisfy the liability limits required for Commercial General Liability or Business Auto Liability under an Umbrella or Excess Liability policy. There is no minimum per occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for either Commercial General Liability or Business Auto Liability. Agency agrees to endorse City and the U.S. Treasury as an Additional Insured on the Umbrella or Excess Liability, unless the Certificate of Insurance state the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.
3. The City of Columbia, the U.S. Treasury, and their elected officials and employees are to be Additional Insured with respect to the work to which these insurance requirements pertain. Except as set forth above in section 1(c), a certificate of insurance evidencing all coverage required is to be provided at least ten (10) days prior to the Effective Date of the Agreement. Agency is required to maintain coverages as stated and required to notify City of a Carrier Change or cancellation within two (2) business days. City reserves the right to request a copy of the policy.
4. The Parties hereto understand and agree that City is relying on, and does not waive or intend to waive by any provision of this Agreement, any monetary limitations or any other rights, immunities, and protections provided by the State of Missouri, as from time to time amended, or otherwise available to City, or its elected officials or employees.
5. Failure to maintain the required insurance in force may be cause for termination of this Agreement. In the event Agency fails to maintain and keep in force the required insurance or to obtain coverage from its subcontractors, City shall have the right to cancel and terminate this Agreement, provided that City has given Agency notice of its intent to terminate the Agreement and has provided Agency with a minimum of five (5) calendar days' notice to provide evidence of proper coverage.
6. The insurance required by the provisions of this article is required in the public interest. Neither City nor U.S. Treasury assumes any liability for acts of Agency and/or Agency's employees and/or Agency's subcontractors in the performance of this Agreement.

Article X-HOLD HARMLESS AGREEMENT

1. To the fullest extent not prohibited by law, Agency shall indemnify and hold harmless the U.S. Treasury, the City of Columbia, their directors, officers, agents, and employees from and against all claims, damages, losses, and expenses (including but not limited to attorney's fees) for bodily injury and/or property damage arising by reason of any act or failure to act, negligent or otherwise, of Agency, of any subcontractor (meaning anyone, including but not limited to consultants having a contract with Agency or a subcontractor for part of the services), of anyone directly or indirectly employed by Agency or by any subcontractor, or of anyone for whose acts the Agency or its subcontractor may be liable, in connection with the construction work and the provision of the services. This provision does not, however, require Agency to indemnify, hold

harmless, or defend the U.S. Treasury or the City of Columbia from their own negligence. This clause shall survive termination of the Agreement.

Article XI-Grant Requirements

1. Agency acknowledges federal grant funds are being used to fund this Agreement. Agency agrees to familiarize itself and comply with all conditions and requirements for the utilization of such grant funds, including, but not limited to those terms set forth herein (hereinafter "Grant Requirements"). Agency shall include in contracts with its contractors and subcontractors provisions that require the contractors and subcontractors to comply with the Grant Requirements.
2. Use of Funds. Agency understands and agrees that the funds disbursed under this contract may only be used in compliance with section 603 of the Social Security Act ("Act"), as added by Section 9901 of the American Rescue Plan Act ("ARPA"), Pub. L. No. 117-2 (March 11, 2021), 135 Stat. 4, 223-26, and the U.S. Department of the Treasury ("Treasury")'s regulations implementing that section and guidance, and in compliance with all other restrictions and specifications on use set forth in or applicable through this agreement. Agency agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603 of the Act, guidance issued by Treasury regarding the foregoing, and all other restrictions and specifications set forth in or applicable through this agreement. Agency also agrees to comply with all other applicable local, state and federal statutes, regulations, ordinances, and executive orders, and Agency shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this agreement.
3. Period of Performance. The period of performance for this award begins on the Effective date ends no later than December 31, 2026.
4. Reporting: Agency agrees to comply with any reporting obligations established by Treasury or the City, as it relates to this agreement.
5. Pre-award Costs. Pre-award costs, as defined at 2 C.F.R. § 200.458, may not be paid with funding from this agreement.
6. Hatch Act. Agency agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
7. False Statements. Agency understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedies available by law.
8. Publicity. Any publicity releases and publications mentioning contract activities shall reference the contract and the City. Agency shall obtain approval from the City prior to the release of such publicity release or publications.
9. Publications: Any publications produced with funds from this agreement must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to City of Columbia, Missouri, by the U.S. Department of the Treasury."

10. Disclaimer. In its award of federal financial assistance to the City, Treasury provides that the United States expressly disclaims any and all responsibility or liability to the City or third persons for the actions of the City or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract or subcontract under this award. Furthermore, in its award of federal financial assistance to the City, Treasury also states that the acceptance of this award by the City does not in any way establish an agency relationship between the United States and the City. This disclaimer applies with equal force to this agreement.

11. Civil Rights. Agency shall comply with all federal, state and local ordinances, statutes, regulations, and executive orders relating to nondiscrimination and equal employment opportunity to the extent applicable to the Agreement. These include but are not limited to the following:

- a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) that prohibits discrimination on the basis of race, color, or national origin (this includes individuals with limited English proficiency) in programs and activities receiving federal financial assistance and Title VII of the Act that prohibits discrimination on the basis of race, color, national origin, sex, or religion in all employment activities;
- b. Equal Pay Act of 1963 (P.L. 88-38, as amended, 29 U.S.C. Section 206(d));
- c. Title IX of the Education Amendments of 1972, as amended (20 U.S.C 1681-1683 and 1685-1686) that prohibits discrimination on the basis of sex;
- d. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and Americans with Disabilities Act Amendments Act of 2008 (Public Law 110-325, "ADAAA") which prohibit discrimination on the basis of disabilities;
- e. The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107) that prohibits discrimination on the basis of age;
- f. Genetic Information Non-Discrimination Act (GINA);
- g. Equal Employment Opportunity- E.O. 11246, "Equal Employment Opportunity", as amended by E.O. 11375, " Amending Executive Order 11246 Relating to Equal Employment Opportunity";
- h. The requirements of any other nondiscrimination federal and state statutes, regulations, and executive orders that may apply to the services provided via the contract.

12. By entering into this agreement, Agency ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal funds, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by Treasury Title VI regulations at 31 C.F.R. Part 22 and other pertinent executive orders such as federal Executive Order 13166; directives; circulars; policies; memoranda and/or guidance documents.

- a. Agency acknowledges that federal Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English Proficiency ("LEP"). Agency understands that denying a person access to

its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and Treasury's implementing regulations. Accordingly, Agency shall initiate reasonable steps, or comply with Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Agency understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in Agency's programs, services, and activities.

- b. Agency agrees to consider the need for language services for LEP persons during development of applicable budgets and when conducting programs, services, and activities. As a resource, Treasury has published its LEP guidance at 70 FR 6067. For more information on LEP, please visit <http://www.lep.gov>.
 - c. Agency acknowledges and agrees that compliance with this assurance constitutes a condition of continued receipt of federal financial assistance and is binding upon Agency and Agency's successors, transferees, and assignees for the period in which such assistance is provided.
 - d. Agency shall cooperate in any enforcement or compliance review activities by Treasury or the City of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. That is Agency shall comply with information requests, on-site compliance review, and reporting requirements.
 - e. Agency shall maintain and provide to applicants, beneficiaries, their representatives, or any other party requesting the same, information on how to file a Title VI complaint of discrimination with the State of Missouri.
 - f. Agency shall provide to the City documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between Agency and the administrative agency that makes any such finding. If Agency settles a case or matter alleging such discrimination, Agency must provide to the City documentation of the settlement. If Agency has not been the subject of any court or administrative agency finding of discrimination, Agency shall so state.
 - g. The United States of America has the right to seek judicial enforcement of the terms of this assurances section and nothing in this section alters or limits the federal enforcement measures that the United States may take in order to address violations of this section or applicable federal law.
13. In connection with the furnishing of equipment, supplies, and/or services under the contract, Agency and any subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status unless otherwise provided by law. If Agency or subcontractor employs at least 50 persons, the contractor shall have and maintain an affirmative action program that shall include:
- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
 - b. The identification of a person designated to handle affirmative action;
 - c. The establishment of non-discriminatory selection standards, objective measures to

analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;

- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by Agency is found to exist, City shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment until corrective action by the Agency is made and ensured, and referral for prosecution, whichever enforcement action may be deemed most appropriate.

14. In performing its responsibilities under the contract, Agency shall fully comply with the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR, Chapter I, Chapter, II, Part 200, et al.), as applicable, including any subsequent amendments. Agency shall comply with all applicable implementing regulations, and all other laws, regulations and policies authorizing or governing the use of any federal funds paid to the Agency through the Agreement. Agency shall ensure compliance with U.S. statutory and public policy requirements, including but not limited to, those protecting public welfare, the environment, and prohibiting discrimination.

15. Clean Air Act and Federal Water Pollution Control Act. Agency shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.).

16. Stevens Amendment. Agency shall not issue any statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal funds without the prior approval of the City, and Agency shall clearly state the following:

- a. The percentage of the total costs of the program or project that will be financed with federal money;
- b. The dollar amount of federal funds for the project or program; and
- c. The percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

17. Drug Free Workplace Act. Agency shall provide a drug free workplace in accordance with the Drug Free Workplace Act of 1988, 41 U.S.C. Chapter 81, and all applicable regulations. Agency shall report any conviction of Agency's personnel under a criminal drug statute for violations occurring on the Agency's premises or off the Agency's premises while conducting official business. A report of a conviction shall be made to the City within five (5) working days after the conviction.

18. Pro-Children Act. Agency shall comply with the Pro-Children Act of 1994 (20 U.S.C. 6081).

- a. The Pro-Children Act of 1994, (Public Law 103-227, 20 U.S.C. §§ 6081-6084), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, 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. The Pro-Children Act also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The Pro-Children Act does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.

- b. Agency certifies that it will comply with the requirements of the Pro-Children Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Pro-Children Act.
- c. Agency shall require the language of this certification be included in any subcontract or subaward that contains provisions for children's services and that all subrecipients shall certify accordingly.
- d. Failure to comply with the provisions of the Pro-Children Act may result in the imposition of a civil monetary penalty of up to \$1,000.00 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

19. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Agency is hereby encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented or personally owned vehicles, and to encourage any subcontractors to do the same.

20. Reducing Text Messaging While Driving. Pursuant to federal Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), the City hereby encourages Agency to adopt and enforce policies that ban text messaging while driving, and to encourage any subcontractors to do the same.

21. Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements. Agency shall comply with 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, as applicable.

22. Whistleblower Protections

- a. Agency shall comply with the provisions of 41 U.S.C. 4712 that states an employee of a contractor, subcontractor, grantee, or subgrantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for "whistleblowing". In addition, whistleblower protections cannot be waived by any agreement, policy, form, or condition of employment.
- b. Agency's employees are encouraged to report fraud, waste, and abuse. Agency shall inform their employees in writing they are subject to federal whistleblower rights and remedies. This notification must be in the predominant native language of the workforce. Agency shall include this requirement in any agreement made with a subcontractor or subgrantee.

23. Program Income. Per 2 CFR 200.307, the U.S. Treasury specified that recipients may add program income to the Federal award. Any program income generated from the use of the funds must be used for the purposes and under the conditions of the Federal award. Program income includes, but is not limited to, income from fees for services performed, the use or rental

of real or personal property acquired under federal awards, the sale of commodities or items fabricated under a federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with federal award funds. Interest earned on advances of federal funds is not program income. For more information on what constitutes "Program Income" please see 2 CFR 200.1.

24. Federal regulations applicable to this agreement include, without limitation, the following:
- a. If the amount of this agreement is expected to equal or exceed \$25,000, or if this agreement is for federally-required audit services, OMB Guidelines to Agencies on Government Wide Debarment and Suspension (Non-Procurement), 2 C.F.R. Part 180, and Treasury's implementing regulation at 31 C.F.R. Part 19, including both the requirement to comply with that part's Subpart C as a condition of participation in this transaction, and the requirement to pass the requirement to comply with that subpart to each person with whom the participant enters into a covered transaction at the next lower tier;
 - b. Recipient Integrity and Performance Matters, pursuant to which the award term set forth at 2 C.F.R. Part 200, Appendix XII, is hereby incorporated by reference;
 - c. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations; and
 - d. Generally applicable federal environmental laws and regulations.
 - e. Federal statutes and regulations prohibiting discrimination applicable to this agreement include, without limitation, the following:
 1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 2. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.) which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 3. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 4. the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 5. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
 - f. This Agreement shall be conducted in accordance with the standards set forth at 2 C.F.R. §§ 200.317 through 200.327, as applicable.

- g. Pursuant to 2 C.F.R. § 200.327 and Appendix II to Part 200 of Title 2 of the C.F.R.: Contracts for more than \$250,000 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- h. All contracts in excess of \$10,000 must address termination for cause and for convenience, including the manner by which it will be effected and the basis for settlement.
- i. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. Part 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p.339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- j. When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis- Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 C.F.R. Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency.
- k. Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Contract Work Hours and Safety Standards Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is 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 in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- l. If the City or Agency wishes to enter into a contract or subcontract with a small business

firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under the City's award of ARPA funds or this agreement, the City and/or Agency must comply with the requirements of 37 C.F.R. 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 awarding agency.

- m. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- n. A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. This requirement applies when the amount of the agreement is expected to equal or exceed \$25,000, or if the agreement is for federally required audit services. 2 C.F.R. § 180.220. [This agreement is a covered transaction for purposes of 2 C.F.R. Part 180 and 31 C.F.R. Part 19. As such, the City is required to verify that neither Agency nor any of Agency's principals (defined at 2 C.F.R. § 180.995 and 31 C.F.R. § 19.995) or affiliates (defined at 2 C.F.R. § 180.905 and 31 C.F.R. § 19.905) is excluded (defined at 2 C.F.R. § 180.940 and 31 C.F.R. § 19.945) or disqualified (defined at 2 C.F.R. § 180.935 and 31 C.F.R. § 19.940). The City may make this verification by collecting a certification from Agency, or by adding a clause or condition to this agreement, 2 C.F.R. § 180.300 and 31 C.F.R. § 19.300. Agency hereby certifies that neither Agency nor any of Agency's principals or affiliates is excluded or disqualified. This certification is a material representation of fact relied upon by the City in entering into this agreement. Agency shall comply with 2 C.F.R. Part 180, subpart C, and 31 C.F.R. Part 19, subpart C, throughout the term of this agreement, and Agency must include a requirement to so comply with these regulations in any lower-tier covered transaction it enters into under this agreement. If it is later determined that Contractor did not comply with 2 C.F.R. Part 180 and 31 C.F.R. Part 19, in addition to remedies available to the City for this non-compliance, the U.S. government may pursue available remedies, included but not limited to suspension and/or debarment.
- o. Contractors that apply or bid for an award exceeding \$100,000 must file the certification required by 31 U.S.C. § 1352, the Byrd Anti-Lobbying Amendment. Under that law, 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 must 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.
- p. 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 (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; 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 EPA guidelines. In the performance of this agreement, Agency shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired: 1. competitively within a time frame providing for compliance with this agreement's performance schedule; 2. meeting this agreement's performance requirements; or 3. at a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage: <http://www.epa.gov/smmj> comprehensive -procurement-guideline-cpg-program. Agency also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

- q. Pursuant to Pub. L. No. 115-232, H.R. 5515 (115th Congress, 2018), and 2 C.F.R. § 200.216, funds provided by this agreement shall not be obligated or expended to: 1. Procure or obtain; 2. Extend or renew a contract to procure or obtain; or 3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. For purposes of this prohibition, "covered telecommunications equipment or services" has the meaning as set forth at Sec. 889(t)(3) of Pub. L. No. 115-232. See also 2 C.F.R. § 200.216.
- r. Pursuant to 2 C.F.R. § 200.322, as appropriate and to the extent consistent with law, Agency should, to the greatest extent practicable under this agreement, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). For purposes of this provision: 1. "produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. 2. "manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Article XII- Financial Records and Document Retention, Inspection

1. Agency must maintain financial and accounting records and evidence pertaining to the contract in accordance with generally accepted accounting principles. Agency shall maintain a financial management methodology that, at a minimum, records expenditures in a manner that readily identifies the expenditure as an allowable activity and allows required federal financial reports to be easily prepared.
2. Agency shall have written policies and procedures to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200) and shall make its policies and procedures available to the City, upon request.
3. Agency shall maintain records for salary and wages charged under the contract that accurately reflect the work performed.

4. Agency shall maintain all financial records, supporting documentation, and all other records pertinent to the contract for a period of at least five (5) years from the date of the final payment by the City. If any litigation, claim, negotiation, audit, investigation, or other action involving the records has been started before the expiration of the five (5) year period, Agency shall retain the records until completion of such action and resolutions of all issues that arise from it or until the end of the regular five (5) year period, whichever is later. If City is subject to any litigation, claim, negotiation, audit, or other action involving the records, the City will notify the Agency in writing to extend the Agency's retention period.

5. Inspection By State And Federal Representatives. The authorized representatives and agents of the City of Columbia, State of Missouri and the United States shall be permitted to inspect all work, materials, payrolls, personnel records, invoices of materials, and other relevant data and records.

6. Wherever practicable, records should be collected, transmitted, and stored in open and machine-readable formats.

Article XIII-Debts Owed City and Federal Government

1. Failure of Agency to comply with all terms, conditions and requirements of the ARPA Program shall require repayment of funds to the City of Columbia upon demand.

2. Debts Owed City and Federal Government. Any funds paid to Agency (a) in excess of the amount to which Agency is finally determined to be authorized to retain under the terms of this agreement; (b) that are determined by the Treasury Office of Inspector General to have been misused; or (c) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603 of the Act and have not been repaid by Agency shall constitute a debt owed by the City to the federal government. In such instance, the funds constituting the City's debt to the federal government shall also constitute Agency's debt to the City. Debts owed by Agency to the City must be paid promptly by Agency. A debt owed the City by Agency under this agreement is delinquent if it has not been paid by the date specified in the City's initial demand for payment, unless other satisfactory arrangements have been made or if Agency knowingly or improperly retains funds that are a debt as defined in this paragraph. The City will take any actions available to it to collect such a debt, including but not limited to actions available to it under the "Remedial Actions" paragraph found in this same section above. The rights of the City as expressed in this paragraph are in addition to, and do not imply the exclusion of, any other rights the City may have under applicable law to collect a debt or seek damages from Agency.

3. Remedial Actions. The City reserves the right to impose additional conditions or requirements on Agency's receipt of funds under this agreement, as the City deems necessary or advisable, in order to facilitate compliance with any existing or additional conditions or requirements imposed upon the City by Treasury for the City's receipt of ARPA funds. The City also reserves the right to seek recoupment or repayment of funds under this agreement in whole or in part, in the event that Treasury seeks recoupment or repayment of payments made to the City, for reasons relating to Agency's acts or omissions respecting this agreement. These reservations are expressed without limitation to any other rights the City may hold, either to impose additional conditions or requirements on Agency's receipt of funds under this agreement or to recoup such funds in whole or in part, under this agreement or other applicable law.

Article XIV-Notice

1. Any notice, demand, request, or communication required or authorized by the Agreement shall be delivered either by hand, facsimile, overnight courier or mailed by certified mail, return receipt requested, with postage prepaid, to:

If to City:

City of Columbia Public Health and Human Services Department
P.O. Box 6015
Columbia, MO 65205-6015
ATTN: Director

If to Agency:

Burrell, Inc.
2885 West Battlefield Road
Springfield MO 65807-3952
Attn: Legal Department

2. The designation and titles of the person to be notified or the address of such person may be changed at any time by written notice. Any such notice, demand, request, or communication shall be deemed delivered on receipt if delivered by hand or facsimile and on deposit by the sending party if delivered by courier or U.S. mail.

Article XV-Certification Regarding Lobbying

1. Agency shall comply with all requirements of 31 U.S.C. 1352 that is incorporated herein as if fully set forth. Agency certifies by signing and submitting this Agreement, to the best of its knowledge and belief, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Agency shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The Agency shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

- d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Article XVI-Certification Regarding Debarment

1. Agency certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.
2. Agency, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The Agency will accomplish this by: (a) Checking the System for Award Management at website: <http://www.sam.gov>.; (b) Collecting a certification statement similar to the Certification of Agency Regarding Debarment above; (c) Inserting a clause or condition in the covered transaction with the lower tier contract.
3. If the U.S. Treasury later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered into the covered transaction, the U.S. Treasury may pursue any available remedies, including suspension and debarment of the non-compliant participant.

Article XVII-Miscellaneous Requirements

1. Amendment. No amendment, addition to, or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived any provision or any remedy available to it unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the applicable Party or Parties.
2. Agency is an independent contractor and shall not represent the Agency or the Agency's employees to be employees of the City of Columbia or the U.S. Treasury, or an agency of the City of Columbia or the U.S. Treasury. Agency shall assume all legal and financial responsibility for salaries, taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the U.S. Treasury, City of Columbia, their officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.
3. Subcontracts. No services contained herein shall be subcontracted, by the Agency to any persons or entities without the prior written approval of the City. Any subcontractor shall be subject to all conditions and requirements of this Agreement.
4. No Assignment. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party.
5. No Third-Party Beneficiary. No provision of the Agreement is intended to nor shall it in any way inure to the benefit of any other third party, so as to constitute any such person a third-party beneficiary under the Agreement.

6. **Governing Law and Venue.** This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Missouri and/or the laws of the United States, as applicable. The venue for all litigation arising out of, or relating to this contract document, shall be in Boone County, Missouri, or the United States Western District of Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of Missouri. The Parties agree to waive any defense of forum non conveniens.
7. **General Laws.** Agency shall comply with all federal, state, and local laws, rules, regulations, and ordinances.
8. **Certification/Licensing.** Agency agrees to comply with all applicable local/state/federal certification and licensing requirements and applicable laws and to remain in "good standing" with all applicable oversight entities.
9. If applicable under Section 34.600 RSMo, and to the extent not in violation of any state or federal constitution, Agency hereby certifies that Agency is not currently engaged in and shall not for the duration of the contract, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel.
10. **Employment of Unauthorized Aliens Prohibited.** Agency agrees to comply with Missouri State Statute Section 285.530 in that Agency shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri. As a condition for the award of this contract, Agency shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with this Project and the contracted services. Agency shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the Project and contracted services. Agency shall require each subcontractor to affirmatively state in its contract with Agency that the subcontractor shall not knowingly employ, hire for employment or continue to employ an unauthorized alien to perform work within the State of Missouri. Agency shall also require each subcontractor to provide Agency with a sworn affidavit under the penalty of perjury attesting to the fact that the subcontractor's employees are lawfully present in the United States.
11. **No Waiver of Immunities.** In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitutions or laws.
12. **Required Provisions Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion of correction.
13. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Faxed signatures, or scanned and electronically transmitted signatures, on this Agreement or any notice

delivered pursuant to this Agreement, shall be deemed to have the same legal effect as original signatures on this Agreement.

14. Interpretation. In this Agreement, unless the context otherwise reasonably requires:
 - a. Headings are for reference purposes only and shall not alter the interpretation of this Agreement;
 - b. Words importing the singular may include the plural and vice versa, as reasonably required by the context;
 - c. References to any document include references to such document as amended, novated, supplemented, varied or replaced from time to time;
 - d. References to a statute, regulation, federal notice or executive order means such statute, regulation, federal notice or executive order as amended from time to time;
 - e. References to a party to this Agreement includes that Party's legal successors (including but not limited to executors and administrators) and permitted assigns; and
 - f. Any ambiguity shall be resolved in a manner which allows the parties to comply with laws and grant requirements.

15. Agency's Additional Representations and Warranties. AGENCY represents and warrants as follows.
 - a. AGENCY is a nonprofit corporation of the State of Missouri in good standing.
 - b. AGENCY has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement.
 - c. AGENCY has taken all action required by Applicable Law in order to approve, execute and deliver this Agreement.
 - d. The execution and delivery of this Agreement, the consummation of the transactions contemplated herein and the fulfillment of and compliance by AGENCY with the provisions of this Agreement will not conflict with or constitute a breach of or a default under or require any consent, license or approval that has not been obtained pursuant to any of the terms, conditions or provisions of any law, rule or regulation, any order, judgment, writ, injunction, decree, determination, award or other instrument or legal requirement of any court or other agency of government, the documents of formation of AGENCY or any contractual limitation, restriction or outstanding trust indenture, deed of trust, mortgage, loan agreement, lease, other evidence of indebtedness or any other agreement or instrument to which AGENCY is a party or by which it or any of its property is bound and will not result in a breach of or a default under any of the foregoing.
 - e. The AGENCY has taken all such action as may be necessary or advisable and proper to authorize this Agreement, the execution and delivery hereof, and the consummation of transactions contemplated hereby.
 - f. To the AGENCY's knowledge, there are no actions, proceedings, judgments, rulings or orders issued by, or pending before any court or other governmental body that would

materially adversely affect AGENCY's ability to perform its obligations under this Agreement.

- g. This Agreement is a legal, valid and binding obligation of AGENCY enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditor's rights or by the exercise of judicial discretion in accordance with general principles of equity.
- h. Agency further certifies that it will not use the funding provided for a program, service or capital expenditure that conflicts with or contravenes the statutory purpose of ARPA, including a program, service or capital expenditure that includes a term or condition that undermines efforts to stop the spread of COVID-19. Agency will endeavor to include ventilation improvements in congregate settings, health care settings, or other key locations; and to implement COVID-19 prevention or mitigation tactics, such as physical plant changes to enable social distancing.
- i. Agency further certifies that it will not use the funding provided in violation of the conflict-of-interest requirements contained in the federal Award Terms and Conditions, including any self-dealing or violation of ethics rules.

16. Severability. Each and every provision, section, subsection, paragraph, subparagraph and clause shall be separate from each and every part thereof so that the invalidity of any part thereof shall not affect the validity of the remainder.

17. Waiver. No delay or omission by either party to exercise any right or power accruing upon any breach of any covenant or agreement contained herein shall be construed to be a waiver of any right, power or acquiescence therein. The waiver by either party of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by the other party.

18. Missouri Sunshine Law. City is subject to the Missouri Sunshine Law (Chapter 610 RSMo). The Parties agree that the Agreement shall be interpreted in accordance with the provisions of the Missouri Sunshine Law, as amended. Agency shall maintain the confidentiality of information and records which are not subject to public disclosure under the Sunshine Law. Agency shall not give any confidential or proprietary information to the City to maintain. If it is required under this Agreement or by law that the City maintain any confidential or proprietary information or documents about Agency's business, operations, financial condition, technology, systems, no-how, products, services, suppliers, clients, marketing data, plans, and models, and personnel, the documents and information shall be clearly marked as such.

19. Health Insurance Portability and Accountability Act. Agency shall maintain protected health information in compliance with the Health Insurance Portability and Accountability Act (HIPAA), the Health Information Technology for Economic and Clinical Health Act (HITECH), the implementing regulations and guidance. If the City receives patient protected health information from Agency, City shall maintain such protected health information in compliance with HIPAA, HITECH, and the implementing regulations and guidance. To the extent required by law, the Parties shall keep patient protected health information confidential for as long as the data is maintained.

20. Entire Agreement. This Agreement represents the entire and integrated Agreement between the Parties relative to the funding of the Project herein. All previous or contemporaneous agreements, representations, promises and conditions relating to the Project described herein are superseded.

{Signatures on following page}

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year last written below.

BURRELL, INC.

DocuSigned by:
Tom Weber
6FF24A3DCDA24F5...

Tom Weber, Chief Administration Officer

8/30/2024

Date

CITY OF COLUMBIA, MISSOURI

De'Carlton Seewood, City Manager

Date

STP

ATTEST:

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Nancy Thompson, City Counselor

CERTIFICATION:

I, hereby certify that this contract is within the purpose of the appropriation to which it is to be charged, Account Number 11008500-504990 and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefor.

Matthew Lue, Finance Director