

**AGREEMENT**

**BY AND BETWEEN**

**ESSEX COUNTY COMMUNITY FOUNDATION**

**AND**

THIS AGREEMENT, was made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the Essex County Community Foundation (hereinafter referred as the FOUNDATION) and \_\_\_\_\_ hereinafter referred to as the SUBGRANTEE).

**WITNESSETH THAT:**

WHEREAS, the FOUNDATION has entered into an agreement with the Commonwealth of Massachusetts' (hereinafter "Commonwealth") Department of Housing and Community Development (hereinafter "DHCD"), Massachusetts Community Development Block Grant Program (hereinafter "Mass. CDBG") to undertake a community development program of Food Security (hereinafter "Program") pursuant to the Housing and Community Development Act of 1974 (hereinafter "Act"), as amended, and regulations thereunder, and

WHEREAS, professional services relating to the implementation and administration of the Program are sought to assist the FOUNDATION in the timely achievement of its Mass. CDBG Food Security Grant Program objectives.

**NOW, THEREFORE, THE PARTIES HERETO DO AGREE AS FOLLOWS:**

1. **ENGAGEMENT OF SUBGRANTEE:** The FOUNDATION hereby engages the SUBGRANTEE to perform the services set forth herein and the SUBGRANTEE hereby accepts the engagement.

2. **SCOPE OF SERVICES:** The SUBGRANTEE shall perform the necessary services as described in the approved proposal to the FOUNDATION dated **NEED DATE**, which is attached hereto and incorporated by reference herein as Attachment A as may be amended from time to time.

3. **RESPONSIBILITY OF THE FOUNDATION:** The FOUNDATION shall assume responsibility for assisting the SUBGRANTEE insofar as possible for the purpose of efficiency and furnishing the SUBGRANTEE with information needed to satisfactorily complete the services.

3.1 The FOUNDATION shall designate a project representative authorized to work with the SUBGRANTEE with respect to the project. The FOUNDATION'S representative is Carol Lavoie Schuster. TELEPHONE 978-777-8876 x 133.

4.1 **REPORTING:** The SUBGRANTEE will submit written reports to the FOUNDATION on the status of the professional services, according to the schedule and dates specified below, or at other times as required by an information request or reporting requirement of Mass. CDBG

**REPORT:** Narrative Report of Food Security Assistance (See Attachment C – Report types.)

**DATE DUE:** 5 business days after the end of each month.

REPORT: Demographics Report (See Attachment C – Report types.)  
DATE DUE: 5 business days after the month

5. **SUBCONTRACTS:** No subcontracts may be awarded by the SUBGRANTEE, the purpose of which is to fulfill in whole or in part the services required of the SUBGRANTEE, without prior written approval of the FOUNDATION and DHCD.

The SUBGRANTEE shall use its best efforts to ensure that it will not knowingly use funds under this contract to purchase, or enter into contracts to purchase, any equipment, services, or systems that use telecommunications equipment or services as a substantial or essential component of a system that is subject to 2 CFR § 200.216. In the event the SUBGRANTEE identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system that is subject to 2 CFR § 200.216, during Contract performance, the SUBGRANTEE shall alert the FOUNDATION as soon as possible and shall provide information on any measures taken to prevent recurrence.

6. **TIME OF PERFORMANCE:** The services of the SUBGRANTEE are to commence on or about March 1, 2022 and shall be undertaken and completed in sequence as to assure their expeditious completion.

6.1 All services required hereunder shall be completed by March 1, 2023.

7. **PAYMENTS AND COMPENSATION:** The FOUNDATION will pay the SUBGRANTEE a total fee in amount not to exceed [REDACTED] Dollars (\$ [REDACTED]), with no reimbursements for out-of-pocket expenses, based on invoices submitted in a form approved by the FOUNDATION and according to the "Method and Schedule of Compensation," found as Attachment B. Should any of the compensation, fee or payments not be substantiated by the Reports in Section 4.1 and Records in Section 8.1, the SUBGRANTEE will have to repay any payments made to the SUBGRANTEE by the FOUNDATION.

8. **GENERAL PROVISIONS:**

8.1 **RETENTION OF RECORDS:** The SUBGRANTEE shall maintain in accordance with 2 CFR Part 200.333, and any Mass. CDBG regulations, procedures or guidelines, those books, records, and other documents, including but not limited to payroll records, and purchase orders that are sufficient to document that activities carried out were in accordance with this Agreement, and the primary objectives of the Act, and any other applicable laws and regulations. Such records shall contain all information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, liabilities, outlays and income. The SUBGRANTEE shall maintain such records for a period of seven (7) years from the date of expiration of this Agreement, or if such records become the subject of audit findings, they shall be retained until such findings have been resolved, whichever is later.

8.1.1 **Program Income:** If the SUBGRANTEE's services under this Agreement includes the tracking, reporting, or utilizing of funds considered to be program income, SUBGRANTEE will track, report and utilize any and all such program income generated through CDBG funded activities as required by Mass. CDBG.

8.1.2 **Photographic Documentation (for construction projects/capital equipment purchases only):** SUBGRANTEE shall submit photographs to the FOUNDATION of all construction projects and or capital equipment purchases assisted with CDBG funds, illustrating conditions prior to, during, and at completion of the project. Photographs are to be submitted at the time of purchase and annually thereafter and at disposal/termination of contract.

8.2 ACCESS TO RECORDS: The SUBGRANTEE shall make all books, accounts, records, reports, files, and other papers, things or property, that relate to its activities under this Agreement, available at all reasonable times for inspection, review, and audit by DHCD, their authorized representatives, authorized representatives of the U.S. Department of Housing and Urban Development (hereinafter "HUD"), the Inspector General of the United States, or of the Commonwealth, the Auditor of the Commonwealth, and the Attorney General of the United States, or of the Commonwealth reserves the right of the Governor or his designee, the Secretary of Administration and Finance, and the State Auditor and his designee, at reasonable times and upon reasonable notice, to examine the books, records, and other compilative data of the SUBGRANTEE which pertain to the performance of the provisions and requirements of this Agreement, as provided by Executive Order 195.

8.3. TERMINATION: The FOUNDATION may terminate the contract, for cause, upon fifteen (15) days written notice to the SUBGRANTEE. In case of termination, all finished and unfinished documents and records of the SUBGRANTEE relating to the Program shall become the property of the FOUNDATION. This Section 8.3 of this Agreement shall be superseded by federal HUD regulations and directives which outline provisions for termination for convenience and for termination in whole or in part pursuant to 2 CFR § 200.340.

8.3.1 In the event of termination, the SUBGRANTEE will be compensated for services provided to the date of termination, according to the "Method and Schedule of Compensation," Attachment B.

8.4 AMENDMENTS: This Agreement may be amended provided such amendment is in writing and executed by the parties to this Agreement, and receives approval from DHCD prior to its effective date.

8.5 NON-DISCRIMINATION: The SUBGRANTEE shall adhere to the requirements set forth in Title VI of the Civil Rights Act of 1964 (Public Law 88-352), and the regulations issued pursuant thereto by HUD; Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), as amended; section 109 of the Housing and Community Development Act of 1974, and the HUD regulations issued pursuant thereto (24 CFR 570.601); Federal Executive Order 11063, as amended by Executive Order 12259 and the HUD regulations issued pursuant thereto (24 CFR 107); The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); Section 402 of the Veterans of the Vietnam Era Act (for projects of \$10,000 or more); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); Massachusetts General Laws Chapter 151B Section 1 et seq.; State Executive Order 478; Mass. CDBG regulations, procedures or guidelines; and all other applicable federal and state laws, regulations, guidelines and executive orders.

The SUBGRANTEE shall not discriminate against any employee or applicant for employment because of race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, ancestry, status as a veteran or any other basis prohibited by law. The SUBGRANTEE shall take affirmative action to ensure that qualified applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, ancestry, status as a veteran or any other basis prohibited by law. Such action shall include, but not be limited to, the following: employment, upgrading, 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 SUBGRANTEE shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. The SUBGRANTEE shall state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, ancestry, status as a veteran or any other basis prohibited by law.

8.6 PROCUREMENT STANDARDS: The SUBGRANTEE shall adhere to the requirements set forth in and Mass. CDBG regulations or the Massachusetts CDBG Program Operations Manual, as applicable, as well as procedures and guidelines with respect to standards governing procurement, and any applicable provisions of Commonwealth laws and regulations relative thereto, including Chapter 30, section 39M; Chapter 149,

section 44A through 44J; Chapter 484 of the Acts of 1984; and Chapter 30B. All procurement transactions without regard to dollar value shall be conducted in a manner that provides maximum free and open competition. It is national and state policy that the recipient take affirmative steps to award a fair share of contracts taken to assure that small and minority owned businesses are utilized when possible as sources of supplies, equipment, construction and services. The SUBGRANTEE shall maintain records sufficient to detail the process for procurement.

8.7 Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11478, “Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246 Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

8.8 EMPLOYMENT OPPORTUNITIES: Where applicable, the SUBGRANTEE shall comply with provisions of Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 1701u) and the HUD regulations issued pursuant thereto (24 U.S.C. 135), which shall serve as guidance for the implementation of said section.

8.9 FAIR HOUSING: In addition to the laws and regulations set forth herein with respect to ensuring fair housing opportunities, the SUBGRANTEE shall adhere to the provisions of State Executive Orders 215 and 526.

8.10 LABOR STANDARDS: Where applicable, the SUBGRANTEE shall adhere to the provisions of Section 110 of the Act, and the Massachusetts General Laws Chapter 149 sections 26 to 27D inclusive (as amended by Chapter 484 of the Acts of 1984). In the case of the rehabilitation of commercial property, or rehabilitation of residential property designed for residential use of eight or more families, the SUBGRANTEE shall adhere to the Federal Labor Standards Provisions (HUD Handbook 1344.1), the requirements of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et. seq.) and the Copeland Anti-Kickback Act.

8.11 CONFLICT OF INTEREST: The SUBGRANTEE shall adhere to the mandates of the Massachusetts Conflict of Interest Statute, M.G.L. c.268A, the federal Conflict of Interest Provisions at 24 CFR 570.489 and the federal Hatch Act, 5 U.S.C. ss 1501 et seq.

8.12 DOMESTIC PREFERENCES FOR PROCUREMENTS: Pursuant to 2 CFR § 200.322, the SUBGRANTEE should, to the greatest extent practicable under this Agreement and as appropriate and to the extent consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The SUBGRANTEE shall include this requirement in agreements with subgrantees, including all contracts and purchase orders for work or products under this Agreement.

8.13 COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS, AND CDBG REGULATIONS, PROCEDURES, AND GUIDELINES: All activities authorized by this Agreement shall be subject to and performed in accordance with the provisions of the FOUNDATION’s Grant Agreement with DHCD and all its attachments (including, where relevant, Section 4.14, Flood Disaster Protection, 4.15, Historic Preservation, 4.16, Additional Environmental Requirements, 4.17, Lead Paint Hazards, and 4.18 Relocation Assistance), all applicable federal, state, and local laws and regulations, including but not limited to any applicable regulations issued by HUD published in 24 CFR Part 570, as may be amended from time to time. The SUBGRANTEE shall comply with the provisions of 2 CFR Part 200, “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards,” and all applicable State and local

laws and regulations, including but not limited to those specifically stated herein, any additional regulations, procedures or guidelines as may be established or amended by DHCD.

9. **AVAILABILITY OF FUNDS:** The compensation provided by this Agreement is subject to the continued availability of federal funds for Mass. CDBG, and to the continued eligibility of the Commonwealth and the FOUNDATION to receive such funds.

10. **INDEMNIFICATION:** The SUBGRANTEE shall indemnify, defend, and hold the FOUNDATION harmless from and against any and all claims, demand, liabilities, actions, causes of actions, cost and expenses caused by or arising out of the SUBGRANTEE's breach of this Agreement or the negligence or misconduct of the SUBGRANTEE, or the agents or employees.

11. **LICENSES:** The SUBGRANTEE shall procure and keep current any licenses, certifications, or permits required for any activity to be undertaken as part of the Scope of Services, Attachment A, as required by federal, state or local laws or regulations, and shall comply with the provisions of 2 CFR Part 200.325 with respect to any bonding or other insurance requirements.

12. **CONFIDENTIALITY:** The SUBGRANTEE will protect the privacy of, and respect the confidentiality of information provided by, program participants, the FOUNDATION, and DHCD, consistent with applicable federal and Commonwealth laws and regulations, including M.G.L., C. 66A, regarding access to public records, M.G.L. c. 93H; M.G.L. c. 66 sec. 17A and any applicable regulations, including without limitation, 801 CMR 3.00: Privacy and Confidentiality and 201 CMR 17.00: Standards for the Protection of Personal Information of Residents of the Commonwealth.

The SUBGRANTEE certifies that the SUBGRANTEE has reviewed and shall comply with all information security programs, plans, guidelines, standards and policies that apply to the work to be performed under this Agreement, that the SUBGRANTEE shall communicate these provisions to and enforce them against its subcontractors, and that the SUBGRANTEE shall implement and maintain any other reasonable and appropriate security procedures and practices necessary to protect personal information to which the SUBGRANTEE is given access as part of this Agreement, from unauthorized access, destruction use, modification, disclosure, or loss.

The SUBGRANTEE understands and agrees that only those individuals who must access personal data for the performance of their job duties under CDBG are authorized to access such personal data. These authorized individuals shall not use or disclose this data for purposes other than those required to fulfill their job duties under CDBG. Pursuant to the above, the SUBGRANTEE acts as a holder of personal data and the SUBGRANTEE certifies that it and its authorized employees shall comply with all Federal and State laws and regulations applicable to the data, including but not limited to M.G.L. c. 66A, M.G.L. c. 93H, and M.G.L. c. 66 sec. 17A. The FOUNDATION and the SUBGRANTEE shall not use any of the foregoing data for any purpose described in Section 603(d)(1) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(d)(1)) or in any manner that would cause DHCD, the FOUNDATION, or the SUBGRANTEE to be considered a "consumer reporting agency" under Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(f)).

13. **COPYRIGHT:** No material prepared in whole or in part under this Agreement shall be subject to copyright in the United States of America or in any other country except with the prior written approval of Mass. CDBG.

14. **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT:** If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the FOUNDATION or the SUBGRANTEE wishes to enter into a contract with a small business firm or nonprofit organization regarding

the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the SUBGRANTEE will comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

15. CLEAN AIR ACT (42 U.S.C. 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED: If the amount of the contract or subgrant exceeds \$150,000, the SUBGRANTEE agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency.

16. ENERGY POLICY AND CONSERVATION ACT (42 U.S.C. 6201): Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan must be issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

17. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689): A contract (see 2 CFR 180.220) must not be made with parties listed on the government-wide Excluded Parties List System in the System for Award Management (hereinafter “SAM”), in accordance with the United States Office of Management and Budget guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The FOUNDATION is not currently debarred or suspended by the federal or state government under any law or regulation. The SUBGRANTEE certifies that neither it nor any of its subcontractors are currently debarred or suspended by the federal or state government under any law or regulation.

18. BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352): Contractors, including both the FOUNDATION and the SUBGRANTEE, that request or receive an award of \$100,000 or more must file the required certification set out in Appendix A to 45 CFR Part 93. Each tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. The SUBGRANTEE shall herewith provide the FOUNDATION the certification set out in Appendix A to 45 CFR Part 93.

19. CLOSEOUT: The SUBGRANTEE shall follow such policies and procedures with respect to close-out of any associated grant as may be required by Mass. CDBG.

20. CERTIFICATE OF TAX COMPLIANCE: The following Certificate of Tax Compliance must be completed and submitted as part of this Agreement:

<b>Certificate of Tax Compliance</b>
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Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A, I certify under the penalties of perjury that to the best of his/her knowledge and belief I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Contractor: By: \_\_\_\_\_ (signature of authorized representative & title) \_\_\_\_\_ (date)

21. SEVERABILITY: If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

IN WITNESS THEREOF, the FOUNDATION and the SUBGRANTEE have executed this AGREEMENT under seal in triplicate as of the date above written.

**Approvals and Signatures**

By: FOUNDATION:	By: SUBGRANTEE
M. Elizabeth Francis	name
Date	Date
	Title