



HARRIS COUNTY, TEXAS

Office of Management and Budget 1001 Preston; Suite 500 Houston, TX 77002 713-274-1135
Grants Coordination Section - Conveyance Form Application Award

Department Name / Number	DUNs	Grant Title
Flood Control - 090	JFMKAENLGN81	ForUsTree '24
Funding Source: U.S. Department of Agriculture: CFDA#	Grant Agency: Houston Advanced Research Center (HARC)	
Program Year: 1 st	Program Ending:	
Grant Begin Date: 09/19/2024	Grant End Date: 04/24/2029	
Grant Org. Key:	If applicable, Prior Year Org. Key:	N/A

Grant Description:

Funded through the U.S. Department of Agriculture the United States Forest Service administers the nation's 154 national forests and 20 national grasslands covering 193 million acres.

	Total Budget	Grant Funded	County Funded
Salary & Benefits	\$0.00	\$0.00	\$0.00
Non-Labor	\$6,040,000.00	\$6,040,000.00	\$0.00
Sub Tot. Incremental Cost	\$6,040,000.00	\$6,040,000.00	\$0.00
Indirect Cost	\$0.00	\$0.00	\$0.00*
TOTALS	\$6,040,000.00	\$6,040,000.00	\$0.00

* under development

Full Time Equivalent Positions
 % of Positions Paid by Grant

Date Guidelines are Available
 Grant Submittal Deadline Date

Grant Discussion:

The application for this award was not presented to Commissioners Court. Grant funds would be used by Flood Control to plant 42,000 trees throughout Harris County to increase the tree canopy. The enclosed budget will cover tree planting as well as provide administration, coordination and reporting, implement tree planting, watering, maintenance, and monitoring. There is no local match requirement.

County Funded Cost Projection

Year	Required	Discretionary
2024	-	-
2025	-	-
2026	-	-
2027	-	-
2028	-	-

Completed by: Michael Mattingly Mattingly, Mike

Date: 9/10/24

Reviewed by: Jennifer Bice

Date: 09/10/24

**ORDER OF COMMISSIONERS COURT
Authorizing execution of an Interlocal Agreement**

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on _____, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF AN INTERLOCAL AGREEMENT
BETWEEN THE HARRIS COUNTY FLOOD CONTROL DISTRICT AND
GEOTECHNOLOGY RESEARCH INSTITUTE OF HOUSTON ADVANCED
RESEARCH CENTER**

Commissioner _____ introduced an order and made a motion that the same be adopted. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

		Yes	No	Abstain
AYES:	Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NAYS:	Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ABSTENTIONS:	Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Comm. Tom S. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Comm. Lesley Briones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

IT IS ORDERED that County Judge Lina Hidalgo is hereby authorized to execute for and on behalf of the Harris County Flood Control District an Interlocal Agreement with GeoTechnology Research Institute of Houston Advanced Research Center to implement tree planting and remove hazardous trees in furtherance of the "ForUsTree: Creating an Inclusive Community Canopy within Houston and Harris County" initiative. In support thereof, the GeoTechnology Research Institute of Houston Advanced Research Center hereby grants a subaward to Harris County Flood Control District in an amount not to exceed Six Million Forty Thousand Dollars (\$6,040,000.00). The Interlocal Agreement is incorporated as though fully set forth herein word for word.

All Harris County and Harris County Flood Control District officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.

Agreement No.: HCPCD0424

**INTERLOCAL AGREEMENT
BETWEEN HARRIS COUNTY FLOOD CONTROL DISTRICT AND
GEOTECHNOLOGY RESEARCH INSTITUTE OF THE
HOUSTON ADVANCED RESEARCH CENTER**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This Interlocal Agreement ("Agreement") is made and entered into by and between the **Harris County Flood Control District ("Flood Control District")**, a body corporate and politic under the laws of the State of Texas, and **GeoTechnology Research Institute of Houston Advanced Research Center ("GTRI")**, pursuant to the Interlocal Cooperation Act, Tex. Gov't Code Ann. §§791.001 – 791-030. Flood Control District and GTRI may each be referred to herein collectively as the "Parties" and individually as a "Party."

Recitals

GTRI has been awarded federal funding from the U.S. Department of Agriculture's Forest Services for an initiative that will increase tree canopy, foster community resilience, and improve access to employment in underserved communities in Houston and Harris County. The initiative, "ForUsTree: Creating an Inclusive Community Canopy within Houston and Harris County", will use equitable and inclusive engagement and a community-based approach to implement multiple tree plantings, reforestation projects, and educational activities in the region's most vulnerable areas.

GTRI and the County desire to enter into this Agreement in furtherance of the "ForUsTree: Creating an Inclusive Community Canopy within Houston and Harris County" initiative. The County represents it is capable and willing to carry out the "ForUsTree: Creating an Inclusive Community Canopy within Houston and Harris County" initiative through a subaward from GTRI.

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

1. GENERAL SCOPE OF AGREEMENT

The approved Scope of Work is incorporated into this Agreement as Attachment A.

2. TERM OF AGREEMENT

This Agreement is effective as of the date of the last signature affixed hereto and expires April 24, 2029 unless earlier terminated in accordance with this Agreement.

3. AMOUNT OF AGREEMENT

In consideration for the work to be performed by Flood Control District, this Agreement has a **not to exceed limit of Six Million Forty Thousand Dollars (\$6,040,000)** to fully discharge any and all liabilities which may be incurred by Flood Control District including any and all costs for any and all things or purposes ensuing under or out of this Agreement, irrespective of the nature thereof, and notwithstanding any word, statement or thing contained in or inferred from the preceding provisions of this Agreement which might in any light by any person be interpreted to the contrary. GTRI's liability for payment under the terms and provisions of this Agreement is limited to such sum, plus additional amounts of funds which may from time to time be made available for the purpose of satisfying GTRI's obligations under the terms and conditions of this Agreement.

4. TERMS OF PAYMENT

- A. On or by the last business day of each month, Flood Control District shall submit to GTRI an invoice itemizing expenditures incurred in the performance of this Agreement during the preceding month. A copy of the approved budget is attached as Attachment B and incorporated herein for guidance on projected expenditures. All invoices must be submitted to GTRI by email to harcacctspay@harcresearch.org. The invoice shall be in a form acceptable to GTRI and include such supporting documentation as requested by GTRI for verification purposes.
- B. The invoices shall, at a minimum, include a description of the services provided or expenses incurred during the month, the total amount of reimbursement requested, the cumulative total expenses incurred to date, and the amount of budgeted funding remaining. Upon receipt of the invoice, GTRI shall review and approve it with any modifications deemed necessary as mutually agreed upon by the Parties prior to issuing payment.

5. TERMINATION

- A. Either Party may terminate this Agreement at any time without cause by giving thirty (30) days written notice to the other Party.
- B. If either Party fails to materially perform pursuant to the terms of this Agreement, the other Party may terminate this Agreement for cause by giving thirty (30) days written notice to the other Party.
- C. Upon receipt of termination notice, Flood Control District shall discontinue all work in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
- D. Within thirty (30) days after receipt of notice of termination, Flood Control District agrees to submit a final invoice for costs incurred up to and including the date of termination.

- E. GTRI agrees to pay Flood Control District for allowable charges for work performed and deliverables received under this Agreement, less such payments as have previously been made.
- F. *Force Majeure*. In the event that either Party is unable to perform any of its obligations under this Agreement or to enjoy any of the benefits because of natural disaster, actions or decrees of governmental bodies or communications line failure not the fault of the affected Party (referred to as a "*Force Majeure* Event"), the Party who has been so affected agrees to give notice immediately to the other Party and agrees to do everything reasonably possible to resume performance. Upon receipt of such notice, the Agreement is immediately suspended. If the period of nonperformance exceeds ten (10) calendar days from the receipt of notice of the *Force Majeure* Event, the Party whose ability to perform has not been so affected may terminate the Agreement immediately by giving written notice to the other Party.
- G. Copies of all completed or partially completed information, programs, inventions, software (including source code), firmware, designs, documentation or data (the "Documents") developed, created or invented under this Agreement shall be delivered to GTRI when this Agreement is terminated or completed.

6. COMPLIANCE AND STANDARDS

- A. Flood Control District agrees to perform the services hereunder in accordance with generally accepted standards applicable thereto and shall comply with all applicable federal, state and local laws, ordinances, rules and regulations relating to the services performed hereunder. GTRI will not provide the Flood Control District access to any information which it is not authorized to receive, and under no circumstances shall Flood Control District at any time, during the term of this Agreement or thereafter, release or divulge any confidential material, information or documents received during the performance of its services hereunder without the express written consent of GTRI, nor shall Flood Control District copy, recreate or use any such confidential information or documents other than for the performance of this Agreement. Flood Control District shall not divulge or otherwise make use of trade secrets or other confidential information, procedures, or policies of any former client, customer, constituent or contractor in the exercise of duties under this Agreement. Neither shall Flood Control District copy, recreate, or use any proprietary information of any third party in the performance of services under this Agreement except to the extent authorized by such third parties. The Parties agree that Flood Control District may disclose information where disclosure is required by law.
- B. Administrative Costs. The Flood Control District may use funds for administering the services, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements. Costs must be reasonable and allocable as outlined in 2 C.F.R. §§ 200.404–200.405. The Flood Control District is permitted to charge both direct and indirect costs to its subaward as administrative costs as long as they are accorded consistent treatment per 2 C.F.R. § 200.403. Each category of cost should be treated consistently in like

circumstances as direct or indirect, and the Flood Control District may not charge the same administrative costs to both direct and indirect cost categories, or to other programs.

C. Fraud, Waste, and Abuse Reporting.

The Parties shall immediately report to Harris County (the "County") through the County's Fraud, Waste, or Abuse Hotline and also notify the Flood Control District in accordance with all the Notice provisions contained in this Agreement all suspected or known instances and facts concerning fraud, waste, abuse, or criminal activity under this Agreement. The County's Fraud, Waste, or Abuse Hotline can be accessed by phone at 866-556-8181 or online at <https://secure.ethicspoint.com/domain/media/en/gui/68174/index.html>.

D. Audit Rights and Record Retention.

- i) The Parties shall cooperate to the fullest extent with any and all federal, state, local, or Flood Control District audits related to this Agreement. The Parties' cooperation shall include, but not be limited to access to records, data, documents, and personnel as are requested by Flood Control District or the Harris County Auditor (the "Records"), in whatever form, that are applicable to this Agreement and requested by any federal, state, local, or Flood Control District entity that has rights or jurisdiction over any part of this Agreement or the funds applicable to this Agreement.
- ii) To the extent required by, and in accordance with, 2 CFR Part 200 and any applicable guidance from the U.S. Department of Agriculture, the Parties shall retain sufficient records, which may include, but are not limited to financial records, supporting documents, statistical records, and all other records pertinent to the Agreement. Subject to, and in accordance with the requirements set forth and in accordance with 2 CFR Part 200 and any applicable guidance from the U.S. Department of the Agriculture, records shall be maintained by the Parties for a period of three (3) years after this Agreement has ended and the work has concluded.

7. OWNERSHIP OF DOCUMENTS, COPYRIGHT

- A. For the purposes of this Agreement, the term "Work" is defined as all data, reports, work papers, work products, materials, approaches, designs, specifications, systems, documentation, methodologies, concepts, intellectual property, or other property developed, produced or generated in connection with the services provided under this Agreement. Flood Control District owns and will continue to own all right, title, and interest and all proprietary rights in and to the Work and all documentation or other products and results of the services rendered by Flood Control District, including all trade secret, copyright, patent, trademark, and other proprietary rights.
- B. Flood Control District hereby grants GTRI a perpetual, royalty-free, nonexclusive, irrevocable, transferable, worldwide license for governmental purposes to use,

reproduce, distribute, display, and perform the Work and to prepare derivative works based thereon.

- C. In the event that either Party intends to use, reproduce, display, or perform such work for commercial purposes, the Parties agree to negotiate in good faith the applicable license.
- D. Upon the cessation of services for any reason, including but not limited to instruction to cease performance, termination, depletion of funds, completion of services, or expiration of the Agreement, Flood Control District shall promptly deliver to GTRI all completed or partially completed Work and any and all documentation of other products and results of these services.

8. INDEMNIFICATION

TO THE EXTENT ALLOWED BY LAW, EACH PARTY SHALL BE RESPONSIBLE FOR ALL OF ITS OWN ACTS OF NEGLIGENCE AND ALL CLAIMS AND LIABILITY DUE TO THE ACTIVITIES OF THAT PARTY'S EMPLOYEES, OFFICIALS, AGENTS, OR SUBCONTRACTORS ARISING OUT OF OR UNDER THIS AGREEMENT AND WHICH RESULT FROM ANY ACT, ERROR, OR OMISSION, INTENTIONAL TORT COMMITTED BY THE PARTY OR ITS EMPLOYEES OR ANY OTHER ENTITY OVER WHICH IT EXERCISES CONTROL. EACH PARTY TO THE AGREEMENT AGREES IT SHALL HAVE NO LIABILITY WHATSOEVER FOR THE ACTIONS OR OMISSIONS OF AN INDIVIDUAL EMPLOYED BY ANOTHER PARTY, REGARDLESS OF WHERE THE INDIVIDUAL'S ACTIONS OCCURRED.

9. NOTICE

- A. Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been personally delivered to the address below, or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, address to GTRI or Flood Control District at the following addresses. If mailed, any notice or communication shall be deemed to be received three (3) business days after the date of deposit in the United States Mail. If electronic, any notice or communication shall be deemed given and complete upon successful electronic transmission. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

To GTRI:

GeoTechnology Research Institute
Attn: Bob Travis
8801 Gosling Rd.
The Woodlands, TX 77381
btravis@harcresearch.org

To Flood Control District:

Harris County Flood Control District
Attn: Executive Director
9900 Northwest Parkway
Houston, TX 77092

- B. Either Party may designate a different address by giving the other Party ten (10) days written notice.

10. INDEPENDENT PARTIES

It is expressly understood and agreed by the Parties that nothing contained in this Agreement shall be construed to constitute or create a joint venture, partnership, or other affiliation or like relationship between the Parties, it being specifically agreed that their relationship is and shall remain that of independent parties to a contractual relationship as set forth in this Agreement. GTRI is an independent contractor, and neither it nor its employees or agents shall be considered to be an employee, agent, partner or representative of Flood Control District for any purpose. Neither Flood Control District nor its employees, agents, officers or agents shall be considered to be employees, agents, partners or representatives of GTRI for any purpose. Neither Party has the authority to bind the other Party.

11. NO PERSONAL LIABILITY; NO WAIVER OF IMMUNITY

- A. Nothing in the Agreement is construed as creating any personal liability on the part of any officer, director, employee, or agent of any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee or agent of GTRI.
- B. The Parties agree that no provision of this agreement extends either Party's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas.
- C. Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver of any right, defense, or immunity under the Texas Constitution or the laws of the State of Texas.

12. ENTIRE AGREEMENT; MODIFICATIONS

- A. This instrument contains the entire Agreement between the Parties relating to the rights herein granted and obligations herein assumed.
- B. Any oral or written representations or modifications concerning this instrument shall not be effective except by a subsequent written modification signed by both Parties.

13. APPLICABLE LAW AND VENUE

- A. This Agreement shall be governed by the laws of the State of Texas, and the forum for any action under or related to the Agreement is exclusively in a state or federal court of competent jurisdiction in Texas. The exclusive venue for any action under or related to the Agreement is in a state or federal court of competent jurisdiction in Harris County, Texas.

14. TAXES AND CHARGES

- A. The Flood Control District is a political subdivision under the laws of the State of Texas and claims exemption from sales and use taxes under Tex. Tax Code §151.309, as amended. The Flood Control District agrees to provide exemption certificates to GTRI upon request.
- B. The Flood Control District is neither liable for any personal property taxes, charges, or fees assessed against GTRI nor obligated to reimburse GTRI for any taxes, charges, or fees assessed against GTRI in the performance of this Agreement.

15. NO THIRD-PARTY BENEFICIARIES

- A. GTRI is not obligated or liable to any party other than Flood Control District for the performance of this Agreement.
- B. Nothing in the Agreement is intended or shall be deemed or construed to create any additional rights or remedies in any third party.
- C. Nothing contained in the Agreement shall be construed to or operate in any manner whatsoever to increase the rights of any third party or the duties or responsibilities of GTRI with respect to any third party.

16. SUCCESSORS AND ASSIGNS

- A. The Flood Control District and GTRI bind themselves and their successors, executors, administrators, and assigns to the other Party of this Agreement and to the successors, executors, administrators, and assigns of such other Party, in respect to all covenants of this Agreement.
- B. Neither the Flood Control District nor GTRI shall assign, sublet, or transfer its interest in this Agreement without written consent of the other.

17. CONTRACT CONSTRUCTION

- A. This Agreement shall not be construed against or in favor of any Party hereto based upon the fact that the Party did or did not author this Agreement.
- B. The headings in this Agreement are for convenience or reference only and shall not control or affect the meaning or construction of this Agreement.
- C. When terms are used in the singular or plural, the meaning shall apply to both.

18. WAIVER OF BREACH

- A. Waiver by either Party of a breach or violation of any provision of the Agreement is not a waiver of any subsequent breach.

19. SEVERABILITY

- A. If any provision or part of the Agreement or its application to any person, entity or circumstance is ever held by any court of competent jurisdiction to be invalid for any reason, the remainder of the Agreement and the application of such provision or part of the Agreement to other persons, entities or circumstances are not affected.

20. TEXAS PUBLIC INFORMATION ACT

- A. The Parties expressly acknowledge that one or both Parties may be subject to the Texas Public Information Act, Chapter 552 of the Texas Government Code, and notwithstanding any provisions in this Agreement to the contrary, each Party will make any information related to this Agreement available to third parties in accordance with the Texas Public Information Act.
- B. It is expressly understood and agreed that the Flood Control District, its officers and employees may request advice, decisions and opinions of the Attorney General of Texas (“Attorney General”) in regard to the application of the Act to any materials or information furnished to the Flood Control District, whether or not the same are available to the public. It is further understood that the Flood Control District, its officers and employees shall have the right to rely on the advice, decisions, and opinions of the Attorney General, and that the Flood Control District, its officers, and employees shall have no liability or obligations to GTRI for the disclosure to the public, or to any person or persons, of any materials or information, or a part thereof, furnished to the Flood Control District in reliance on any advice, decision or opinion of the Attorney General.
- C. In the event the Flood Control District receives a written request for information pursuant to the Act that affects GTRI’s rights, title to, or interest in any materials information or a part thereof, furnished to the Flood Control District by GTRI under this Agreement, then the Flood Control District will notify GTRI of such request. GTRI may, at its own option and expense, prepare comments and submit information directly to the Attorney General stating why the requested information is exempt from disclosure pursuant to the requirements of the Act. GTRI is solely responsible for submitting the memorandum brief and information to the Attorney General within the time period prescribed by the Act. GTRI is solely responsible for seeking any declaratory or injunctive relief regarding the disclosure of information that it deems confidential or privileged.
- D. GTRI affirmatively consents to the disclosure of its e-mail addresses that are provided to the Flood Control District, including any agency or department of the Flood Control District. This consent is intended to comply with the requirements of the Act and shall survive termination of this Agreement. This consent shall apply to e-mail addresses provided by GTRI and agents acting on behalf of GTRI and shall apply to any e-mail address provided in any form for any reason whether related to this Agreement or otherwise.

21. SURVIVAL OF TERMS

Any provision of this Agreement that, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement, including but not limited to the indemnification provision, shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall be deemed to survive.

22. NO BINDING ARBITRATION; RIGHT TO JURY TRIAL

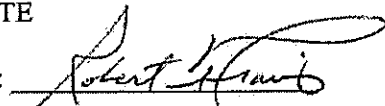
The Parties do not agree to binding arbitration, nor do the Parties waive their rights to a jury trial.

23. EXECUTION

Multiple Counterparts: The Agreement may be executed in several counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument. Each Party warrants that the undersigned is a duly authorized representative with the power to execute this Agreement.

GEOTECHNOLOGY RESEARCH
INSTITUTE

HARRIS COUNTY FLOOD CONTROL
DISTRICT

Signature: 

Name: Robert Travis

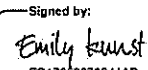
Lina Hidalgo

Title: Vice President / COO

County Judge

Date: 8/08/2024

APPROVED AS TO FORM:
CHRISTIAN D. MENEFEE
COUNTY ATTORNEY

Signed by:

By: ED17663073344AD
Emily Kunst
Assistant County Attorney

**ATTACHMENT A
SCOPE OF WORK**

**ForUsTree: Creating an Inclusive Community Canopy within Houston and
Harris County
A USDA Forest Service Urban & Community Forestry Project**

Partners and Roles:

Project Collaborators (Organizations)	Roles and Responsibilities
HARC	Provide oversight and management of all project activities and ensure coordination of activities with related tasks.
Harris County Flood Control District	Provide project administration, coordination, and reporting; implement tree planting, watering, maintenance, and monitoring.

Project Goals and Measures of Success:

Goal	Quantifiable Measure of Success
Implement tree planting in DACs	Total number of trees planted to be at least 42,000.

Tasks:

Task 1: Project Administration

Subtask 1.1: Project Oversight — The Flood Control District will provide technical and fiscal oversight of the staff to ensure Tasks and Deliverables are acceptable and completed as scheduled and within budget. With the HARC Project Manager's authorization, the Flood Control District may secure the services of subgrantee(s)/subcontractor(s). The Flood Control District must ensure compliance with applicable requirements of 40 CFR Part 33 related to Disadvantaged Business Enterprise in connection with procurements of goods or services, as set out in the Federal Conditions and Forms section of this Contract. Project oversight status will be provided to the HARC Project Manager with the Progress Reports (PRs).

Subtask 1.2: Progress Reports (PRs) — The Flood Control District will submit PRs to the HARC Project Manager by the 10th day of the following month. PRs will include reporting on the project's status, proposed revisions to the project schedule, and a narrative description of progress by Task. The HARC Project Manager will provide a template for the PR.

Subtask 1.3: Reimbursement Forms — The Flood Control District will submit Reimbursement Forms in accordance with the Contracts Special Terms and Conditions (Attachment C).

Subtask 1.4: Contract Communication — The Flood Control District will maintain regular communication with the HARC Project Manager regarding the status and progress of the project and any matters that require attention between PRs. Communications will include a quarterly conference call to discuss items such as project Tasks, financial status, and any other matters that require attention. The HARC Project Manager may request additional information from the Flood Control District prior to the call or meeting. HARC will provide meeting notes, identifying action items, to the Flood Control District within five business days.

The first conference call held during the start of each calendar year of the project (January) starting in year two will cover, as applicable, any staff changes, the previous year's performance, budget estimates, schedule updates for the next fiscal year, and overall project progress.

Matters that will be communicated to the HARC Project Manager include, but are not limited to:

- Notification of a minimum of 14 days before the Flood Control District has scheduled public meetings or events or other major Task activities.
- Notification within five business days following events or circumstances that may require changes to the Budget or Scope of Work.
- Requests for prior approval of activities or expenditures for which the Contract requires advance approval or that are not specifically included in the Scope of Work.

Subtask 1.5: Coordination Calls — Upon request by HARC, the Flood Control District will participate in Flood Control District conference calls to share progress on goals, measures of success, challenges, outcomes, and collaborative opportunities.

Subtask 1.6: Contract Budget Updates — The Flood Control District will discuss annual fiscal year budgets with the HARC Project Manager at the start of each new fiscal year. Starting in the second year of the project, the Flood Control District will provide an Annual Budget Update that details the next fiscal year's spending projections as associated with planned project activities. These updates will be revised when fiscal year spending projections change by 10% or more, or upon request by the HARC Project Manager. The update in the final year of the project will include a budget for all remaining project activities. The template for the Annual Budget Update will be provided by the HARC Project Manager.

Subtask 1.7: External Communication and Outreach Metrics - The Flood Control District will participate in project communications and track the Number of Public/Community Members Reached via in person or virtual presentations, social media, or other forms of digital media.

Deliverables:

- 1.2 PRs (by the 10th of the month following the end of each monthly reporting period).
- 1.3 Reimbursement forms (see Special Terms and Conditions).
- 1.4 Participation in conference calls (quarterly).
- 1.5 Coordination calls (upon request).
- 1.6 Annual Budget Updates (upon request).
- 1.7 Communication metrics in Progress Reports.

Task 2: Equitable Community Engagement

Subtask 2.2: Task Force — Houston Advanced Research Center (HARC) will collaborate with HCPs 2, 3, 4, the Houston Parks and Recreation Department (HPARD), the Harris County Flood Control District, AYW-TCC, SCA, Texas A&M University AgriLife Extension Service (TAMU ALES), and the United States Fish and Wildlife Service (USFWS) to establish a Task Force. The Task Force will be coordinated by HARC and consist of two to four community members, two to three government, and two to three non-profit representatives. The Flood Control District will have at least one staff member participate in the Task Force for two years of the project (project duration is 5 years) for a total of eight 1.5-to-2-hour quarterly meetings.

Subtask 2.3: Community Engagement Implementation — During community engagement implementation annual town halls/workshops will be organized to reassess community goals and update community members on progress. The Flood Control District will provide tree planting implementation and updates of current and planned projects at partner Coordination Calls to support community engagement.

Deliverables:

- 2.3 Updates of tree planting activities in monthly progress report and at partner Coordination Calls.

Task 3: Tree Canopy Assessment, Planning, and Analysis

Subtask 3.2: Community Science Urban Heat Island Mapping - HARC will contract with CAPA Strategies, collaborate with project partners including Harris County Public Health (HCPH), Harris County Office of County Administration (OCA), AYW-TXCC, and SCA, as well as community participants to conduct a community science urban heat island mapping campaign. The Flood Control District will promote external communications to help recruit community volunteers through existing communication channels such as website announcements, press releases, and social media.

Subtask 3.3: Tree Equity Analysis — HARC will coordinate with all project partners to plan for effective and equitable urban tree canopy implementation by conducting a tree equity analysis.

Subtask 3.4: Green Infrastructure Network Coordination — The highly accurate tree canopy and H3AT data will provide a scientific basis to target community tree plantings by prioritizing sites in proximity to public community features that have high heat, low tree canopy coverage, and a high rate of tree loss. This will include the production of decision-relevant information to prioritize and target community tree plantings at the county and neighborhood scales. All data along with supplemental layers and tools will be integrated into a tree equity web-based mapping application and dashboard by HARC and be shared with project partners by the end of the second quarter of year two. As practical and feasible, the Flood Control District will incorporate Tree Equity Analysis information into their tree planting planning.

Deliverables:

- 3.4 Updates on use of the Tree Equity Web-Based Mapping Application and associated data in Progress Reports.

Task 5: Planting Implementation and Hazard Tree Removal

Subtask 5.3: Tree Planting Implementation — The Flood Control District will implement tree planting projects on 210 acres of open land within stormwater detention basins and conveyance channels. The Flood Control District will plant a total of 42,000 3-gallon native trees at a standard planting density of 200 per acre. HCFCD will begin planting fall of the first project year and continue each subsequent spring and fall through the end of the third project year. The plantings will be conducted as soon as practicable within an acceptable tree planting window, generally between October and April (inclusive) of each year.

Subtask 5.5: Tree Reporting — Project partners will collect sufficient data to support tree reporting and tracking at the census tract level. The Flood Control District will report planting locations, total number of trees, tree species, size of trees, and volunteer hours if applicable, in the monthly Progress Reports. For tree projects that occur in the City of Houston, the Flood Control District will work with American YouthWorks crews, Student Conservation Association interns, or submit data to the HARC Project Manager for upload to the PlanIT Geo Tree Tracking Portal (<https://pg-cloud.com/HoustonTX/>).

Deliverables:

- 5.3 Documentation of tree planting progress will be submitted to the HARC Project Manager in the monthly Progress Report.

- 5.5 Tree reporting data will be submitted to the HARC Project Manager along with the monthly Progress Report.

Task 6: Operations and Maintenance

Subtask 6.1: Watering, Maintaining, and Managing of Tree Plantings — The Flood Control District will water maintain, and manage tree plantings. All trees will be watered during an initial two-year establishment period.

Subtask 6.2: Monitoring — The Flood Control District will monitor established trees to ensure long term survival and health. The Flood Control District staff and Summer Forestry Interns will perform follow-up site monitoring after planting. The Flood Control District will track monitoring data on tree health and conditions including mortality by species.

Deliverables:

- 6.1 Documentation of watering, maintenance, and management of tree plantings will be submitted to the HARC Project Manager in the monthly Progress Report.
- 6.2 Tree monitoring updates and metrics will be submitted to the HARC Project Manager in the Progress Report.

Task 7: Final Reporting

Subtask 7.1: Draft Final Reporting Materials — At least 45 days prior to submitting the Final Report Materials, the Flood Control District will provide Draft Final Report Materials.

The Draft Final Report Materials should include the following information:

- Amount of project funding and amount spent.
- A summary description of the work activities completed with the project funding.
- Discussion on Deliverables and goals completed or not completed, lessons learned, and recommendations.
- The Final Report Materials may change depending on USDA Forest Service requirements.

Subtask 7.2: Final Report Materials — The Partner will revise the Draft Final Report Materials to address comments provided by the HARC Project Manager. At least two weeks before the expiration of the Contract, the Flood Control District will submit the Final Report Materials to the HARC Project Manager.

Deliverables:

- 7.1 Draft Final Report Materials (At least 45 days prior to the end of the contract).
- 7.2 Address HARC comments (within 30 days of receiving comments).
- 7.2 Final Report Materials (at least two weeks prior to the end of the contract).

ATTACHMENT B BUDGET

Program or Project Name:		Harris County Flood Control District			
Job Title	Total # of People	Avg Cost/Day (Year 1)	# of Days	Job Code	Total
Total Personnel Cost					\$0.00
Job Title	Total # of People	Avg Cost/Day (Year 1)	# of Days	Job Code	Total
Total Fringe Benefits					\$0.00
Travel Expense	Total #	Year 1 Cost	Qty	Job Code	Total
Total Travel Cost					\$0.00
Piece of Equipment	# of Units	Cost	* # of Days	Job Code	Total
Total Equipment Cost * if leasing					\$0.00
Supplies	# of Items	Year 1 Cost/Item	Freight/Delivery	Total	
Trees (3 GL native)	42000	\$20.00		\$840,000.00	
Total Supplies Cost					\$840,000.00
Contract Type			Daily rate	Number of days	Total
Tree Planting					\$1,710,000.00
Annual Establishment Maintenance (including annual mulching, fertilization, and 26 weekly waterings per year)					\$3,490,000.00
Total Contractual Cost					\$5,200,000.00
Item	Total # of Units	Year 1 Cost/Unit	Job Code	Total	
Total Other Expenses					\$0.00
Subtotal Direct Costs				\$6,040,000.00	
Current Overhead Rate: 0.00%	Subtotal Direct Costs Chargeable to Indirect \$6,040,000.00			Total	\$0.00
TOTAL COST				\$6,040,000.00	

**ATTACHMENT C
USDA FOREST SERVICE FLOW-DOWN TERMS AND REQUIREMENTS**

- A. COLLABORATIVE ARRANGEMENTS. Where permitted by terms of the award and Federal law, Houston Advanced Research Center may enter into collaborative arrangements with other organizations to jointly carry out activities with Forest Service funds available under this award.
- B. FOREST SERVICE LIABILITY TO THE RECIPIENT. The United States shall not be liable to Houston Advanced Research Center for any costs, damages, claims, liabilities, and judgments that arise in connection with the performance of work under this award, including damage to any property owned by Houston Advanced Research Center or any third party.
- C. NOTICES. Any notice given by the Forest Service or Houston Advanced Research Center will be sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the Forest Service Program Manager, at the address specified in the award.

To Houston Advanced Research Center, at the address shown in the award or such other address designated within the award.

Notices will be effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- D. SUBAWARDS. Prior approval is required to issue subawards under this grant. The intent to subaward must be identified in the approved budget and scope of work and approved in the initial award or through subsequent modifications. Approval of each individual subaward is not required, however the cooperator must document that each sub-recipient does NOT have active exclusions in the System for Award Management (sam.gov).

The Cooperator must also ensure that they have evaluated each subrecipient's risk in accordance with 2 CFR 200.332 (b).

Any subrecipient under this award must be notified that they are subject to the OMB guidance in subparts A through F of 2 CFR Part 200, as adopted and supplemented by the USDA in 2 CFR Part 400. Any sub-award must follow the regulations found in 2 CFR 200.331 through .333.

All subawards \$30,000 or more must be reported at fsrs.gov in compliance with 2 CFR 170. See Attachment B for full text.

- E. FINANCIAL STATUS REPORTING. A Federal Financial Report, Standard Form SF-425 (and Federal Financial Report Attachment, SF-425A, if required for reporting multiple awards), must be submitted semi-annually. These reports are due 30 days after

the reporting period ending June 30 and December 31. The final SF-425 (and SF-425A, if applicable) must be submitted either with the final payment request or no later than 120 days from the expiration date of the award. These forms may be found at <https://www.grants.gov/web/grants/forms.html>.

- F. **PROGRAM PERFORMANCE REPORTS.** The recipient shall perform all actions identified and funded in application/modification narratives within the performance period identified in award.

In accordance with 2 CFR 200.301, reports must relate financial data to performance accomplishments of the federal award.

Houston Advanced Research Center shall submit semi-annual performance reports. These reports are due 30 days after the reporting period ending June 30 and December 31. The final performance report shall be submitted either with Houston Advanced Research Center's final payment request, or separately, but not later than 120 days from the expiration date of the award.

- G. **NOTIFICATION.** Houston Advanced Research Center shall immediately notify the Forest Service of developments that have a significant impact on the activities supported under this award. Also, notification must be given in case of problems, delays or adverse conditions that materially impair the ability to meet the objectives of the award. This notification must include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

- H. **CHANGES IN KEY PERSONNEL.** Any revision to key personnel identified in this award requires notification of the Forest Service Program Manager by email or letter.

- I. **USE OF FOREST SERVICE INSIGNIA.** In order for Houston Advanced Research Center to use the Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted by the Forest Service's Office of Communications (Washington Office). A written request will be submitted by Forest Service, Program Manager, to the Office of Communications Assistant Director, Visual Information and Publishing Services prior to use of the insignia. The Forest Service Program Manager will notify Houston Advanced Research Center when permission is granted.

- J. **FUNDING EQUIPMENT.** Federal funding under this award is not available for reimbursement of Houston Advanced Research Center's purchase of equipment. Equipment is defined as having a fair market value of \$5,000 or more per unit and a useful life of over one year. Supplies are those items that are not equipment.

- K. **PUBLIC NOTICES.** It is Forest Service's policy to inform the public as fully as possible of its programs and activities. Houston Advanced Research Center is encouraged to give public notice of the receipt of this award and, from time to time, to announce progress

and accomplishments.

Houston Advanced Research Center may call on Forest Service's Office of Communication for advice regarding public notices. Houston Advanced Research Center is requested to provide copies of notices or announcements to the Forest Service Program Manager and to Forest Service's Office Communications as far in advance of release as possible.

- L. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS, AND ELECTRONIC MEDIA. Houston Advanced Research Center shall acknowledge Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this award. Follow direction in USDA Supplemental 2 CFR 415.2.
- M. COPYRIGHTING. Houston Advanced Research Center is/are granted sole and exclusive right to copyright any publications developed as a result of this award. This includes the right to publish and vend throughout the world in any language and in all media and forms, in whole or in part, for the full term of copyright and all renewals thereof in accordance with this award.

No original text or graphics produced and submitted by the Forest Service shall be copyrighted. The Forest Service reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for federal government purposes.

This right shall be transferred to any sub-awards or subcontracts.

This provision includes:

- The copyright in any work developed by Houston Advanced Research Center under this award.
- Any right of copyright to which Houston Advanced Research Center purchase(s) ownership with any federal contributions.

- N. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. Houston Advanced Research Center shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

In accordance with Federal law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, disability, and reprisal or retaliation for prior civil rights activity. (Not all prohibited bases apply to all programs.)

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, and American Sign

Language) should contact the responsible State or local Agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form, which can be obtained online at <https://www.ocio.usda.gov/document/ad-3027>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

- (1) Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, D.C. 20250-9410; or*
- (2) Fax: (833) 256-1665 or (202) 690-7442; or*
- (3) Email: program.intake@usda.gov.*

If the material is too small to permit the full Non-Discrimination Statement to be included, the material will, at a minimum, include the alternative statement:
"This institution is an equal opportunity provider."

- O. **DISPUTES.** In the event of any issue of controversy under this agreement, the parties may pursue Alternate Dispute Resolution (ADR) procedures to voluntarily resolve those issues. These procedures may include, but are not limited to conciliation, facilitation, mediation, and fact finding.

Should the parties be unable to resolve the issue of controversy through ADR, then the Signatory Official will make the decision. A written copy of the decision will be provided to the Cooperator.

Decisions of the Signatory Official shall be final unless, within 30 days of receipt of the decision of the Signatory Official, the Cooperator appeals the decision to the Forest Service's Deputy Chief, State, Private, and Tribal Forestry (SPTF). Any appeal made under this provision shall be in writing and addressed to the Deputy Chief, SPTF, USDA, Forest Service, Washington, DC 20024. A copy of the appeal shall be concurrently furnished to the Signatory Official.

A decision under this provision by the Deputy Chief, SPTF, is final. The final decision by the Deputy Chief, SPTF, does not preclude the Cooperator from pursuing remedies available under the law.

- P. **AWARD CLOSEOUT.** Houston Advanced Research Center must submit, no later than 120 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award.

Any unobligated balance of cash advanced to Houston Advanced Research Center must be immediately refunded to the Forest Service, including any interest earned in accordance with 2 CFR 200.344(d).

If this award is closed without audit, the Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

- Q. TERMINATION. This award may be terminated, in whole or part pursuant to 2 CFR 200.340.
- R. DEBARMENT AND SUSPENSION. Houston Advanced Research Center shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should Houston Advanced Research Center or any of their principals receive a transmittal letter or other official federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary. The Recipient shall adhere to 2 CFR Part 180 Subpart C in regards to review of sub-recipients or contracts for debarment and suspension.
- All subrecipients and contractors must complete the form AD-1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Lower Tier Covered Transactions. Blank forms are available electronically. Completed forms must be kept on file with the primary recipient.
- S. MEMBERS OF CONGRESS. Pursuant to 41 U.S.C. 22, no member of, or delegate to, Congress shall be admitted to any share or part of this award, or benefits that may arise therefrom, either directly or indirectly.
- T. SCIENTIFIC INTEGRITY: USDA is committed to the highest levels of integrity in all of our scientific activities and decision making. This includes to performing, recording and reporting the results of scientific activities with honesty, objectivity, and transparency. All persons performing under this agreement shall adhere to the principles of scientific integrity described in Departmental Regulation (DR) 1074-001.
- U. GEOSPATIAL DATA. All data collected will meet the requirements of the Geospatial Data Act of 2018 where applicable. This will always include the documentation of all relevant metadata standards, use of standard data formats; description of quantitative measures of uncertainty and source of uncertainty and sources of uncertainty associated with the data. Additionally, the data must meet specific standards specified elsewhere to ensure the data is useful to support the USDA's mission. The recipient/cooperator agrees to comply with USDA's Department-wide enterprise geospatial data management policy implemented in Departmental Regulation 3465-001 which establishes the USDA policy for defining the strategic direction necessary to optimize the management of the USDA

geospatial data and geospatial infrastructure, including all geospatial data created for, by, and enhanced by USDA.

V. PUBLIC ACCESS TO SCHOLARLY PUBLICATIONS AND DIGITAL SCIENTIFIC RESEARCH DATA. The recipient agrees to comply with USDA's Department-wide public access policy implemented in Departmental Regulation 1020-006 which establishes the USDA policy for public access to scholarly publications and digital scientific research data assets. The USDA will make all peer-reviewed, scholarly publications and digital scientific research data assets arising from unclassified scientific research supported wholly or in part by the USDA accessible to the public, to the extent practicable.

W. BUY AMERICA BUILD AMERICA. Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for an infrastructure project unless:

(1) All iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(2) All manufactured products used in the project are produced in the United States— this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product; and

(3) All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The construction material standards are listed below.

Incorporation into an infrastructure project. The Buy America Preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America Preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

Categorization of articles, materials, and supplies. An article, material, or supply should only be classified into one of the following categories: (i) Iron or steel products; (ii) Manufactured products; (iii) Construction materials; or (iv) Section 70917(c) materials. An article, material, or supply should not be considered to fall into multiple categories. In some cases, an article, material, or supply may not fall under any of the categories listed in this paragraph. The classification of an article, material, or supply as falling into one of the categories listed in this paragraph must be made based on its status at the time it is brought to the work site for incorporation into an infrastructure project. In general, the work site is the location of the infrastructure project at which the iron, steel, manufactured products, and construction materials will be incorporated.

Application of the Buy America Preference by category. An article, material, or supply incorporated into an infrastructure project must meet the Buy America Preference for only the single category in which it is classified.

Determining the cost of components for manufactured products. In determining whether the cost of components for manufactured products is greater than 55 percent of the total cost of all components, use the following instructions:

- (a) For components purchased by the manufacturer, the acquisition cost, including transportation costs to the place of incorporation into the manufactured product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (b) For components manufactured by the manufacturer, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (a), plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product.

Construction material standards. The Buy America Preference applies to the following construction materials incorporated into infrastructure projects. Each construction material is followed by a standard for the material to be considered “produced in the United States.” Except as specifically provided, only a single standard should be applied to a single construction material.

- (1) Non-ferrous metals. All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.
- (2) Plastic and polymer-based products. All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

(3) Glass. All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.

(4) Fiber optic cable (including drop cable). All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

(5) Optical fiber. All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.

(6) Lumber. All manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.

(7) Drywall. All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

(8) Engineered wood. All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

Waivers. When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the Buy America Preference in any case in which the agency determines that:

(1) applying the Buy America Preference would be inconsistent with the public interest;

(2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or

(3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the Buy America Preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at [USDA Buy America Waivers for Federal Financial Assistance | USDA](#).

Definitions

“Buy America Preference” means the “domestic content procurement preference” set forth in section 70914 of the Build America, Buy America Act, which requires the head of each Federal agency to ensure that none of the funds made available for a Federal award for an infrastructure project may be obligated unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States.

“Construction materials” means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material.

(1) The listed items are:

- (i) Non-ferrous metals;
- (ii) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- (iii) Glass (including optic glass);
- (iv) Fiber optic cable (including drop cable);
- (v) Optical fiber;
- (vi) Lumber;
- (vii) Engineered wood; and
- (viii) Drywall.

(2) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.

“Infrastructure” means public infrastructure projects in the United States, which includes, at a minimum, the structures, facilities, and equipment for roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.

“Infrastructure project” means any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States regardless of whether infrastructure is the primary purpose of the project. See also paragraphs (c) and (d) of 2 CFR 184.4.

“Iron or steel products” means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.

X. TRAFFICKING IN PERSONS.

1. Provisions applicable to a Recipient that is a private entity.
 - a. You as the Recipient, your employees, Subrecipients under this award, and Subrecipients’ employees may not:
 - (1) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - (2) Procure a commercial sex act during the period of time that the award is in effect; or
 - (3) Use forced labor in the performance of the award or subawards under the award.
 - b. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a Subrecipient that is a private entity:
 - (1) Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - (2) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either:
 - i. Associated with performance under this award; or
 - ii. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),”.
2. Provision applicable to a Recipient other than a private entity. We as the Federal

awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity:

- a. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
 - b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
 - (1) Associated with performance under this award; or
 - (2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),”
3. Provisions applicable to any recipient.
- a. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
 - b. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - (1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - (2) Is in addition to all other remedies for noncompliance that are available to us under this award.
 - c. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
4. Definitions. For purposes of this award term:
- a. “Employee” means either:
 - (1) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - (2) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
 - b. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
 - c. “Private entity”:
 - (1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
 - (2) Includes:
 - i. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - ii. A for-profit organization.
 - d. “Severe forms of trafficking in persons,” “commercial sex act,” and

“coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

Y. DRUG-FREE WORKPLACE.

1. Houston Advanced Research Center agree(s) that it will publish a drug-free workplace statement and provide a copy to each employee who will be engaged in the performance of any project/program that receives federal funding. The statement must
 - a. Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;
 - b. Specify the actions Houston Advanced Research Center will take against employees for violating that prohibition; and
 - c. Let each employee know that, as a condition of employment under any award, the employee:
 - (1) Shall abide by the terms of the statement, and
 - (2) Shall notify Houston Advanced Research Center in writing if they are convicted for a violation of a criminal drug statute occurring in the workplace, and shall do so no more than 5 calendar days after the conviction.
2. Houston Advanced Research Center agree(s) that it will establish an ongoing drug- free awareness program to inform employees about
 - a. The dangers of drug abuse in the workplace;
 - b. The established policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation and employee assistance programs; and
 - d. The penalties that you may impose upon them for drug abuse violations occurring in the workplace.
3. Without the Program Manager’s expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this instrument, or the completion date of this award, whichever occurs first.
4. Houston Advanced Research Center agrees to immediately notify the Program Manager if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee’s position title, the award number of each award on which the employee worked. The notification must be sent to the Program Manager within 10 calendar days after Houston Advanced Research Center learns of the conviction.
5. Within 30 calendar days of learning about an employee’s conviction, Houston Advanced Research Center must either
 - a. Take appropriate personnel action against the employee, up to and including

termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or

- b. Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

Z. PROHIBITION AGAINST USING FUNDS WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS.

1. The recipient may not require its employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.
2. The recipient must notify its employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (1) of this award provision are no longer in effect.
3. The prohibition in paragraph (1) of this award provision does not contravene requirements applicable to any other form issued by a Federal department or agency governing the nondisclosure of classified information.
4. If the Government determines that the recipient is not in compliance with this award provision, it;
 - a. Will prohibit the recipient's use of funds under this award in accordance with sections 743, 744 of Division E of the Consolidated Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law; and
 - b. May pursue other remedies available for the recipient's material failure to comply with award terms and conditions.

AA. ELIGIBLE WORKERS. Houston Advanced Research Center shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 U.S.C. 1324(a)). Houston Advanced Research Center shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract or supplemental instruments awarded under this award.

BB. FREEDOM OF INFORMATION ACT (FOIA). Public access to award or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552). Requests for research data are subject to 2 CFR 315(c).

Public access to culturally sensitive data and information of Federally-recognized Tribes may also be explicitly limited by P.L. 110-234, Title VIII Subtitle B §8106 (2009 Farm Bill).

CC. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All Cooperators, their Employees, Volunteers, and Contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.

DD. PROMOTING FREE SPEECH AND RELIGIOUS FREEDOM. As a recipient of USDA financial assistance, you will comply with the following:

1. Do not discriminate against applicants for sub-grants on the basis of their religious character.
2. 7 Code of Federal Regulations (CFR) part 16.3(a), Rights of Religious Organizations.
3. Statutory and National policy requirements, including those prohibiting discrimination and those described in Executive Order 13798 promoting free speech and religious freedom, 2 CFR 200.300.

EE. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. The cooperator (including subrecipients) is responsible for compliance with the prohibition on certain telecommunications and video surveillance services or equipment identified in 2 CFR 200.216. See Public Law 115-232, Section 889 for additional information.

In accordance with 2 CFR 200.216, the grantee (including subrecipients) is prohibited from obligating or expending loan or grant funds for covered telecommunications equipment or services to:

- (1) procure or obtain, extend or renew a contract to procure or obtain;
- (2) enter into a contract (or extend or renew a contract) to procure; or
- (3) obtain the equipment, services or systems.

FF. DAVIS BACON WAGES FOR CONSTRUCTION. Following the requirement in Section 41101 of the Bipartisan Infrastructure Law, P.L. 117-58, Davis-Bacon wage rates must be applied for all laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work on a project assisted in whole or in part by funding made available under this Act. Laborers and mechanics shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the "Davis-Bacon Act").

GG. JUSTICE 40 INITIATIVE. Executive Order (EO) 14008, Tackling the Climate Crisis at Home and Abroad, was signed on January 27, 2021. This EO commits federal agencies to providing 40% of federal benefits to disadvantaged communities. When the cooperator

is considering a sub-award or contract to be executed under this agreement, the cooperator shall consider the requirements of EO 14008, section 223, OMB M-21-28 and OMB-23-09.

HH. INVESTING IN AMERICA SIGNAGE. For any Bipartisan Infrastructure Law or Inflation Reduction Act funded public construction projects over \$250,000, the Cooperator shall visibly post clear and prominent signs acknowledging the source of funding. See Office of Management and Budget Memorandum CA-23-6.

2 CFR PART 170

Appendix A to Part 170—Award Term

I. Reporting Subawards and Executive Compensation

a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).
2. *Where and when to report.*
 - i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.
 - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

b. *Reporting total compensation of recipient executives for non-Federal entities.*

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
 - i. The total Federal funding authorized to date under this Federal award equals or exceeds \$30,000 as defined in 2 CFR 170.320;
 - ii. in the preceding fiscal year, you received—
 - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards), and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and,
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:
 - i. As part of your registration profile at <https://www.sam.gov>.
 - ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. *Reporting of Total Compensation of Subrecipient Executives.*

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier non-Federal entity subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most

highly compensated executives for the subrecipient's preceding completed fiscal year, if—

- i. in the subrecipient's preceding fiscal year, the subrecipient received—
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards) and,
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
- i. To the recipient.
 - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.
- d. *Exemptions.* If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:
- i. Subawards, and
 - ii. The total compensation of the five most highly compensated executives of any subrecipient.
- e. *Definitions.* For purposes of this award term:
1. Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).
 2. Non-Federal *entity* means all of the following, as defined in 2 CFR part 25:
 - i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization; and,
 - iv. A domestic or foreign for-profit organization
 3. *Executive* means officers, managing partners, or any other employees in management positions.
 4. *Subaward:*
 - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.331).
 - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

5. *Subrecipient* means a non-Federal entity or Federal agency that:
 - i. Receives a subaward from you (the recipient) under this award; and
 - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
6. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)).

END OF 2 CFR PART 170

WHISTLEBLOWER NOTICE

Whistleblowers perform an important service to USDA and the public when they come forward with what they reasonably believe to be evidence of wrongdoing. They should never be subject to reprisal for doing so. Federal law protects federal employees as well as personal services contractors and employees of Federal contractors, subcontractors, grantees, and subgrantees against reprisal for whistleblowing. USDA bears the responsibility to ensure that nothing in a non-disclosure agreement which a contractor, subcontractor, grantee, or subgrantee requires their employees to sign should be interpreted as limiting their ability to provide information to the Office of Inspector General (OIG).

41 U.S.C. § 4712 requires the head of each executive agency to ensure that its contractors inform their workers in writing of the rights and remedies under the statute. Accordingly, it is illegal for a personal services contractor or an employee of a Federal contractor, subcontractor, grantee, or subgrantee to be discharged, demoted, or otherwise discriminated against for making a protected whistleblower disclosure. In this context, these categories of individuals are whistleblowers who disclose information that the individual reasonably believes is evidence of one of the following:

- 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.

To be protected under 41 U.S.C. § 4712, the disclosure must be made to one of the following:

- A Member of Congress, or a representative of a committee of Congress;
- The OIG;
- The Government Accountability Office (GAO);
- A Federal employee responsible for contract or grant oversight or management at USDA;
- An otherwise authorized official at USDA or other law enforcement agency;
- A court or grand jury; or
- A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

Under 41 U.S.C. § 4712, personal services contractors as well as employees of contractors, subcontractors, grantees, or subgrantees may file a complaint with OIG, who will investigate the matter unless they determine that the complaint is frivolous, fails to allege a violation of the prohibition against whistleblower reprisal, or has been addressed in another proceeding. OIG's investigation is then presented to the head of the executive agency who evaluates the facts of the investigation and can order the contractor, subcontractor, grantee, or subgrantee

to take remedial action, such as reinstatement or back pay.

Federal Acquisition Regulation (FAR) Subpart 3.903, *Whistleblower Protections for Contractor Employees, Policy*, prohibits government contractors from retaliating against a contract worker for making a protected disclosure related to the contract. FAR Subpart 3.909-1 prohibits the Government from using funds for a contract with an entity that requires its employees or subcontractors to sign internal confidentiality statements prohibiting or restricting disclosures of fraud, waste, or abuse to designated persons. This prohibition does not contravene agreements pertaining to classified information. The regulation also requires contracting officers to insert FAR clause 52.203-17, *Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights*, in all solicitations and contracts that exceed the Simplified Acquisition Threshold as defined in FAR Subpart 3.908. This clause requires notification to contractor employees that they are subject to the whistleblower rights and remedies referenced in 41 U.S.C. § 4712.

In order to make a complaint alleging any of the violations mentioned above, one should complete the OIG Hotline form located at: <https://www.usda.gov/oig/hotline>. For additional information, they may also visit the WPC's webpage at: <https://www.usda.gov/oig/wpc> or they may directly contact the WPC at OIGWPC@oig.usda.gov.