

**CITY OF PHOENIX – ARIZONA STATE UNIVERSITY
INTERGOVERNMENTAL AGREEMENT FOR SUBAWARD OF CORONAVIRUS
LOCAL FISCAL RECOVERY FUNDS**

AGREEMENT NO.

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Subrecipient Data Universal Number System (“DUNS”): 943360412

Federal Award Identification Number and Date: OMB Approved No. 1505-0271, 3/11/21

CFDA Number and Name: 21.027 – Coronavirus State and Local Fiscal Recovery Funds

This Intergovernmental Subrecipient Agreement (“**Agreement**”) is hereby entered into by and between the City of Phoenix, a municipal corporation of the State of Arizona (hereinafter referred to as “**City**”) and The Arizona Board of Regents for and on behalf of Arizona State University (hereinafter referred to as “**Subrecipient**” or “**ASU**”) (collectively the “**Parties**”) to set forth the objectives, understandings, and agreements between the Parties in connection with the subaward of grant funds as described herein.

RECITALS

A. The City has been allocated funds from the Coronavirus Local Fiscal Recovery Fund pursuant to the American Rescue Plan Act (“**ARPA**”) for the purpose of, among others, responding to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) and its negative economic impact.

B. The Parties share a common interest in advancing the educational opportunities of low-income K-8 students, a population whose educations have been disproportionality interrupted due to changes in instructional methods necessitated by the outbreak of COVID-19 in the Phoenix area.

C. ASU has developed a program that provides low-income families with educational resources to engage their K-8 children at home and matches children from low-income communities with an ASU student as their tutor/mentor during tutoring sessions held at public facilities.

D. The City desires to providing funding for the Program defined herein for the benefit of low-income K-8 students as set forth in this Agreement.

E. ASU is a State Controlled Institution of Higher Education eligible for transfer of Coronavirus Local Fiscal Recovery Funds under ARPA § 603(c)(3) and United States Department of Treasury Final Rule on Coronavirus State and Local Fiscal Recovery Funds, 87 Fed. Reg. 4338 (Jan. 27, 2022).

F. The Parties are authorized to enter into this Agreement pursuant to Arizona Revised Statutes (“**A.R.S.**”) §§ 11-951 through 11-954. The City is also authorized to enter into this Agreement pursuant to its City Charter, Chapter II, Section 2(i).

G. ASU is empowered by A.R.S. §§15-1625, *et seq.*, to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of ASU.

H. The performance of this Agreement is consistent, compatible, and beneficial to the role and mission of ASU to provide educational experiences for low-income students and to encourage and support research and related educational activities. This mission aligns with the purposes of the Coronavirus Local Fiscal Recovery Fund “to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts.” ARPA § 603(c)(1)(A).

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained and intending to be legally bound, the City and Subrecipient agree as follows:

1. AMOUNT & USE OF SUBAWARD

The City will allocate and contribute up to \$290,108.86 (“**Subaward**”) to Subrecipient to carry out the program described in **Exhibit A, Scope of Work** (the “**Program**”). The Subaward must be managed in accordance with this Agreement and applicable law.

2. TERM OF AGREEMENT

This Agreement shall become effective on or about February 1, 2022 and shall terminate on December 31, 2023 unless terminated sooner in accordance with this Agreement. This Agreement may terminate upon the earliest occurrence of any of the following:

- Reaching the end of the term as set forth above;
- Payment of the maximum compensation under Sections 1 and 4;
- Reaching the funding expenditure deadline; or
- Termination pursuant to the provisions of this Agreement.

3. EXHIBITS

The performance of this Agreement shall be conducted in accordance with:

- Exhibit A – Scope of Work
- Exhibit B – Itemized Service Budget
- Exhibit C – Self-Insurance Letter
- Exhibit D – Background Screening Requirements
- Exhibit E – Additional Federal Requirements
- Exhibit F – Cost Allocation Matrix and Plan
- Exhibit G – ASU Federal Indirect Cost Rate Agreement

All of which are incorporated herein by this reference.

4. FUNDING

Subrecipient acknowledges that all funds to be provided pursuant to this Agreement will be provided as a subaward of federal ARPA funds and Subrecipient agrees to comply with regulations, laws, and guidelines for applicable federal funding sources as identified herein or as may be issued over the course of this Agreement.

- 4.1 Subject to the terms, covenants and conditions of this Agreement, the City will reimburse the Subrecipient in an amount not to exceed \$290,108.86 for allowable costs described in ***Exhibit B –Itemized Service Budget***.
- 4.2 Subrecipient specifically agrees to be responsible for all Program costs in excess of the Subaward.
- 4.3 The City will disburse portions of the monies in such amounts and increments as may be approved by the City to reimburse Subrecipient for allowable costs reflected in ***Exhibit B –Itemized Service Budget*** upon submission by Subrecipient of proper invoices and supporting documentation, as required by the City in its reasonable discretion and by applicable law.
- 4.4 This Agreement is subject to the availability of federal funds to the City. The City shall promptly notify Subrecipient in writing of any modifications, payments, delays or cancellations of said ARPA funding.
- 4.5 No funds will be allocated to Subrecipient after December 31, 2024.
- 4.6 Any failure to comply with the approved budget is at the risk of Subrecipient. The City is not required to reimburse Subrecipient for expenditures which were not approved by the City.
- 4.7 As applicable, if Subrecipient services are operated in a manner in which recipients of the services are provided services within the same program(s) from another funding stream, Subrecipient shall provide to the City (a) a matrix identifying the shared use of such program services; and (b) a cost-allocation plan which documents and explains how program costs are appropriately charged to each program so as to assure the funds provided hereunder do not subsidize such other program(s). The City has the right to approve such cost allocation plan which must be attached to the annual budget. The Parties acknowledge ASU student tutors are compensated through ASU's federal work study program. The Subaward provided under this Agreement will not be used for this purpose.

5. ALLOWABLE COSTS

Subrecipient expressly understands and agrees that the allowability of costs shall be determined in accordance with, as applicable, the terms of the ARPA, any guidance issued by the U.S. Department of Treasury ("**Treasury**") or the City, and 2 CFR Part 200, Subpart E. Subrecipient is liable for payment of any costs incurred by Subrecipient under this Agreement which are not allowable. Subrecipient will remit to the City any amounts which were paid pursuant to this Agreement and used to cover disallowed costs.

6. REQUEST FOR PAYMENT

- 6.1 Subrecipient will submit monthly invoices on or before the 15th calendar day of each month which follows a month in which Subrecipient incurred allowable costs. Each invoice will be accompanied with itemized receipts. Invoices will be submitted free of mathematical errors and with all supporting documentation. All appropriate documentation will be provided that supports the charges reflected in the monthly invoice. Upon finding of an error and/or missing documentation, the City will return the invoice to Subrecipient. Subrecipient will promptly resubmit the revised invoice to the City. Each revised invoice will document the date that the

revised invoice is submitted to the City. Failure of City to identify an error does not waive any of the City's rights.

The City will direct questions regarding payment to the person issuing the invoice or to cashmanagement@asu.edu

- 6.2** Invoice will be submitted to: Wendy Resnik, wendy.resnik@phoenix.gov.
- 6.3** The City will review expenditure reports and will make payment to Subrecipient of any undisputed amounts within 45 calendar days of the City's approval of a properly completed and documented invoice.
- 6.4** The City reserves the right to request proper supporting documentation of any costs/charges under this Agreement for its oversight and monitoring purposes.
- 6.5** If the City requires additional financial data from Subrecipient to be responsive to any requests from the U.S. Department of Treasury or other federal entities pertaining to ARPA funding under this Agreement, Subrecipient will respond to the City in a timely manner.
- 6.6** Subrecipient reserves the right to subject invoices not paid within 45 calendar days of the City's approval of a properly completed and documented invoice to a 1% per month late fee on the unpaid balance for any amounts not in dispute. Subrecipient reserves the right to discontinue or delay the performance of this Agreement if City fails to make payments in accordance with Section 6.3, above.

In the event of non-payment, Subrecipient may terminate all further work on the Program and seek full payment from the City for all reimbursable costs, pursuant to the termination clause of this Agreement including the collection of payment.

If it becomes necessary for Subrecipient to commence collection proceedings, the City will pay the attorneys' fees and the costs of collection incurred by Subrecipient.

6.7 Payment Recoupment. Subrecipient must reimburse the City upon demand upon the following:

- a. Any amounts received by Subrecipient from the City for costs which have been inaccurately reported or are found to be unsubstantiated.
- b. Any amount or benefit paid directly or indirectly to an individual or organization not in accordance with the information disclosed in a Conflict of Interest Disclosure Questionnaire.
- c. Any amount paid with the subaward for goods or services that duplicate services covered by other specific grants and Agreements.
- d. Any amounts expended for items or purposes determined unallowable by the City.
- e. Any amounts paid by the City for which Subrecipient's books, records, and other documents are not sufficient to clearly substantiate that those amounts were used by Subrecipient in accordance with this Agreement and applicable law.
- f. Any amount identified as a financial audit exception.

- g. Any amounts paid or reimbursed in excess of this Agreement.
- h. Any payments made for services rendered before the Agreement begin date or after the Agreement termination date or other later payment deadline.
- i. Any amounts paid by Subrecipient to a subcontractor not authorized in writing by the City.

6.8 Payment To Third Parties. Subrecipient will be solely responsible for issuing payment for services performed by its employees, contractors, suppliers, or any other third party in the furtherance of the performance or arising out of this Agreement. Subrecipient will, at the City's request, furnish satisfactory evidence that all obligations designated above have been paid, discharged or waived.

7. INTERNAL SYSTEMS POLICIES AND PROCEDURES

- 7.1** Subrecipient will maintain or establish and implement systems, written policies and procedures governing personnel, financial management and programmatic management, as set forth in 2 CFR Part 200, as applicable, and any U.S. Department Treasury guidance.
- 7.2** Subrecipient will maintain financial systems in accordance with Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB) for state and local governmental entities or by the Financial Accounting Standards Board (FASB) for non-governmental entities. And, as applicable, pursuant to 2 CFR Part 200, to ensure that costs are reasonable and necessary for the purposes of the subaward, and funds are not used for expenses unrelated to the performance of this Agreement.
- 7.3** Subrecipient will maintain separate accounts for the Subaward.
- 7.4** Further, Subrecipient's financial management systems must include standard accounting practices, sufficient internal controls, a clear audit trail, and written cost allocation procedures, as necessary.
- 7.5** Subrecipient's financial management systems must also be capable of distinguishing expenditures attributable to this Agreement and those not attributable to this Agreement and must be able to identify costs by program year and budget category, as well as distinguishing between direct and indirect costs.

8. AUDITS/RECORDS

- 8.1** The City, the U.S. Department of Treasury, the Comptroller General of the United States, the Government Accounting Office or any of their duly authorized representatives shall have access to any books, documents, papers and records of Subrecipient's which are pertinent to any activity performed under this Agreement as required under 2 CFR §§ 200.334-.338. for the purpose of making audit, examination, excerpts and transcriptions. Subrecipient shall keep and maintain such books, documents, papers and records in accordance with 2 CFR 200.334-.338 and for a period of at least five (5) years after the expiration or termination of this Agreement. The City's right of access is not limited to the retention period but lasts so long as the records are retained by Subrecipient. Subrecipient will permit independent auditor's access to its records and financial statements as necessary to comply with federal audit requirements. Failure to comply with requirements of this Section will be deemed to be a default under this Agreement.

8.2 Subrecipient shall submit a financial audit within one hundred eighty (180) days after the close of Subrecipient's fiscal year during which the aggregate of federal grant funds expended from all sources both inclusive and exclusive of this Agreement is Seven Hundred-Fifty Thousand Dollars (\$750,000) or more. The audit shall be in conformance with the audit requirements of 2 CFR Part 200, Subpart F.

9. INDEPENDENT CONTRACTOR STATUS; EMPLOYMENT DISCLAIMER

9.1 The Parties agree that the relationship created by this Agreement is that of independent contractors. Neither Subrecipient nor any of Subrecipient's agents, employees or helpers will be deemed to be an employee, agent, or servant of the City.

9.2 This Agreement is not intended to constitute, create or give rise to, or otherwise recognize a joint venture, partnership or formal business association or organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in this Agreement.

9.3 The Parties agree that no individual performing under this Agreement on behalf of Subrecipient will be considered a City employee, and that no rights of City Civil Service, City retirement or City personnel rules will accrue to such individual. Subrecipient will have total responsibility for all salaries, wages, bonuses, retirement, withholdings, worker's compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such individuals.

10. LEGAL WORKER REQUIREMENTS

The City is prohibited by Arizona Revised Statutes § 41-4401 from awarding an agreement to any Subrecipient who fails, or whose subcontractors fail to comply with Arizona Revised Statutes § 23-214(A). Therefore, Subrecipient agrees that:

- Subrecipient and each subcontractor used represents their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with Arizona Revised Statutes § 23-214, subsection A.
- A breach of warranty herein will be deemed a material breach of the Agreement and is subject to penalties up to an including termination of the Agreement.
- The City retains the legal right to inspect the papers of Subrecipient or subcontractor employee(s) who work(s) on this Agreement to ensure that Subrecipient or subcontractor is complying with the warranty herein.

11. CONFIDENTIALITY AND DATA SECURITY

11.1 The Subrecipient must comply with 2 CFR § 200.303(e) and must take reasonable measures to safeguard protected personally identifiable information, as defined in 2 CFR § 200.1, and other information the U.S. Department of the Treasury or the City designates as sensitive or the Subrecipient considers sensitive consistent with applicable Federal, state and local laws regarding privacy and obligations of confidentiality.

11.2 All data, regardless of form, including originals, images and reproductions, prepared by, obtained by, or transmitted to Subrecipient in connection with this Agreement is confidential, proprietary information owned by the City. Except as

specifically provided in this Agreement, the Subrecipient will not disclose data generated in the performance of the service to any third person without the prior written consent of the City Manager or his/her designee.

- 11.3** Personal identifiable information, financial account information, protected health information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times to avoid unauthorized access. At a minimum, Subrecipient must encrypt and/or password-protect electronic files. This includes data saved to laptop computers, computerized devices, handheld devices, networking devices, removable storage devices, or other electronic media, as well as data in transit, such as during email or file transfer.
- 11.4** When personal identifiable information, financial account information, protected health information, or restricted City information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed.
- 11.5** In the event that data collected or obtained by the Subrecipient in connection with this Agreement is suspected to have been compromised, Subrecipient will notify the City promptly upon discovery. Subrecipient agrees to reimburse the City for any costs incurred by the City to investigate and respond to potential breaches of this data, including, where applicable, the cost of notifying individuals who may be impacted by the breach, attorneys' fees, and for any monetary damages or penalties the City is assessed.
- 11.6** Subrecipient agrees that the requirements of this Section will be incorporated into all subcontractor agreements entered into by the Subrecipient. It is further agreed that a violation of this Section will be deemed to cause irreparable harm that justifies the seeking of injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice. The obligations of Subrecipient under this Section 11 will survive the termination of this Agreement.
- 11.7** To be protected hereunder, confidential information must be either protected by applicable law or marked confidential if disclosed in written or other tangible form. If confidential information is disclosed orally or visually, confidential information must be identified as confidential at the time of disclosure and reduced to writing, marked confidential, and transmitted to the receiving party within thirty (30) days of the initial disclosure.

Nothing in this Agreement will be construed to convey to either Party any right, title or interest in any confidential information provided by the other Party or any right, title or interest in any intellectual property of the Parties, including but not limited to, processes, copyrights or patents. No license to the receiving Party under any trademark, patent or copyright is either granted or implied by the conveying of confidential information to the receiving Party.

The receiving Party will not use, or disclose to any third party, confidential information of the disclosing Party in any manner except for the purposes of this Agreement (which includes, for the avoidance of doubt, necessary reports or disclosures to the United States Department of Treasury), and will require that

its employees and agents (in the case of ASU, including employees of Skysong Innovations, LLC (“SI”)) who have access to such information maintain the same in strict confidence subject to the same restrictions. By way of example, but not limitation, the receiving Party will not use confidential information of the disclosing Party in connection with any patent application, for any commercial purpose, or for the benefit of any third party.

The Parties will use reasonable efforts to prevent the disclosure to unauthorized third Parties of any confidential information of the other Party and will use such information only for the purposes of this Agreement. The receiving Party’s obligations with respect to confidential information will survive for three (3) years after the termination of this Agreement; provided that the receiving Party’s obligations hereunder will not apply if the receiving Party can show, with convincing written evidence that the confidential information of the disclosing Party received under this Agreement:

- a. was already known to the receiving Party prior to the time of first disclosure; or
- b. at the time of disclosure is in the public domain, or after the date of the disclosure, lawfully becomes a part of the public domain other than through breach of this Agreement by the receiving Party; or is received in good faith, without any obligation of confidentiality from a third Party having a legal right to disclose the same; or
- c. is independently developed by the receiving Party by individuals without access to such information; or
- d. is required to be disclosed by the receiving Party pursuant to a legally enforceable order, law, subpoena, or other regulation (“**Order**”), provided, however, that the receiving Party promptly notifies the disclosing Party in advance of such disclosure and discloses only that Information necessary to comply with said Order.

ASU retains the right to refuse acceptance of any confidential information that is not required for the purposes of this Agreement.

Notwithstanding any other provision of this Agreement to the contrary, both the City and Subrecipient are public institutions subject to Arizona Revised Statutes (A.R.S.) §§ 39-121 through 39-127 regarding public records. Any provision regarding confidentiality is limited to the extent necessary to comply with Arizona law.

12. CONTACTS WITH THIRD PARTIES

- 12.1** Subrecipient or its subcontractors will not contact third parties to provide any information in connection with this Agreement without the prior written consent of the City. Should Subrecipient or its subcontractors be contacted by any person requesting information or requiring testimony relative to this Agreement or any other prior or existing Agreement with the City, Subrecipient or its subcontractors will promptly inform the City giving the particulars of the information sought and

will not disclose such information or give such testimony without the written consent of the City or court order. The obligations of Subrecipient and its subcontractors under this Section will survive the termination of this Agreement.

12.2 Subrecipient agrees that the requirements of this Section will be incorporated into all subcontractor agreements entered into by Subrecipient. It is further agreed that a violation of this Section will be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice.

13. COMPLIANCE WITH LAWS

Subrecipient will comply with all existing and subsequently enacted federal, state and local laws, ordinances, codes, regulations and guidance that are, or become applicable to this Agreement. If a subsequently enacted law imposes substantial additional costs on Subrecipient, a request for an amendment may be submitted pursuant to this Agreement.

14. AMENDMENTS

Whenever an addition, deletion or alteration to ***EXHIBIT A SCOPE OF WORK*** or ***EXHIBIT B ITEMIZED SERVICE BUDGET***, is necessary, a supplemental agreement must first be approved in writing by the City and Subrecipient before such addition, deletion or alteration will be performed. Changes may be made and the amounts to be paid to Subrecipient may be adjusted by mutual agreement in accordance with applicable law, but in no event may the amount exceed the amount authorized in Section 4.1 of this Agreement. It is specifically understood and agreed that no claim for extra work done or materials furnished by Subrecipient will be allowed except as provided herein, nor will Subrecipient do any work or furnish any materials not covered by this Agreement unless first authorized in writing. Any work or materials furnished by Subrecipient without prior written authorization will be at Subrecipient's risk, cost and expense, and Subrecipient agrees to submit no claim for compensation or reimbursement for additional work done or materials furnished without prior written authorization.

15. NO ORAL ALTERATIONS

No alteration or variation of the terms of this Agreement will be binding on the Parties herein unless such alteration or variation is in writing and signed by each of the Parties to this Agreement. No oral understanding or agreement not incorporated in this Agreement will be binding on any of the Parties herein.

16. INTEGRATION

This Agreement constitutes and embodies the full and complete understanding and agreement of the Parties hereto and supersedes all prior understandings, agreements, discussions, proposals, bids, negotiations, communications, and correspondence, whether oral or written. No representation, promise, inducement or statement of intention has been made by any Party hereto which is not embodied in

this Agreement, and no Party will be bound by or liable for any statement of intention not so set forth. This Agreement does not amend or alter any existing agreements between the City and Subrecipient.

17. GOVERNING LAW; FORUM; VENUE

This Agreement is executed and delivered in the State of Arizona, and the substantive laws of the State of Arizona (without reference to choice of law principles) will govern their interpretation and enforcement. Any action brought to interpret or enforce any provision of this Agreement that cannot be administratively resolved, or otherwise related to or arising from this Agreement, will be commenced and maintained in the state or federal courts of the State of Arizona, Maricopa County, and each of the Parties, to the extent permitted by law, consents to jurisdiction and venue in such courts for such purposes.

18. TERMINATION FOR CAUSE AND FOR CONVENIENCE

18.1 The City may terminate this Agreement in whole, or from time to time in part, for the City's convenience or the failure of Subrecipient to fulfill the obligations (cause or default) under this Agreement. The City will terminate by delivering to Subrecipient a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, Subrecipient must: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the City all information, reports, papers, and other materials accumulated or generated in performing the Agreement, whether completed or in process.

18.2 If the termination is for the convenience of the City, the City will be liable only for payment for services rendered through the effective date of the termination. In the event this Agreement is terminated by the City under this subsection 18.2, the City will remain responsible for payment to Subrecipient for all allowable costs incurred through the date of termination.

18.3 If the termination is due to the failure of Subrecipient to fulfill its obligations under the Agreement (cause/default), the City may require Subrecipient to deliver to it, in the manner and to the extent directed by the City, any work described in the Notice of Termination. In the event of termination for cause/default, the City will be liable to Subrecipient for allowable costs incurred by Subrecipient before the effective date of the termination. Any dispute shall be decided by the Contracting Officer.

19. NO ISRAEL BOYCOTT

By entering into this Agreement, Subrecipient certifies that it is not currently engaged in, and agrees for the duration of this Agreement to not engage in, a boycott of goods or services from Israel.

20. LAWFUL PRESENCE

Pursuant to A.R.S. §§ 1-501 and -502, the City is prohibited from awarding a contract to any natural person who cannot establish that he or she is lawfully present in the United States. In order to establish lawful presence, this person must produce qualifying identification and sign a City-provided affidavit affirming that the

identification provided is genuine. This requirement will be imposed at the time of contract award. The law does not apply to fictitious entities such as corporations, partnerships and limited liability companies.

21. EQUAL EMPLOYMENT OPPORTUNITY AND PAY

In order to do business with the city, Subrecipient must comply with Phoenix City Code, 1969, chapter 18, Article V, as amended, equal employment opportunity requirements. Subrecipient will direct any questions in regard to these requirements to the Equal Opportunity Department, (602) 262-6790.

For a Subrecipient with More Than 35 Employees. Subrecipient in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Subrecipient will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Subrecipient further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Subrecipient further agrees that this clause will be incorporated in all subcontracts, job-contractor agreements or subleases of this agreement entered into by supplier or lessee. The Subrecipient further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

Documentation. Suppliers and lessees may be required to provide additional documentation to the Equal Opportunity Department affirming a nondiscriminatory policy is being utilized.

Monitoring. The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this article as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

22. DEFENSE AND INDEMNIFICATION

Subrecipient shall indemnify, and hold harmless the City, its officers, employees, and agents from and against any and all liability, expenses (including reasonable

attorney's fees) or claims for injury or damages arising out of performance of this Agreement but to the extent such liability, expenses, or claims for injury or damages are caused by or result from the negligent acts or omissions, **misconduct, or other fault** of Subrecipient, its officers, agents or employees, **or authorized volunteers**.

In addition, should Subrecipient utilize a contractor(s) and subcontractor(s) in connection with the Program, the indemnification clause between Subrecipient and its contractor(s) and subcontractor(s) shall include the following:

To the fullest extent permitted by law, Contractor shall indemnify, and hold harmless the City of Phoenix and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, officers, agents, and employees (hereinafter referred to as "**Indemnatee**") only from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorney's fees and costs of claim processing, investigation and litigation) (hereinafter referred to as "**Claims**") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part by the negligent or willful acts or omissions of the Contractor or any of the directors, officer, agents or employees or subcontractors of such Contractor. This indemnity includes any Claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by such Contractor from and against any and all claims. It is agreed that such Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally, on all applicable insurance policies, Contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.

23. COMPLIANCE WITH TERMS OF FUNDING

The Parties acknowledge that funds will be provided pursuant to the ARPA, U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions, the Additional Federal Requirements attached hereto, other applicable law and guidance, and this Agreement. Parties agree to be bound by and will comply with all terms and conditions of foregoing. The Agreement includes any ARPA guidance issued by the U.S. Department of Treasury or any other federal agency with authority for administration of the ARPA funds. The Subrecipient is required to submit an end of program funding report to the City. The City agrees to cooperate with Subrecipient in preparing these reports, as needed.

24. COMPLIANCE WITH UNIFORM REQUIREMENTS

Subrecipient will comply with Uniform Administrative Requirements of 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," except for those provisions excluded by the U.S. Department of the Treasury.

25. [RESERVED]

26. RELIGIOUS ACTIVITIES

No person may be required to participate in any religious activity as a condition of benefiting from Subrecipient's performance of this Agreement.

27. CONFLICTS OF INTEREST

27.1 The Parties agree to abide by the provisions of 2 CFR § 200.318, which include (but are not limited to) the following:

Subrecipient shall maintain a written code or standards or conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by federal funds.

No employee, officer, or agent of Subrecipient shall participate in the selection, or in the award, or administration of a contract supported by federal funds if a conflict of interest, real or apparent would be involved. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of Subrecipient.

27.2 The City's Conflict of Interest rules are also applicable to this Agreement and the Subrecipient acknowledges the following:

Subrecipient acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure this Agreement upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the Phoenix City Council or any employee of the City has any financial interest in the consulting firm. For breach of violation of this warranty, the City will have the right to annul this Agreement without liability, including any such commission, percentage, brokerage or contingent fee.

The City reserves the right to immediately terminate the contract in the event that the City determines that Subrecipient has an actual or apparent conflict of interest.

Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Subrecipient, or any agent or representative

of Subrecipient, to any officer or employee of the City for the purpose of securing this Agreement, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Agreement, the City may, by one calendar day written notice to Subrecipient, terminate the right of Subrecipient to proceed under this Agreement, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in an Arizona court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Subrecipient as could be pursued in the event of default by Subrecipient.

This Agreement is subject to the requirements of Arizona Revised Statutes §38-511.

28. INDEBTEDNESS TO INTERNAL REVENUE SERVICE OR OTHER PUBLIC ENTITY

- 28.1** Any judgment, lien, levy, or outstanding amount owed to the Internal Revenue Service, State, County, City, or other public entity by Subrecipient shall constitute an event of default or breach of this Agreement, unless previously approved by the City in writing, and shall constitute sufficient reason for termination of this Agreement by the City.
- 28.2** Prior to entering into and during the time period covered by this Agreement, Subrecipient shall disclose any information related to the preceding paragraph. This disclosure requirement shall also include the immediate reporting of breaches in payback arrangements or breaches in other agreements related to the above. Failure to comply with any disclosure provision in this Section shall constitute a default.

29. NONDISCRIMINATION

Subrecipient will carry out its responsibilities in compliance with the Civil Rights Act of 1964, Title VI of the Civil Rights Act of 1964 (42 USC 2000d), as amended, and implementing regulations at 31 CFR Part 22; the prohibitions against age discrimination under the Age Discrimination Act of 1975 (42 USC 610107) and implementing regulations at 31 CFR Part 23; the prohibitions against discrimination against disabled individuals under Section 504 of the Rehabilitation Act of 1973 (19 USC 794) and Title II of the Americans with Disabilities Act; and the requirements of the Architectural Barriers Act of 1968 (42 USC 4151-4157). Subrecipient will take reasonable steps to provide meaningful access for all persons with Limited English Proficiency as required by Title VI of the Civil Rights Act of 1964 and Executive Order 13166.

30. SYSTEM FOR AWARD MANAGEMENT AND UNIQUE IDENTIFIER REQUIREMENTS

Subrecipient agrees to maintain the currency of its information in the federal government's System for Award Management ("**SAM**") until it receives final payment. Subrecipient agrees to maintain its Unique Entity Identifier for the same duration.

31.ONLINE SEARCHABLE DATABASES

Subrecipient agrees that prior to employing or contracting with any individual, or contracting with any other entity, to provide services hereunder, Subrecipient agrees to review online searchable databases available to determine exclusion, suspension and/or debarment status of such individual/entity, including, but not limited to, the Excluded Parties List in the System for Award Management Database operated by the General Services Administration (“**GSA**”).

32.HUMAN TRAFFICKING

Subrecipient agrees to follow the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104) and ensure that it and none of its employees engage in server forms of trafficking in persons, procure commercial sex acts during the subaward term, used forced labor in the performance of your obligations under this Agreement. Subrecipient agrees to notify the City immediately once it has information from any source alleging a violation of this Section.

33.ASSIGNMENT

Subrecipient will not assign or transfer any interest in this Agreement without the prior written consent of the City.

34.INSURANCE

As an instrumentality of the State of Arizona, Subrecipient is self-insured under the State of Arizona, Department of Administration Risk Management Department as provided under Arizona Revised Statutes Sections 41-621 et seq. That self-insurance program provides Subrecipient with adequate insurance coverage as necessary and reasonable to insure itself and its personnel in connection with the performance of this Agreement.

35.BACKGROUND CHECKS

Subrecipient will conduct appropriate background checks for all Program staff and volunteers. Such background checks must, at a minimum, be at least as stringent as the background screening requirements set forth in **Exhibit D** and in compliance with all applicable law.

36.NOTICES

36.1 Any notice, consent or other communication (“**Notice**”) required or permitted under this Agreement will be in writing and either: (1) delivered in person; (2) sent via e-mail, return receipt requested; (; (3) deposited with any commercial air courier or express delivery service; or (4) deposited in the United States mail, postage prepaid.

If to Subrecipient:

Office for Research & Sponsored Projects Administration
Arizona State University
USPS address: P.O. Box 876011, Tempe, AZ 85287- 6011

Courier address: Centerpoint, Suite 204, 660 S. Mill Ave., Tempe, AZ 85281
Phone:
Email: asu.awards@asu.edu

If to City:
Wendy Resnik
Phone:
Email: wendy.resnik@phoenix.gov

Notice will be deemed received: (1) at the time it is personally served; (2) on the day it is sent via e-mail; (3) on the second day after its deposit with any commercial air courier or express delivery service; or (4) five business days after the Notice is deposited in the United States mail as above provided. Any time period stated in a Notice will be computed from the time the Notice is deemed receive.

- 36.2** Notices sent by e-mail will also be sent by regular mail to the recipient at the above address. This requirement for duplicate Notice is not intended to change the effective date of the Notice sent by e-mail or facsimile transmission.

37. CLAIMS OR DEMANDS AGAINST THE CITY

- 37.1** Subrecipient acknowledges and accepts the provisions of Chapter 18, Section 14 of the Charter of the City of Phoenix, pertaining to claims or demands against the City, including provisions therein for set-off of indebtedness to the City against demands on the City, and Subrecipient agrees to adhere to the prescribed procedure for presentation of claims and demands. Nothing in Chapter 18, Section 14 of the Charter of the City of Phoenix alters, amends or modifies the supplemental and complementary requirements of the State of Arizona Notice of Claim statutes, Arizona Revised Statutes §§ 12-821 and 12-821.01, pertaining to claims or demands against the City. If for any reason it is determined that the City Charter and state law conflict, then state law will control.
- 37.2** In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the Parties hereto will use their reasonable efforts to settle the dispute, claim, question, or disagreement. To this effect, they will consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. As required by A.R.S. §12-1518, the Parties agree to make use of arbitration in disputes that are subject to mandatory arbitration pursuant to A.R.S. §12-133.

38. CONTINUATION DURING DISPUTES

- 38.1** Subrecipient agrees as a condition of this Agreement that in the event of any dispute between the Parties, provided no Notice of Termination has been given by the City, and if it is feasible under the terms of this Agreement each Party will continue to perform the obligations not related to the dispute required of it during the resolution of such dispute, unless enjoined or prohibited by a court of competent jurisdiction.

38.2 Failure or delay by either Party to exercise any right, power or privilege specified in or appurtenant to this Agreement will not be deemed a waiver.

39. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND DISADVANTAGED BUSINESS ENTERPRISES

39.1 Pursuant to national and City policy to award a fair share of contracts to small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises, Subrecipient will take affirmative steps to assure that small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises are utilized when possible as sources of supplies, equipment, construction, and services. Such affirmative steps must include the following:

- (1) Include qualified small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises on solicitation lists.
- (2) Assure that small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises are solicited whenever they are potential sources.
- (3) When economically feasible, divide total requirements into small tasks or quantities so as to permit maximum participation from small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises.
- (4) Where the requirement permits, establish delivery schedules which encourage participation by small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises.
- (5) Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce and the Community Services Administration as required.
- (6) Comply with the applicable requirements of the Small and Disadvantaged Business Enterprise Policy Plan for the City of Phoenix.
- (7) Include affirmative steps, one through six in any subcontract.

40. FORCE MAJEURE

Subrecipient will not be responsible or liable for, or deemed in breach hereof because of any delay in the performance of its obligations hereunder to the extent caused by circumstances beyond its control, without its fault or negligence, and that could not have been prevented by the exercise of due diligence, including but not limited to fires, natural disasters, riots, wars, unavoidable and unforeseeable site conditions, failure of the City to provide data within the City's possession or to make necessary decisions or provide necessary comments in connection with any required reports prepared by Subrecipient in connection with the Services and the unforeseeable

inability to obtain necessary site access, authorization, permits, licenses, certifications and approvals (such causes hereafter referred to as “Force Majeure”).

41. ADDITIONAL FEDERAL REQUIREMENTS

Subrecipient will comply with the additional federal requirements set forth in **Exhibit E**.

42. FISCAL YEAR CLAUSE

The City’s fiscal year begins July 1st and ends June 30th each calendar year. The City may make payment for services rendered or costs encumbered only during a fiscal year and for a period of 60 days immediately following the close of the fiscal year, under the provisions of Arizona Revised Statutes §42-17108. Therefore, Subrecipient must submit billings for services performed or costs incurred prior to the close of a fiscal year within ample time to allow payment within this 60-day period.

43. PROFESSIONAL COMPETENCY:

43.1 QUALIFICATIONS: Subrecipient represents that it is familiar with the nature and extent of this Agreement, the services it will be performing, and any conditions that may affect its performance under this Agreement. Subrecipient further represents that it is fully experienced and properly qualified, is in compliance with all applicable license requirements, and is equipped, organized, and financed to perform such services.

44. LEVEL OF CARE AND SKILL: Services provided by Subrecipient will be performed in a manner consistent with that level of care and skill ordinarily exercised by members of Subrecipient’s profession currently practicing in the same industry under similar conditions. Acceptance or approval by the City of Subrecipient’s performance will in no way relieve Subrecipient of liability to the City for damages suffered or incurred arising from the failure of Subrecipient to adhere to the aforesaid standard of professional competence.

45. NO THIRD-PARTY BENEFICIARIES:

The Parties expressly agree that this Agreement is not intended by any of its provisions to create any right of the public or any member thereof as a third-party beneficiary nor to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

46. SERVICE MARKS AND TRADEMARKS

Neither Party shall use any service marks, trademarks, trade names, logos or other identifying names or marks of the other Party (“Marks”) without the express written approval of the Party that owns the Marks in each instance. The use of any Party’s Marks must comply with the owning Party’s requirements, including using the indication of a registered trademark where applicable.

IN WITNESS WHEREOF, the Parties herein have caused this Agreement to be executed.

CITY OF PHOENIX, a municipal corporation

Jeffrey Barton, City Manager

The Arizona Board of Regents
For and On Behalf of
Arizona State University

Rita Hamilton
City Librarian

Kristy Macdonald
Assistant Director, Research Operations

ATTEST:

City Clerk

APPROVED AS TO FORM:
Cris Meyer, City Attorney

By: _____
Assistant Chief Counsel

IGA DETERMINATION – ASU

This Agreement, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952 by the undersigned, who has determined that it is in the proper form and is within the power and authority granted under the laws of the State of Arizona to those parties to the Agreement represented by legal counsel for the Arizona Board of Regents.

APPROVED AS TO FORM:

Associate General Counsel, Arizona State University

IGA DETERMINATION – CITY OF PHOENIX

This Agreement, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952 by the undersigned, who has determined that it is in the proper form and is within the power and authority granted under the laws of the State of Arizona to those parties to the Agreement represented by the Phoenix City Attorney.

APPROVED AS TO FORM:

City Attorney, City of Phoenix

EXHIBIT A – SCOPE OF WORK
CITY OF PHOENIX – ARIZONA STATE UNIVERSITY INTERGOVERNMENTAL AGREEMENT FOR SUBAWARD
OF CORONAVIRUS LOCAL FISCAL RECOVERY FUNDS

1. BACKGROUND

ASU wishes to operate a youth reading program which provides low-income parents and caretakers with educational resources to engage their K-8 children at home and matches children from low-income communities with an ASU student as their tutor/mentor (the “Program”). The City wishes to provide funding for the Program from its allocation of Coronavirus Local Fiscal Recovery Funds to help mitigate the negative economic impacts of the COVID-19 pandemic on low-income students within the City of Phoenix. For purposes of this Agreement, a student is “low income” if the student’s household has income that is either (i) at or below 185% of the current Federal Poverty Guidelines for the student’s family size published by the United States Department of Health and Human Services or (ii) at or below 40% of the Area Median Income for Maricopa County for the student’s family size based on the most recently published data by the United States Department of Housing and Urban Development.

2. OBJECTIVES

- 2.1** ASU will provide educational resources, including individual needs-based tutoring from an ASU student tutor, access to America Reads reading library, individual electronic tablets, America Reads Parent and Family Resources website (which includes, Youtube videos of standards, Pinterest activities and activity worksheets), to at least 150 low-income and title I K-8 students during each semester of the Program..
- 2.2** ASU will provide at least two hours of one-on-one reading comprehension tutoring to each K-8 student participating in the Program per week during ASU’s Fall, Spring, and Summer Semesters. Tutoring will be provided for 12 weeks during the Fall and Spring Semesters and for 8 weeks during the Summer Semester.
- 2.3** ASU will provide transportation for ASU student tutors to tutoring locations.
- 2.4** ASU will recruit and retain sufficient eligible families and students to fulfill the foregoing objectives.

3. TIMING & LOCATION OF SERVICES

- 3.1** ASU will be solely responsible for determining the location(s) and schedule(s) for the Program.
- 3.2** ASU will be solely responsible for securing locations for the Program. If ASU wishes to use a City facility for the Program, the parties will execute a separate facility use agreement.

4. ELIGIBLE BENEFICIARIES

- 4.1.** The Program is available to all students attending a Title I school and low-income K-8 students in the Phoenix Area. No transportation is provided for students to our tutoring sites by the Program.
- 4.2.** Program spots are limited at each location and enrollment is on a first come first serve basis per semester. The Program will maintain a waiting list for students interested over and above the available spots.
- 4.3.** Regular attendance is required to maintain a spot for the semester. Students must not have more than three absences during the semester or they could be dropped from the Program to accommodate students from the waiting list.

5. REPORTING REQUIREMENTS

Invoices and supporting documentation should be submitted via email to Wendy Resnick, wendy.resnik@phoenix.gov for reimbursement no later than the 15th day following the end of the month being reported (i.e. February 15th for January report) to include:

- Invoices and Supporting Documentation
- Number of students served
- Demographic information for each student served, including child's age, grade, school, race/ethnicity, family income, , and whether the student attends a Title I school.
- Type and quantity of educational resources provided to each student
- Number of tutor-hours provided to each student
- Reading standards achieved by each student based on the Arizona Department of Education Academic Standards

EXHIBIT B – ITEMIZED SERVICE BUDGET

Budget Item	Rate	Quantity	Hrs per Week	Wks per Year	ASU Fees: Fringe	ASU Fees: Indirects	Spring 2022	Summer 2022	Fall 2022	Spring 2023	Summer 2023	Fall 2023	Total
SITE COSTS													
Site Manager	\$16.00	1	20	39 AY / 13 Sum	\$591.00	\$8,806.46	\$6,240.00	\$4,160.00	\$6,240.00	\$6,240.00	\$4,160.00	\$6,240.00	\$42,677.46
Tutor Supervisor - AY	\$13.00	1	20	39 AY / 13 Sum	\$296.00	\$4,403.36	\$4,160.00	\$0.00	\$4,160.00	\$4,160.00	\$0.00	\$4,160.00	\$21,339.36
Tutor Supervisor - Sum	\$13.00	1	20	39 AY / 13 Sum	\$73.00	\$1,100.58	\$0.00	\$2,080.00	\$0.00	\$0.00	\$2,080.00	\$0.00	\$5,333.58
Activity Coordinator - AY	\$13.00	2	20	39 AY / 13 Sum	\$592.00	\$8,806.72	\$8,320.00	\$0.00	\$8,320.00	\$8,320.00	\$0.00	\$8,320.00	\$42,678.72
Activity Coordinator - Sum	\$13.00	2	20	39 AY / 13 Sum	\$146.00	\$2,201.16	\$0.00	\$4,160.00	\$0.00	\$0.00	\$4,160.00	\$0.00	\$10,667.16
Program Shirts for Staff	\$15.00	15			\$0.00	\$117.00	\$225.00	0	0	\$225.00	0	0	\$567.00
Tutoring Supplies					\$0.00	\$812.75	586.12	390.75	586.12	586.12	390.75	586.12	\$3,938.73
Van Expenses					\$0.00	\$1,456.00	1050	700	1050	1050	700	1050	\$7,056.00
iPad Air (10.9 inch)	\$707.00	170			\$0.00	\$31,249.40	\$120,190.00	0	0	0	0	0	\$151,439.40
Mobile Charging Cabinet (32 devices)	\$500.00	5			\$0.00	\$650.00	\$2,500.00	0	0	0	0	0	\$3,150.00
Charging Cabinet (10 devices)	\$200.00	5			\$0.00	\$260.00	\$1,000.00	0	0	0	0	0	\$1,260.00
TOTALS					\$1,698.00	\$59,863.43	\$144,271.12	\$11,490.75	\$20,356.12	\$20,581.12	\$11,490.75	\$20,356.12	\$290,107.41

EXHIBIT C - SELF-INSURANCE LETTER



RE: Insurance Coverage as provided by the State of Arizona on behalf
of Arizona State University

This letter is to confirm that the State of Arizona maintains for all its departments, agencies, boards, commissions, and employees insurance and self-insurance in accordance with Arizona Revised Statutes §§ 41-621 and 41-622. Coverage includes commercial general liability, professional liability, commercial automobile liability; property, and workers' compensation for Arizona State University (ASU) employees acting in the course and scope of their employment or authorization.

ASU as an entity of the State is self-insured through the Arizona Department of Administration, Risk Management Section's self-insurance program.

If you have any questions or need clarification, please contact me at 480-965-0975.

Sincerely,

A handwritten signature in blue ink, which appears to read "Donna H. Pearcy".

Donna Pearcy

Executive Director, Risk and Emergency Management, ASU
University Business Services

University Business Services
Risk and Emergency Management
PO Box 876512, Tempe, AZ 85287-6512

EXHIBIT D – BACKGROUND SCREENING REQUIREMENTS

1. SUBRECIPIENT WORKER BACKGROUND SCREENING

Subrecipient agrees that all Subrecipient workers (collectively “Contract Worker(s)”) pursuant to this Agreement will be subject to background and security checks and screening (collectively “Background Screening”) at Subrecipient’s sole cost and expense, unless otherwise provided for in the scope of work. Subrecipient’s background screening will comply with all applicable laws, rules and regulations. Subrecipient further agrees that the background screening is necessary to preserve and protect the public health, safety and welfare. The City requires a completed Contract Worker Badge/Key/Intrusion Detection Responsibilities Agreement for each Contract Worker who requires a badge or key.

- 1.1. **Background Screening Risk Level:** The City has established two levels of risk: Standard and Maximum risk. If the scope of work changes, the City may amend the level of risk, which could require the Subrecipient to incur additional contract costs to obtain background screens or badges.
- 1.2. **Terms of This Section Applicable to all Subrecipient’s Contracts and Subcontracts:** Subrecipient will include Contract Worker background screening in all contracts and subcontracts for services furnished under this agreement.
- 1.3. **Materiality of Background Screening Requirements; Indemnity:** The background screening requirements are material to City’s entry into this agreement and any breach of these provisions will be deemed a material breach of this contract. The background screening requirements are the minimum requirements for the Agreement. The City in no way warrants that these minimum requirements are sufficient to protect Subrecipient from any liabilities that may arise out of the Subrecipient’s services under this Agreement or Subrecipient’s failure to comply with this section. Therefore, Subrecipient and its Contract Workers will take any reasonable, prudent and necessary measures to preserve and protect public health, safety and welfare when providing services under this Agreement.

Continuing Duty; Audit: Subrecipient’s obligations and requirements will continue throughout the entire term of this Agreement. Subrecipient will maintain all records and documents related to all background screenings and the City reserves the right to audit Subrecipient’s records.

2. BACKGROUND SCREENING – MAXIMUM RISK

- 2.1. The current risk level and background screening required is **MAXIMUM RISK LEVEL**.
- 2.2. **Maximum Risk Level:** A maximum risk background screening will be performed every five years when the Contract Worker’s work assignment will
 - work directly with vulnerable adults or children, (under age 18); or
 - any responsibility for the receipt of payment of City funds or control of inventories, assets, or records that are at risk of misappropriation; or
 - unescorted access to:
 - City data centers, money rooms, high-value equipment rooms; or
 - unescorted access to private residences; or

- access to critical infrastructure sites/facilities; or
- direct or remote access to Criminal Justice Information Systems (CJIS) infrastructure.

2.3. Requirements: The background screening for maximum risk level will include a background check for real identity/legal name and will include felony and misdemeanor records from any county in the United States, the State of Arizona, plus any other jurisdiction where the Contractor worker has lived at any time in the preceding seven years from the Contract Worker's proposed date of hire. In addition, Maximum screening levels may require additional checks as included herein, depending on the scope of work, and may be amended if the scope of work changes.

2.4. Additional Maximum Risk Background Checks: Maximum screening will additionally require:

- Fingerprint verification (when Contract Worker is working directly with children or vulnerable adults or scope takes the individual to a City location with Criminal Justice Information System (CJIS) access.).

2.5. Subrecipient Certification; City Approval of Maximum Risk Background Screening: Unless otherwise provided for in the Scope of Work, Subrecipient will be responsible for:

- determining whether Contract Worker(s) are disqualified from performing work for the City for maximum risk level background checks; and,
- submitting pass/fail results to the City for approval; and,
- reviewing the results of the background check every three to five years, dependent on scope; and,
- to engage in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker; and,
- Submitting the list of qualified Contract Workers to the contracting department; and,
- If, upon review of the background information, the City will advise the Subrecipient if it believes a Contract Worker should be disqualified. The Subrecipient will evaluate the Contract Worker and if the Subrecipient believes that there are extenuating circumstances that suggest that the person should not be disqualified, the Subrecipient will discuss those circumstances with the contracting department. The contracting department decision on disqualification of a Contract Worker is final.
- For sole proprietors, the Subrecipient must comply with the background check for himself and any business partners, or members or employees who will assist on the contract and for whom the requirements of the Agreement apply.
- By executing this Agreement, Subrecipient certifies and represents that Subrecipient has read the background screening requirements and criteria in this section, and that all background screening information furnished to the City is accurate and current.
- The City final documented decision will be an "approve" or "deny" for identified Contract Workers.
- The City will not keep records related to background checks once they are confirmed. Information to verify the results will be returned to the Subrecipient, or any contracted agency that assists with review, after the City's completed review.
- By executing this Agreement, Subrecipient further certifies and represents that Subrecipient has satisfied all such background screening requirements for the maximum risk background screening, and verified legal worker status, as required.

- Contract Workers will not apply for the appropriate City of Phoenix identification and access badge or keys until Subrecipient has received the City's written acceptance of Contract Worker's maximum risk background screening. The City may, in its sole discretion, accept or reject any or all the Contract Workers proposed by Subrecipient for performing work under this Agreement. A Contract Worker rejected for work at a maximum risk level under this agreement will not be proposed to perform work under other city contracts or engagements without city's prior written approval.

EXHIBIT E – ADDITIONAL FEDERAL REQUIREMENTS

Subrecipient Name: Arizona State University

Subrecipient Unique Entity Identifier: 943360412

Federal Award Identification Number: OMB Approved No. 1505-0271

Federal Award Date: March 11, 2021

Subaward Period of Performance Start and End Date: Effective date of contract through termination or expiration of contract, no later than December 31, 2024

Subaward Budget Period Start and End Date: Effective date of contract through termination or expiration of contract, no later than December 31, 2024

Amount of Federal Funds Obligated to Subrecipient: \$290,108.86

Total Amount of Federal Funds Obligated to the Subrecipient: \$290,108.86

Total Amount of the Federal Award Committed to the Subrecipient: \$290,108.86

Federal Award Project Description: U.S. Department of Treasury Coronavirus Local Fiscal Recovery Fund

Name of Federal Award Agency: U.S. Department of Treasury

Name of pass-through entity: City of Phoenix

Assistance Listing number and Title: 21.027 – Coronavirus State and Local Fiscal Recovery Funds

Research and Development (R&D) Identification: No

Indirect Cost Rate for Federal Award: Negotiated, pre-approved rate of 26%

1. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

Subrecipient agrees to abide by Executive Orders 12549 and 12689, Debarment and Suspension, and implementing regulations found at 2 CFR Part 180 and 31 CFR Part 19. The City may, by giving written notice to Subrecipient, immediately terminate this Agreement if the City determines that Subrecipient has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Subrecipient will include a term or condition in all related contracts and subcontracts described in 2 CFR Part 180, Subpart B that the award is subject to 2 CFR Part 180 and 31 CFR Part 19.

2. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

Subrecipient will 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).

3. BYRD ANTI-LOBBYING CERTIFICATION (31 U.S.C. 1352; 31 CFR Part 21)

Subrecipient hereby certifies, 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 Subrecipient, 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 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 and Federal contract, grant, loan, or cooperative agreement.

- b. Each contractor tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization or 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.
- c. 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 in connection with this Federal contract, grant, loan, or cooperative agreement, Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. Such disclosures are forwarded from tier to tier up to the non-Federal award.

4. WHISTLEBLOWER RIGHTS; REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS

In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

The list of persons and entities referenced in the paragraph above includes the following:

- A member of Congress or a representative of a committee of Congress;
- An Inspector General;
- The Government Accountability Office;
- A Treasury employee responsible for contract or grant oversight or management;
- An authorized official of the Department of Justice or other law enforcement agency;
- A court or grand jury; or
- A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

5. DRUG-FREE WORKPLACE ACT OF 1988:

Subrecipient must comply with drug-free workplace requirements in 31 CFR Part 20, which implements the Drug-Free Workplace Act of 1988.

6. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT

Subrecipient is responsible for complying with all the provisions of FFATA, which includes requirements on executive compensation, and also requirements implementing the Act for the Subrecipient at 2 CFR parts 25 and 170.

7. VICTIMS OF HUMAN TRAFFICKING

Subrecipient agrees to follow the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104) and ensure that it and none of its employees engage in server forms of trafficking in persons, procure commercial sex acts during the subaward term, used forced labor in the performance of obligations under this Agreement. Subrecipient agrees to notify the City immediately once it has information from any source alleging a violation of this Section.

8. PREFERENCE FOR DOMESTIC PROCUREMENT

Pursuant to 2 C.F.R. 200.322, to the greatest extent practicable, Subrecipient will purchase, acquire, or use goods, products or materials produced in the United States (including but not limited to iron, aluminum, steel, cement and other manufactured products).

9. PROHIBITION ON CERTAIN TELECOMMUNICATIONS EQUIPMENT

Subrecipient is prohibited from obligating or expending funds to (i) procure or obtain; (ii) extend or renew a contract to procure or obtain; or (iii) enter into a contract to procure or obtain equipment, services or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities) and such other entities described in 2 C.F.R. 200.216.

10. ADDITIONAL FEDERAL SUBAWARD REQUIREMENTS

Subrecipient will comply with any additional terms and conditions imposed by 2 CFR Part 200, as applicable, and any guidance issued by the U.S. Department of Treasury regarding Subrecipient's use of the Subaward, including, but not limited to, reporting and record-retention obligations.

EXHIBIT F - Cost Allocation Matrix and Plan

<u>Budget Item</u>	<u>Quantity</u>	<u>Spring 2022</u>	<u>Summer 2022</u>	<u>Fall 2022</u>	<u>Spring 2023</u>	<u>Summer 2023</u>	<u>Fall 2023</u>	<u>Total</u>
Federal Work Study								
Supervisor	1		\$2,500	\$4,700		\$2,500	\$4,700	\$14,400
Activity Coordinator	1		\$2,500	\$4,700		\$2,500	\$4,700	\$14,400
Lead Tutors	2	\$3,000	\$1,680	\$2,800	\$3,000	\$1,680	\$2,800	\$14,960
Tutors	16	\$33,280	\$19,968	\$33,280	\$33,280	\$19,968	\$33,280	\$173,056
Fringe Benefits								\$0
Payroll Fees								\$0
Administrative Service Charge								\$0
Total:								\$216,816

ASU Internal America Reads Funding								
Lead Tutors	2	\$2,600			\$2,600			\$5,200
Tutors	16							\$0
Fringe Benefits		\$661	\$368	\$631	\$680	\$379	\$649	\$3,369
Payroll Fees		\$72	\$0	\$0	\$72	\$0	\$0	\$143
Administrative Service Charge		\$283	\$31	\$54	\$285	\$32	\$55	\$741
Total:								\$9,453

The Subaward will be used solely to support operational and leadership expenses for the America Reads program as detailed in Exhibit B - Itemized Service Budget. Some program expenses will be paid from Federal Work Study and ASU internal funding. No Federal Work Study or ASU internal America Reads funding will be allocated to support the operational and leadership expenses to be paid with the Subaward as detailed in Exhibit B – Itemized Service Budget. To ensure that the Subaward is not used for the items covered by Federal Work Study or ASU internal America Reads funding, ASU will establish separate accounts to deposit the funding into. Once the account is established, ASU will employ proper internal control measures and safeguards to ensure expenses are paid from the appropriate account.

EXHIBIT G - ASU FEDERAL COST RATE AGREEMENT

COLLEGES AND UNIVERSITIES RATE AGREEMENT

EIN:

DATE: 04/20/2021

ORGANIZATION:

FILING REF.: The preceding
agreement was dated
06/15/2020

Arizona State University
Fulton Center 410, Rm. 4478
P.O. Box 87705
Tempe, AZ 85287-7605

The rates approved in this agreement are for use on grants, contracts and other agreements with the Federal Government, subject to the conditions in Section III.

SECTION I: INDIRECT COST RATES

RATE TYPES: FIXED FINAL PROV. (PROVISIONAL) PRED. (PREDETERMINED)

EFFECTIVE PERIOD

<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE (%)</u>	<u>LOCATION</u>	<u>APPLICABLE TO</u>
PRED.	07/01/2020	06/30/2023	57.00	On-Campus	Organized Research
PRED.	07/01/2020	06/30/2023	26.00	Off-Campus	Organized Research
PRED.	07/01/2020	06/30/2023	48.00	On-Campus	Instruction
PRED.	07/01/2020	06/30/2023	26.00	Off-Campus	Instruction
PRED.	07/01/2020	06/30/2023	44.40	On-Campus	Other Sponsored Activities
PRED.	07/01/2020	06/30/2023	26.00	Off-Campus	Other Sponsored Activities
PROV.	07/01/2023	Until Amended		(1)	

*BASE

ORGANIZATION: Arizona State University

AGREEMENT DATE: 4/20/2021

Modified total direct costs, consisting of all salaries and wages, fringe benefits, materials, supplies, services, travel and subgrants and subcontracts up to the first \$25,000 of each subgrant or subcontract (regardless of the period covered by the subgrant or subcontract). Modified total direct costs shall exclude equipment, capital expenditures, charges for patient care, participant support costs, student tuition remission, rental costs of off-site facilities, scholarships, and fellowships as well as the portion of each subgrant and subcontract in excess of \$25,000.

(1) Use same rates and conditions as those cited for fiscal year ending June 30, 2023.

ORGANIZATION: Arizona State University

AGREEMENT DATE: 4/20/2021

SECTION I: FRINGE BENEFIT RATES**

<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE (%)</u>	<u>LOCATION</u>	<u>APPLICABLE TO</u>
FIXED	7/1/2021	6/30/2022	26.50	All (A)	Faculty
FIXED	7/1/2021	6/30/2022	32.60	All (A)	Staff
FIXED	7/1/2021	6/30/2022	10.10	All (A)	Part Time
FIXED	7/1/2021	6/30/2022	1.70	All (A)	Students
FIXED	7/1/2021	6/30/2022	10.20	All (A)	RA/TA
FIXED	7/1/2021	6/30/2022	22.10	All (A)	Post Doc
PROV.	7/1/2022	Until amended		(B)	

** DESCRIPTION OF FRINGE BENEFITS RATE BASE:

(A) Salaries and wages including vacation, holiday, sick leave pay and other paid absences.

(B) Use same rates and conditions as those cited for fiscal year ending June 30, 2022.

ORGANIZATION: Arizona State University

AGREEMENT DATE: 4/20/2021

SECTION II: SPECIAL REMARKS

TREATMENT OF FRINGE BENEFITS:

The fringe benefits are charged using the rate(s) listed in the Fringe Benefits Section of this Agreement. The fringe benefits included in the rate(s) are listed below.

TREATMENT OF PAID ABSENCES

Vacation, holiday, sick leave pay and other paid absences are included in salaries and wages and are claimed on grants, contracts and other agreements as part of the normal costs for salaries and wages. Separate claims for the costs of these paid absences are not made except for paid absences that have been earned but not taken when an individual separates from the university prior to the completion of the grant, contract or other agreement.

OFF-CAMPUS DEFINITION

An off-campus rate is applicable to those projects conducted in facilities not owned or operated by the University, which include charges for facility rental as a direct expenditure, and for which more than 50% of the project salaries and wages are for effort conducted in the rental facility.

DEFINITION OF EQUIPMENT

Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds \$5,000.

The following fringe benefits are included in the fringe benefit rate(s): FICA, WORKERS COMPENSATION, HEALTH/DENTAL/LIFE INSURANCE, UNEMPLOYMENT INSURANCE, DISABILITY INSURANCE, ACCIDENTAL DEATH, RETIREMENT PLANS (STATE RETIREMENT PROGRAMS AND TIAA/CREF), FLEXIBLE SPENDING PLAN, RETIREE ACCUMULATIVE SICK LEAVE, AND EMPLOYEE TUITION REMISSION, EMPLOYEE WELLNESS, SABBATICAL PAYMENTS, EMPLOYEE ASSISTANCE, AND TERMINAL LEAVE.

The three year extension of the indirect cost rate was granted in accordance with 2 CFR 200.414(g).

NEXT PROPOSAL DUE DATE

Your next indirect cost proposal based on actual costs for FYE 06/30/22 is due by 12/31/22, and the next fringe benefits proposal based on FYE 06/30/21 is due by 12/31/21.

ORGANIZATION: Arizona State University

AGREEMENT DATE: 4/20/2021

SECTION III: GENERAL

A. LIMITATIONS:

The rates in this Agreement are subject to any statutory or administrative limitations and apply to a given grant, contract or other agreement only to the extent that funds are available. Acceptance of the rates is subject to the following conditions: (1) Only costs incurred by the organization were included in its facilities and administrative cost pools as finally accepted: such costs are legal obligations of the organization and are allowable under the governing cost principles; (2) The same costs that have been treated as facilities and administrative costs are not claimed as direct costs; (3) Similar types of costs have been accorded consistent accounting treatment; and (4) The information provided by the organization which was used to establish the rates is not later found to be materially incomplete or inaccurate by the Federal Government. In such situations the rate(s) would be subject to renegotiation at the discretion of the Federal Government.

B. ACCOUNTING CHANGES:

This Agreement is based on the accounting system purported by the organization to be in effect during the Agreement period. Changes to the method of accounting for costs which affect the amount of reimbursement resulting from the use of this Agreement require prior approval of the authorized representative of the cognizant agency. Such changes include, but are not limited to, changes in the charging of a particular type of cost from facilities and administrative to direct. Failure to obtain approval may result in cost disallowances.

C. FIXED RATES:

If a fixed rate is in this Agreement, it is based on an estimate of the costs for the period covered by the rate. When the actual costs for this period are determined, an adjustment will be made to a rate of a future year(s) to compensate for the difference between the costs used to establish the fixed rate and actual costs.

D. USE BY OTHER FEDERAL AGENCIES:

The rates in this Agreement were approved in accordance with the authority in Title 2 of the Code of Federal Regulations, Part 200 (2 CFR 200), and should be applied to grants, contracts and other agreements covered by 2 CFR 200, subject to any limitations in A above. The organization may provide copies of the Agreement to other Federal Agencies to give them early notification of the Agreement.

E. OTHER:

If any Federal contract, grant or other agreement is reimbursing facilities and administrative costs by a means other than the approved rate(s) in this Agreement, the organization should (1) credit such costs to the affected programs, and (2) apply the approved rate(s) to the appropriate base to identify the proper amount of facilities and administrative costs allocable to these programs.

BY THE INSTITUTION:

Arizona State University

(INSTITUTION)

Heather Clark

(SIGNATURE)

Heather Clark

(NAME)

Executive Director, Research Operations

(TITLE)

4/30/2021

(DATE)

ON BEHALF OF THE FEDERAL GOVERNMENT:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(AGENCY)

Arif M. Karim - S

Digitally signed by Arif M. Karim -

Date: 2021.04.30 14:19:42 -05'00'

(SIGNATURE)

Arif Karim

(NAME)

Director, Cost Allocation Services

(TITLE)

4/20/2021

(DATE) 1353

HHS REPRESENTATIVE:

Jeanette Lu

Telephone:

(415) 437-7820