

This Subaward Agreement (“Subaward or “Agreement”) is entered into by and between **SUSTAINABLE FORESTRY INITIATIVE INC. (“SFI Inc.”)** and **City of San Marcos, TX (“Subrecipient”)** as of this June 27, 2024. SFI Inc. and Subrecipient may be referred individually as “Party” or collectively as the “Parties.”

<p>Sustainable Forestry Initiative (“SFI Inc.”)</p>	<p>Name: <u>City of San Marcos, TX</u> (“Subrecipient”)</p> <p>Type of entity: [e.g., government, corporation, LLC, sole proprietor, not for profit] Government</p> <p>State of incorporation, partnership, or formation: Texas</p> <p>[Subrecipient is required to have a Unique Entity Identifier (UEI) as per 2 CFR 25.300 prior to issuance of the Subaward.] LRPGLNZT4WR3</p>
<p>All Notices:</p> <p>2121 K St NW Ste 750</p> <p>Washington, DC 20037-1908</p> <p>Attn: Mike Martini</p>	<p>All Notices:</p> <p>630 E Hopkins St.</p> <p>San Marcos, TX 78666</p> <p>Attn: Sandra Valenzuela</p>
<p>Federal awarding agency(ies):</p>	<p>USDA Forest Service State, Private and Tribal Forestry Cooperative Forestry</p>
<p>Federal Award Identification Number (FAIN):</p>	<p>Refer to Exhibit B for Federal Funding Source Information</p>
<p>Federal Assistance Listing</p>	<p>N/a</p>
<p>Federal Award date:</p>	<p>February 15, 2024</p>
<p>Project Title:</p>	<p>City of San Marcos, Texas - Urban and Community Forestry Strategic Management Plan</p>
<p>Project description:</p>	<p>The City of San Marcos will conduct a tree inventory and tree canopy study to develop a comprehensive Urban and Community Forestry Strategic Management Plan. The plan will guide City work, creating policy and procedures that promote greater cooperation within the City while improving public tree management and engaging and educating the community. The majority of the City’s service area is designated as disadvantaged by various equity focused mapping and screening tools. Having a holistic plan that can identify and prioritize issues that disproportionately affect the most vulnerable populations within the City is key.</p>

Subaward Period of Performance Start and End Date:	Start: June 27, 2024 End: July 1, 2028
Subaward Budget Period Start and End Date	Start: June 27, 2024 End: July 1, 2028
Amount of Federal Funds obligated	\$299,722.00
Total amount of federal funds	\$299,722.00

RECITALS

WHEREAS, SFI has received an award of funds from the USDA Forest Service State, Private and Tribal Forestry Cooperative Forestry through the Inflation Reduction Act, (the “Agency”), Agreement 24-CA-11132544-009 (the “Prime Agreement”), in support of a project entitled Urban and Community Forest Improvement Program-Inflation Reduction Act (hereinafter called “the Project”); and,

WHEREAS, SFI Inc. desires Subrecipient to perform certain work within the scope of the Project described above under the terms and conditions set forth below, and Subrecipient has expressed a willingness to perform such services.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, SFI Inc. and Subrecipient agree as follows:

I. RESPONSIBILITIES OF THE SUBRECIPIENT

A. Subrecipient shall support the purposes and goals of the Project (the “Grant Purposes”) by providing services as more fully described in Exhibit A attached hereto (collectively, the “Services”) in accordance with the terms and provisions set forth herein. Subrecipient shall furnish all professional services, labor, materials, tools, and supervision necessary or appropriate to fully perform the Services and all other duties and responsibilities of Subrecipient pursuant to this Agreement. Subrecipient shall perform the Services in accordance with the schedule outlined in Exhibit A.

B. Subrecipient agrees to provide reasonable assistance to SFI Inc. in meeting SFI Inc.’s reporting obligations under the Prime Agreement. Subrecipient will submit reports to SFI Inc. according to the Reporting Due Dates set forth in Exhibit A.

C. In the performance of the Services, Subrecipient shall comply with all applicable federal, state, provincial and local laws, regulations, rules, ordinances, codes, permits, licenses, approvals, orders, declarations and decrees in effect from time to time, whether or not specifically identified herein (collectively, “Laws”). In addition, Subrecipient shall also comply with the specific terms set forth in Exhibit B relating to the funding sources for this Agreement.

II. PERSONNEL

A. All of the work performed under this Agreement shall be performed under the supervision of the person(s) identified in Exhibit A (“Key Personnel”). Subrecipient may not remove any Key Personnel from the Services without the prior written consent of SFI Inc., unless such Key Personnel are no longer employed by or affiliated with Subrecipient. Key Personnel may only be replaced with the prior written approval of SFI Inc., which approval will not be unreasonably withheld. If requested by SFI Inc., Subrecipient must promptly

replace any Key Personnel if, in the opinion of SFI Inc., the performance of such Key Personnel is unsatisfactory. Subrecipient is responsible for all actions or inactions performed by Subrecipient and Subrecipient’s personnel in connection with the Services.

III. TERM OF AGREEMENT AND TERMINATION

A. Upon the full execution of this Agreement, the effective date of this Agreement shall be **June 27, 2024**, the date that the Prime Agreement period of performance began to run (“Effective Date”). Subaward funds may not be used to support activities conducted prior to the Effective Date of this Agreement and any costs incurred by Subrecipient prior to the Effective Date are disallowed. This Agreement is effective through July 1, 2028 (the “Expiration Date”), or until terminated, whichever occurs first.

B. This Agreement may be terminated by SFI Inc. as follows:

1. upon five (5) days advance written notice in the event of: (i) failure to comply with applicable law, including any provision in Exhibit B to this Agreement by Subrecipient; (ii) fraud by the Subrecipient; (iii) insolvency, bankruptcy, reorganization or receivership of the Subrecipient; (iv) breach of fiduciary duties by the Subrecipient; (v) suspension or debarment by the Government of the Subrecipient; (vi) Subrecipient has an organizational conflict of interest, or any other conflict of interest that the Agency or SFI believes, in their sole discretion, cannot be mitigated; (vii) negligence, neglect or misconduct by the Subrecipient; or

2. after written notice and ten (10) calendar days (unless a longer time is specified in the written notice by SFI Inc.) Subrecipient is unable to cure a perceived non-compliance with any material term (other than those enumerated in III.B.1) of this Agreement, including but not limited to (i) SFI Inc.’s dissatisfaction with the quality of the Services; and (ii) Subrecipient’s failure to complete the Services in a timely manner.

C. Subrecipient shall have the right to terminate its obligations pursuant to this Agreement if SFI Inc. shall fail to make any payment properly owing to Subrecipient hereunder and such failure has not been remedied or cured within thirty (30) days of SFI Inc.’s receipt of written notice thereof. SFI Inc. may terminate this Agreement with or without cause upon thirty (30) days prior written notice to the Subrecipient. Upon any such termination described in this subsection, SFI Inc. shall pay for any portion of the Subrecipient’s grant costs incurred but not yet paid at the time of termination; provided, however, that Subrecipient shall have no right to any amounts attributable to defective Services or Services not otherwise performed in accordance with the requirements of this Agreement. Such compensation shall be Subrecipient’s sole and exclusive remedy for termination pursuant to this subsection.

D. Upon termination of this Agreement by either Party, Subrecipient shall immediately, within thirty (30) days, deliver all work performed pursuant to this Agreement to SFI Inc. (including documents provided to Subrecipient by SFI Inc. and any work in progress, such as notes, drafts and sketches) and shall, upon

SFI Inc.’s written request, document on a time and materials basis in detail the status of the services that have been terminated and the delivered work. If requested by SFI Inc., Subrecipient shall, after termination, cooperate on a time and materials basis with SFI Inc. in its or another’s efforts on SFI Inc.’s behalf to complete any services or deliverables set forth in writing and to provide for an orderly transition.

E. Any terms of this Agreement that, by their nature, extend beyond its termination, shall remain in effect until fulfilled, and apply to respective successors and assigns.

IV. COMPENSATION/ TERMS OF PAYMENT

A. This Subaward is in the amount of \$299,722.00

Pre-award costs more than 90 days prior to award are not allowed. All costs incurred prior to the award are at the Subrecipient's risk.

1. Subrecipient cannot use these funds to support research-based projects.
- B. All requirements of federal and state laws, regulations and procedures that apply to SFI Inc. with respect to this Subaward also apply to Subrecipient. This Subaward is subject to subparts A through F of 2 CFR Part 200, as adopted and supplemented and supplemented by the USDA in 2 CFR Part 400.
- C. Subrecipient shall not submit any costs that are unallowable under federal regulations or this Agreement to SFI Inc. for reimbursement. Costs that exceed the amount specified in subsection A above, are outside the Term specified in Section III, or that lie outside the scope of the activities in Exhibits A are unallowable. For general information about the allowability of particular items of costs, please see 2 CFR Part 200, Subpart E.
- D. If the Agency determines and informs SFI Inc. in writing that Subrecipient has not achieved the Grant Purposes and has little likelihood of doing so, and that therefore SFI Inc. may be required to reimburse the Agency for all or a portion of the Grant funds, SFI Inc. may require reimbursement of all or a portion of the Subaward funds from Subrecipient.
- E. For performing the work Subrecipient shall be reimbursed in accordance with the provisions of the Budget and Schedule of Payments in Exhibit A to this Agreement. Such payments shall not exceed the amounts identified in Exhibit A and shall constitute full payment to Subrecipient for all services performed hereunder. Payment of invoices submitted by Subrecipient is contingent upon a determination by SFI Inc. that the amounts being invoiced are allowable, allocable, and reasonable under applicable rules and regulations. Subrecipient must promptly refund any excess payments received from SFI Inc., including any costs determined unallowable by the Agency and/or through subsequent audit or investigation, including but not limited to audits initiated by Subrecipient, SFI Inc., or any governmental entity.
- F. Subrecipient will use the Subaward funds solely for the Grant Purposes. Subrecipient will repay to SFI Inc. any portion of the amount disbursed to Subrecipient that is not used for these Purposes. Subrecipient understands that this Subaward to Subrecipient is to enable Subrecipient to pursue the Purposes of the Subaward. No funds provided pursuant to this Agreement or matching contributions made under this Agreement may be used to support litigation expenses, lobbying activities, or any other activities not authorized under this Agreement or otherwise unallowable under the Federal Cost Principles set forth in 2 CFR Part 200.
- G. The non-Federal entity must maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply:
- I. The Subrecipient receives less than \$250,000 in Federal awards per year.
 - II. The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
 - III. The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
 - IV. A foreign government or banking system prohibits or precludes interest-bearing accounts.
- H. The Subaward received by Subrecipient will cover all costs incurred by Subrecipient in support of this Project. Any additional costs incurred by Subrecipient will be paid by Subrecipient and not reimbursed

by SFI Inc.

I. This subaward is being provided with a complete match waiver because 100 percent of the program benefits will flow to disadvantaged communities. Subrecipient shall perform all work in designated and agreed to areas, as further delineated in Exhibit A.

J. Subrecipient acknowledges that the Agency's funding of future payments to SFI Inc. is contingent upon: (1) the Agency's determination that all work in connection with the Project is being performed to the Agency's satisfaction; (2) timely receipt and acceptance by the Agency of all Reports and other deliverables; and (3) SFI Inc. and Subrecipient's compliance with all terms and conditions of the Prime Agreement.

K. Subrecipient acknowledges that the Agency has reserved the right to curtail or terminate the Prime Agreement to SFI Inc. at any time if the Agency determines that the Grant Purposes or terms and conditions of the Prime Agreement are not being met or are unlikely to be met. In the event of a curtailment or termination of the Prime Agreement by the Agency, Subrecipient agrees to cooperate with SFI Inc. in returning all unspent or uncommitted funds as of the date of the Agency's notice of curtailment or termination to the Agency. This Subaward also may be terminated, in whole or part pursuant to 2 CFR200.340.

L. The Subrecipient shall maintain all books, documents, papers, accounting records and other evidence pertaining to this Agreement in such a fashion that it can provide SFI Inc. and the Agency with sufficient detail to substantiate all expenditures related to the Subaward, including reimbursable costs. Subrecipient will keep copies of all books, records and reports connected to this Agreement through the later of least April 1, 2031, the closeout of all pending matters or audits related to the Prime Agreement, a later date upon receipt of written notice from the Agency. Notwithstanding this provision, if the federal regulations governing this grant, 2 CFR Part 200 and the applicable Agency-specific regulations governing federal awards, require additional records to be maintained or require the records to be maintained for a longer period of time, the Subrecipient shall adhere to these federal requirements.

M. The Subrecipient shall give SFI Inc., the United States Comptroller General and the Agency, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to this Agreement or any Projects funded under this Agreement (including the applicable records maintained by its contractors and sub-subrecipients) for as long as Subrecipient records are retained. Copies thereof shall be furnished at no cost to SFI Inc. or the United States government representatives if requested.

V. OWNERSHIP OF MATERIALS AND RESULTS; PUBLICATIONS

A. Under the provisions of this Agreement, the Parties may produce reports, materials, books, databases, monitoring data, maps and spatial data, audio/video, documents, reports, studies, photographs, and maps, as well as product-specific documents, and other forms of intellectual property that may be copyrighted or otherwise legally protected (collectively "Works").

1. Unless otherwise required by the Agency or agreed to by the Parties in writing, the copyright and other intellectual property rights in any such Work will belong to the Party that produces the Work.

2. The copyright and other intellectual property rights in any and all data, records, or other products provided by either of the Parties pursuant to this Agreement belong to the Party that provided such material. The material provided may be used solely for the extent allowed under this Agreement.

Notwithstanding the foregoing, Subrecipient hereby authorizes SFI, Inc., the Agency and any funding source identified in this Agreement the right to use project metrics and spatial data submitted to the Agency to estimate social benefits that result and to report these results to funding partners on a case-by-case basis as determined by the Agency. These may include, but are not limited to: habitat and species response, species connectivity, water quality, water quantity, risk of detrimental events (i.e. wildfire, floods), carbon accounting (i.e., sequestration, avoided emissions), environmental justice, and diversity, equity and inclusion.

3. If a Work is jointly produced by the Parties, the copyright will be owned jointly by the Parties.
4. Subrecipient hereby agrees to provide to SFI Inc., the Agency, and any funding source identified in this Agreement, a fully paid up, non-exclusive, royalty-free, irrevocable, perpetual, worldwide license to use, publish, copy and alter all Subrecipient's intellectual property created using this award for non-commercial purposes in any media – whether now known or later devised – including posting such intellectual property on websites and featuring in publications.
5. Subrecipient certifies that any photographs delivered by Subrecipient to SFI Inc. or the Agency in connection with this Project are unencumbered and agrees to provide to SFI Inc., the Agency and any funding sources identified in this Agreement a fully paid up, non-exclusive, royalty-free, irrevocable, perpetual, worldwide license to use, publish, copy and alter for any purpose that SFI. Inc., the Agency or the funding source determines appropriate.

B. Subrecipient authorizes SFI Inc. and the Agency to publicize Subrecipient's participation in the Project in press releases, publications and other public communications. Neither Party will publish or otherwise distribute the Work of the other Party without both the previous written consent of the other Party and crediting the other Party in such Work, except that Subrecipient hereby authorizes SFI Inc. and the Agency to publish or otherwise distribute all deliverables identified in Exhibit A. Subrecipient agrees to comply with the following provisions with respect to any publication made by Subrecipient in connection with this Agreement or the Project:

1. Appropriate credit will be given to SFI Inc., the Agency and the funding sources in any and all press releases, publications, annual reports, signage, video credits, dedications, and other public communications regarding the Project or any deliverables associated with the Project.
2. Subrecipient must follow the brand and guidance documentation provided and obtain prior Agency approval for the use of any Agency logo if not covered in the guidance document. or insignia.
3. All information submitted for publication or other release of information regarding this Agreement or the Project shall comply with the terms and conditions stated in Exhibit B, including but not limited to statements of publicity and acknowledgement of support and nondiscrimination.
4. Subrecipient cannot use these funds to support research-based projects.

C. Subrecipient acknowledges and agrees that, in addition to monitoring that will aid the Agency in its evaluation of the success of the Project, the Agency may collect information about this Subaward,

Subrecipient, and the issues relating to and being addressed by this Subaward. In that connection, the Agency may film, interview, and otherwise document what is being learned through the Project. Subrecipient agrees to cooperate with the Agency and SFI Inc. in these efforts. All video, audio, written, and other materials produced by the Agency or SFI Inc. in this connection (collectively, the “Agency’s Works”), including any and all copyrights in the Agency’s Works, will be the sole property of the Agency and may be made available by the Agency to third parties or the public in the Agency’s sole discretion. In addition, Subrecipient acknowledges that the Agency intends to share with third parties much of the materials produced in this connection, but may impose reasonable limitations upon its use, including registering and enforcing copyrights in the Agency’s Works and licensing use of the Agency’s Works to Subrecipient, SFI Inc. and others, all in the Agency’s discretion.

D. Subrecipient understands that a material condition of the Prime Agreement is that SFI Inc. makes the data, knowledge and other information developed with any Grant funds freely accessible to the Agency, other grantees of the Agency and other interested parties, consistent with the purposes of the Grant.

VI. AUTHORIZED CONTACTS

The following SFI Inc. employees are authorized contacts under this Agreement: Paul Johnson, VP Urban and Community Forestry and Career Pathways (project manager); Michael Martini, Director of Urban and Community Forestry-US.; Mary Bell, Chief Financial Officer. The following employees of Subrecipient are authorized contacts under this Agreement: Stephanie Reyes, City Manager, Jon Locke, Director of Finance, Jesse Garcia, Chief Financial Officer, Sandra Valenzuela, Grants Coordinator; Kelly

VII. NONDISCLOSURE OF PROPRIETARY INFORMATION

During the course of the term of this Agreement, Subrecipient may have access to information of a confidential and proprietary nature. Such confidential information may include, without limitation, membership lists, corporate or facility data regarding SFI. Inc. members, information about trade secrets, costs, markets, strategies, plans for future development and any other development, and any other information of a similar nature pertaining to SFI. Inc. or its members. Subrecipient hereby expressly covenants and agrees that, anytime during the term or after termination or expiration of this Agreement, Subrecipient shall not use, furnish, or disclose any confidential or proprietary information to any other person, corporation, association, or other entity without the prior written consent of SFI. Inc. This section shall survive termination of this Agreement.

VIII. TAXES

Any compensation to Subrecipient will not be subject to withholding of either income taxes or Social Security taxes. It is understood that in the event that such payments should be deemed taxable, Subrecipient shall be solely responsible for the payment of those taxes; and Subrecipient shall, to the extent permitted by law and without waiving any immunity granted by law, indemnify SFI. Inc. against any claims for taxes or other payroll deductions, including penalties.

IX. TRANSFER OF INTEREST

Neither this Agreement, nor any of the rights and obligations stated herein or resulting therefrom, may be assigned, transferred or otherwise disposed of by Subrecipient without the prior written consent of SFI. Inc.



X. **REPRESENTATIONS AND WARRANTIES**

- A. Subrecipient commits to achieve the Grant Purposes of this project as identified in Exhibit A, and to maintain documentation as may be required and otherwise necessary to clearly demonstrate that Subrecipient has achieved the Grant Purposes.
- B. Subrecipient agrees to comply fully with all laws and regulations (federal, state and local) applicable to any of its activities associated with this Agreement.
- C. Subrecipient specifically agrees to comply with provisions of the United States Internal Revenue Code (“Code”) and regulations applicable to Subrecipient as a tax-exempt organization. This Subaward is not earmarked for lobbying (within the meaning of Section 4945(d)(1) of the Code). Neither Subrecipient nor SFI Inc. has entered into any agreement, written or oral, nor made any representation to the effect that any portion of the funds to be provided under this Subaward may be earmarked for lobbying. Subrecipient will not use any portion of the Subaward funds to influence the outcome of any specific election for candidates to public office or to carry on any voter registration drive except as provided in Section 4945(f) of the Code. Subrecipient affirms that the Project’s budget accurately reflects Subrecipient’s intention to expend at least the amount of this Subaward on non-lobbying activities for the duration of the Subaward.
- D. By entering into this Agreement, Subrecipient confirms that its tax-exempt status has not been revoked or modified and agrees to maintain this status during the term of this Subaward. Subrecipient shall notify SFI Inc. immediately of any change in Subrecipient’s tax-exempt status or its non-private foundation status. Subrecipient has a reasonable basis for determining that it will not fail to qualify as a public charity within the meaning of the Internal Revenue Code during the term of the Grant.
- E. Subrecipient has reviewed the Agency’s conflict of interest policy and agrees to disclose any potential conflict of interest to SFI Inc. in accordance with applicable Agency policy. Subrecipient affirms that it has previously disclosed any potential conflicts of interest to SFI Inc. and that this prior disclosure, if applicable, SFI Inc. is truthful, complete and accurate as of the date of execution of this Agreement. If at any time after the execution of this Agreement Subrecipient learns either that Subrecipient failed to disclose responsive information or due to changed circumstances the any prior disclosure has changed, Subrecipient will give immediate written notice to SFI Inc.
- F. Subrecipient agrees to disclose in writing to SFI Inc., in a timely manner: (1) any potential conflict of interest to the Agency or SFI Inc. in accordance with Agency’s conflict of interest policy; and (2) all violations of Federal criminal law involving fraud, bribery or gratuity violations potentially affecting the Grant.
- G. Subrecipient certifies that, to the best of its knowledge and belief, Subrecipient and its subsidiaries, principals and beneficial owners, if any (referred to collectively in this Section as “Subrecipient Parties”):
1. are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any government agency;
 2. are not included on the Specially Designated Nationals and Blocked Persons lists maintained by the U.S. Treasury’s Office of Foreign Assets Control, the United Nations Security Council Consolidated List, or similar lists of proscribed entities identified as associated with terrorism, and (ii) will not engage in transactions with, or provide resource or support to, any such individuals or organizations or anyone else associated with terrorism;
 3. are not a person or entity with whom transacting is prohibited by any trade embargo, economic

sanction, or other prohibition of law or regulation; and

4. have not conducted, and will not conduct, their operations in violation of applicable Money Laundering Laws, including but not limited to, the U.S. Bank Secrecy Act and the money laundering statutes of any and all jurisdictions to which the Subrecipient Parties, or any one of them, is subject, and no action or inquiry concerning money laundering by or before any authority involving any Subrecipient Party is pending.
5. Will ensure that none of the funds, including supplies and services, received under this reportin Agreement will be provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

Should Subrecipient become aware that Subrecipient or any Subrecipient Party is subject to any of the above conditions during the Term of this Grant, Subrecipient must notify SFI Inc. immediately. If SFI Inc. determines that Subrecipient or any Subrecipient Party is subject to any of the above conditions, SFI Inc., may terminate this Subaward effective immediately, with no further obligation hereunder, including payment.

XI. INSURANCE

The Subrecipient shall maintain such insurance or public risk pool coverage as is customary and reasonable within the Subrecipient's industry for entities performing services similar to the Services, but no less than the types and amounts specified in subsections A, B and C below. Such insurance or public risk coverage must be kept in full force and effect until the date that all Services are complete and final payment for such Services is made:

- A. **Liability Insurance.** Comprehensive commercial general liability insurance or public risk pool coverage for all of Subrecipient's activities and those of its agents and employees, applying to personal injury, bodily injury, and property damage, and including broad form contractual liability coverage, with a combined single limit of liability of not less than One Million Dollars (\$1,000,000).
- B. **Worker's Compensation Insurance.** Worker's compensation insurance or public risk pool coverage for all of Subrecipient's employees, in compliance with all applicable laws.
- C. **Vehicle Liability Insurance.** Comprehensive vehicle liability insurance or public risk pool coverage for owned, non-owned, and hired vehicles, applying to personal injury, bodily injury and property damage, with a combined single limit of liability of not less than One Million Dollars (\$1,000,000) per occurrence.

XII. SUBRECIPIENT STATUS AND LOWER TIERED ENTITIES

A. This Agreement is made with Subrecipient as an independent party and not as an agent or authorized representative of SFI Inc. The Parties acknowledge that each party will continue to pursue other activities. Each party shall be solely responsible for the actions and/or omissions of its employees, contractors and agents in implementing the Project. Subrecipient acknowledges that SFI Inc. has primary fiduciary responsibility for the administration of the Prime Agreement and this Subaward and that by necessity SFI Inc. has certain duties and responsibilities with respect to the Prime Agreement and this Subaward that are not shared by the Subrecipient. SFI Inc. has full responsibility for the execution of the Project deliverables and the use funds as specified in the Prime Agreement.

B. Subrecipient shall not contract with any subrecipient or subcontractor for performance of a portion of the Services without first securing SFI Inc.'s written approval. In the event such approval is granted, Subrecipient shall adhere to grant and contracting procedures and shall subsequently pass down all applicable provisions from this Agreement in any lower tiered subaward or subcontract.

XIII. NOTICE

Any notice or report required or permitted to be given under the provisions of this Agreement shall be in writing and be delivered either by mail, by personal delivery, or by electronic mail with "read receipt" to all of the representatives of each Party identified below. If the names, titles, or addresses of such representatives change for any reason, each Party shall notify the other immediately of such change and provide updated contact information. If delivered by mail, notices shall be sent by Federal Express or a similar type delivery service, or by certified or registered mail, return receipt requested; with all postage and charges prepaid. All notices shall be addressed to the individuals in the capacities indicated below, or as specified by subsequent written notice delivered by the party whose address has changed.

- | | |
|---|--|
| a) If to SFI, Inc., to:
Marcy Bell
Chief Financial Officer
Sustainable Forestry Initiative, Inc.
2121 K St. NW, Suite 750
Washington, DC 20037
Marcy.bell@forests.org | b) If to Subrecipient, to:
Stephanie Reyes
City Manager
City of San Marcos.
630 E. Hopkins St.
San Marcos, TX 78666
sreyes@sanmarcostx.gov |
|---|--|

AND

Paul Johnson
Vice President of Urban and Community Forestry
Sustainable Forestry Initiative, Inc
2121 K St. NW, Suite 750
Washington, DC 20037
paul.johnson@forests.org

Kelly Eby
Urban Forester
City of San Marcos
630E. Hopkins St.
San Marcos, TX 78666
keby@sanmarcostx.gov

AND

Michael Martini
Director of Urban and Community Forestry
2121 K St. NW, Suite 750
Washington, DC 20037
michael.martini@forests.org

Sandra Valenzuela
Grant Coordinator
630E. Hopkins St.
San Marcos, TX 78666
svalenzuela@sanmarcostx.gov

XIV. **INDEMNIFICATION**

A. To the extent permitted by law, and without waiving any limitations on liability or immunity granted by law. Subrecipient shall indemnify and hold harmless SFI Inc., the Agency, any funding source identified in this Agreement, their respective officers, directors, agents, and employees, in respect of any and all claims, injuries, losses, diminution in value, damages, liabilities, whether or not currently due, and expenses including without limitation, settlement costs and any legal or other expenses for investigating or defending any actions or threatened actions or liabilities arising from: (i) the negligent acts, errors, or emissions, or the intentional, willful, or reckless misconduct or gross negligence of Subrecipient in its performance of the Project; or, (ii) Subrecipient's infringement of patents or copyrights, or unauthorized disclosure of trade secrets in its performance of the Project.

B. These indemnification provisions shall survive termination of this Agreement.

XV. **GOVERNING LAW/VENUE**

This Agreement shall be governed exclusively by and pursuant to the laws of the District of Columbia. Any and all suits or claims by either party shall be brought exclusively in the District of Columbia.

XVI. **ENTIRE AGREEMENT/SEVERABILITY**

This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior understandings and writings, and may be amended or modified only by a writing signed by the parties. If any provision of this Agreement, or the application thereof to any person or circumstances, shall to any extent be void, invalid, unenforceable or illegal for any reason, the remainder of this Agreement, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.



XVII. WAIVER

The failure of either Party to insist upon strict performance of any of the terms or provisions of this Agreement or to exercise any right or remedy contained in this Agreement shall not be construed as a waiver or as a relinquishment for the future of such term, provision, right or remedy. Neither this Agreement nor any provisions thereof may be changed, waived, or discharged, except by an instrument in writing signed by both parties.

XVIII. MISCELLANEOUS

A. The captions of each paragraph of this Agreement are inserted solely for the reader's convenience and are not to be construed as part of or in interpreting this Agreement.

B. Neither Party shall be liable for any failure or delay in the performance of its obligations due to a fire, flood, earthquake, elements of nature or acts of God, plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions, acts of war, terrorism, riots, civil disorder, rebellions, or other similar cause beyond the reasonable control of the Party affected, provided such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented ("Force Majeure Event"). This provision shall become effective only if the Party failing to perform notifies the other Party within a reasonable time of the extent and nature of the Force Majeure Event, limits delay in performance to that required by the Force Majeure Event, and takes all reasonable steps to minimize damages and resume performance.

C. All exhibits and attachments to this Agreement are incorporated herein by reference and made a part of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized representatives.

INSERT NAME

By (Signature): _____

Name: Stephanie Reyes

Title: City Manager

Date: _____

SUSTAINABLE FORESTRY INITIATIVE, INC.

By (Signature): _____

Name: Marcy Bell

Title: Chief Financial Officer

Date: _____

EXHIBIT A

Subaward Services and Schedule

Background Information and Purpose:

Project Title:

City of San Marcos, Texas - Urban and Community Forestry Strategic Management Plan

Project Background:

The City of San Marcos will conduct a tree inventory and tree canopy study to develop a comprehensive Urban and Community Forestry Strategic Management Plan. The plan will guide City work, creating policy and procedures that promote greater cooperation within the City while improving public tree management and engaging and educating the community. The majority of the City's service area is designated as disadvantaged by various equity focused mapping and screening tools. Having a holistic plan that can identify and prioritize issues that disproportionately affect the most vulnerable populations within the City is key.

Description of Work:

The City of San Marcos is a small to mid-size city located in Central Texas approximately mid-way between Austin and San Antonio along interstate highway (IH)35. Home to one of the state's largest public universities, Texas State University, the City has a population of nearly 67,000. As a college town, the city has a high number of renters and rental units. Only 29% of housing units are owner occupied. According to Census Data, the median household income for the City is \$42,030 and the per capita income is \$21,920. This is a five-year average represented in 2020 dollars. The median age is 23-25 years old. The race/ethnicity demographics indicate the population identifies as follows: 45% white, 41% Hispanic, 7% black, and 7% other.

Need -Population Growth – In-Migration San Marcos is part of the Austin-Round Rock-San Marcos Metropolitan Statistical Areas (MSA) – one of the fastest growing regions in the country, especially over the last 3-5 years. With this unprecedented growth comes an increased cost of living. Larger cities such as Austin have become unaffordable resulting in outward migration of individuals and families to surrounding cities, such as San Marcos, which have begun to realize a growth in population in the last 5 years. Much of the growth occurring is on the outlying areas of the City's boundaries, to the far South and North, along IH 35 and the west, abutting natural forested areas. These areas are becoming zoned and developed as new master planned communities to accommodate the region's growth. This affects the amount of tree canopy and the surrounding natural resources connected to those forests which directly impacts the health of our San Marcos Community, particularly in those neighborhoods where most of this growth is occurring.

Tree Canopy At-Risk San Marcos community forest Tree Canopy Coverage (TCC), in accordance with the Texas Forest Service Urban Tree Canopy analysis in 2012, was 16%. I-Tree analysis of 2017 satellite imagery puts the TTC at 22%, with a margin of error +/- 1.33%. For this region, the ideal target would be 30%. Most trees grow on the Edwards Plateau, which includes the Edwards Aquifer, not on the Blackland prairie. These trees are being impacted by new development. It is important to protect them as their health impacts the quality of health and life in San Marcos. According to the American Forest's website, <https://www.americanforests.org/tools-research-reports-and-guides/tree-equity-score/>, the San Marcos area scores an 85 on the Tree Equity score, while the block groups that overlap the CEJST scores lower than surrounding areas in the City. It is estimated 26,647 trees will be need to be planted to get 6 of the block groups within San Marcos to a score of 85, by adding 2.7% canopy. Having such low tree canopy coverage in certain areas, makes this area vulnerable to higher than average temperatures, prime for increases in crime, public health issues, such as cardiovascular disease, asthma, anxiety, and stress.

It is estimated there are 4,280 acres of tree canopy cover, with \$13.2 million dollars of ecosystem services value, and 1,807 acres of canopy at risk. The City needs a plan to manage the growth of this region, as it is trending towards an additional loss of 13% of canopy with the current pace of development. Preservation of existing trees, and planting of non-treed areas can help mitigate this trend and assist in reaching target canopy levels in communities in need. (<https://texasforestinfo.tamu.edu/utc/>)

Lack of Existing Urban Forest Strategic Plan The City has various type of plans that help guide its work: *Transportation Greenways Master Plan*, an *Open Space Master Plan*, a *Sustainability Plan*, a *Sidewalk Master Plan* and a *Planning and Development Master Plan* (that was recently updated). While these reference natural resources management, there is no guiding document that outlines specific strategies to protect and sustain our urban forest. In a rapidly growing region such as that of Hays County/San Marcos, it is imperative to protect the natural resources, such as our trees which are key in protecting the ephemeral creeks and rivers that feed into the region's largest water resources, the Edwards Aquifer. According to the State Forest Action Plan, Hays County which San Marcos is located within ranked high within the top 19% of 114 counties identified as Important Forest Resources Area. Overall statewide, five issues were identified, and San Marcos (Hays County) met four of the five issues needing addressed through the development of a forestry management plan (Water Resource Protection, Wildfire & public Safety, Urban Forest Sustainability, & Central Texas Woodlands Conservation.) Developing an Urban Forest Strategic Plan will promote the importance of trees and tree management overall and complement existing plans.

Insufficient Staffing The City of San Marcos has one full-time Urban Forester (UF) dedicated to overseeing forest management, tree care and mitigation resulting from various issues, such as natural disasters or lack of coordinated work efforts among City departments. The UF also provides community education and community engagement activities, such as *Tree Giveaway Days* with other City-wide and neighborhood special events. The City's size and existing green infrastructure make it difficult for staff to keep up with the urban forestry demands. The *Sustainable Urban Forest Guide* recommends that cities evaluate their existing operations as part of the development of an urban forest management plan.

Lack of Existing Public Tree Ordinance There currently is no public tree ordinance providing guidance to both City Staff and external parties on how to manage trees. The ordinance now in effect is in the development code and applies to trees on private property or future city properties. With a service area inclusive of such a large, forested area and potentially at-risk due to the reasons listed herein, it is imperative to have an ordinance to provide direction on the forest's sustainability.

No formal collaboration/cohesion among environmentally focused community stakeholders/partners There are several non-governmental and other groups that advocate for or focus on the environment within the City/community of San Marcos. With the rapid pace of growth and development and increasing opportunities for funding supporting environmental causes, it would be advantageous to have a more permanent type of collaboration or group structure. This would allow for better collaboration, program planning and positioning to apply for funding opportunities.

Alignment to National and State Guidance Documents

The City of San Marcos' proposed *Urban and Community Forestry Strategic Plan & Inventory* incorporates and aligns with several of the goals and objectives from **Texas' State Forest Action Plan** and the **10 Year Forest Management Plan**, as well as the **Justice 40 Presidential Executive Order**.

COSM's proposed Forest Strategic plan, Tree Inventory and Canopy Study will encompass all types of planning efforts and thread into the City's Master Plan. The resulting Plan will serve as the "backbone" for its Urban Forestry activities. This aligns with the **State Forest Action Plan's** goal to "integrate urban and community forestry into all scales of planning." Development of the Plan will be used to educate both internal and external clients, thereby increasing public awareness and environmental education to promote stewardship. These specific directives and activities will help in sustaining existing trees and planning for future growth supporting the public health benefits that urban forests provide.

The development of and subsequent oversight of the City's Forest Strategic Plan will be provided by a Steering Committee and Workgroup that will be diverse ensuring equitable representation and participation by various populations ensuring that future generations benefit from the diverse viewpoints and knowledge. *Community engagement and correlating community education* will occur within the Steering Committee, with targeted communities and the public, during the development of the Plan and when the Plan becomes finalized.

Web-based management tools and databases will be utilized to capture and retain tree data, develop plan as well as inform/educate key stakeholders and the public. This will help promote *community forestry literacy* and support significant tree programs.

Proposal activities that meet the State Forest Action Plan are also aligned to the **National 10-year Forest Management Plan**. Through the activities of both the Steering Committee and Workgroup, the City will promote expanded collaboration and training and communication within the Urban Forestry field.

The City will target underserved populations in areas that have been identified as disadvantaged utilizing the *Climate and Economic Justice Screening Tool (CJEST)*. The City will lead a public awareness and education campaign explaining the Forest Management plan. The City will develop and adopt a Public Tree Ordinance with related policies and procedures that align with integrating urban forestry in creating long term plans. This proposal and its related products will also help leverage additional funding to support urban forestry.

Lastly, the proposal will be strongly aligned to the **Justice 40 initiative**, including representatives from historically disadvantaged communities and spaces throughout the entire project. The community education piece will target areas and populations designated as disadvantaged. Voices and ideas from these communities will be integrated into the development, planning and implementation of the City's Forest Strategic plan.

Deliverables and Schedule for Performance:

Timing and Description of Progress Reports and Benchmarks:

City of San Marcos, TX shall submit quarterly and semi-annual performance reports. The semi-annual reports are due 15 days before the reporting periods ending June 30 and December 31. The final performance report shall be submitted either with City of San Marcos's payment request, or separately, but not later than 120 days from the expiration date of the award.

Additional pertinent information: To support consistent and transparent public access to project outcomes funded through the Inflation Reduction Act, grantees are required to report quantitative and qualitative project accomplishments for reporting periods ending June 30 and December 31 to a public-facing Impact Reporting Platform. Grantees will be provided instructions for project impact reporting.

Quarterly and programmatic reports or questions shall be sent to:

Attn: Michael Martini
2121 K St. NW Suite 750
Washington, DC 20037
Michael.Martini@Forests.org

Financial Reports

City of San Marcos, TX will submit the following financial reports to SFI as need monthly:

- a. Financial reports summarizing expenditures incurred and supporting documentation will be submitted with reimbursement requests.
- b. A final financial report summarizing expenditures incurred and supporting documentation will be submitted upon conclusion of the project.
- c. Update on the project since last report and what progress has been made

Federal Reporting SFI on behalf of City (Semi Annual Reports): City will update SFI before these dates			
2024	2025	2026	2027
15 days before June 30	15 days before June 30	15 days before June 30	15 days before June 30
15 days before Dec 31	15 days before Dec 31	15 days before Dec 31	15 days before Dec 31
Quarterly Check in with SFI			
Q1: January 1 – March 31	Q1: January 1 – March 31	Q1: January 1 – March 31	Q1: January 1 – March 31
Q2: April 1 – June 3	Q2: April 1 – June 3	Q2: April 1 – June 3	Q2: April 1 – June 3
Q3: July 1 – September 30	Q3: July 1 – September 30	Q3: July 1 – September 30	Q3: July 1 – September 30
Q4: October 1 – December 31	Q4: October 1 – December 31	Q4: October 1 – December 31	Q4: October 1 – December 31
FINANCIAL (Through Grant Process)			
2024	2025	2026	2027
Can Request Monthly Reimbursement (with update and required materials)	Can Request Monthly Reimbursement (with update and required materials)	Can Request Monthly Reimbursement (with update and required materials)	Can Request Monthly Reimbursement (with update and required materials)

Key Personnel:

Sandra Valenzuela, Grant Coordinator
Kelly Eby, Urban Forester

	\$0.00	\$0.00
		\$0.00
Total Direct Costs:	\$299,722.00	\$299,722.00
Indirect Cost:		\$0.00
Total Project Cost:	\$299,722.00	\$299,722.00

Budget Narrative:

The following budget narrative is aligned to the Budget Summary as well as Section B of 424A. This budget narrative outlines the costs, by line item, involved in implementing the City of San Marcos, Texas – Urban & Community Forestry Strategic Management Plan.

The City is requesting funding to support the development of an Urban Community Forestry Strategic Management Plan and a Tree Inventory. A Tree Canopy Study, Public Tree ordinance and application for designation as a Tree City, as planned in original submission, are still planned to occur within the grant period as well and will be paid for with City funds. The City will be supplementing the grant’s project with its own funds to provide a holistic and comprehensive approach.

The proposed project will be overseen and managed by a Certified Arborist Consultant or Consulting Firm, working in conjunction with the City’s Urban Forester. As such, most of this proposal’s costs will be located in the Consultant line item.

The information below is for a **four-year grant award period**.

A. PERSONNEL \$0

The City’s Urban Forester will work closely with the selected Consultant for this grant. However, no personnel costs are being requested or charged to this grant.

B. FRINGE BENEFITS \$0

Not applicable

C. TRAVEL \$0

D. EQUIPMENT \$0

E. SUPPLIES

TOTAL SUPPLIES \$0

F. CONTRACTUAL

A Consultant will be hired to develop the following deliverables:

- 1. Urban & Community Forest Strategic Management Plan** -Develop Forest Management Plan. The primary activities for this primary deliverable include program evaluation, ordinance review, departmental review, remove and replace schedule with 5-, 10-, and 15-year budget projections, public relations plan, operations review, document review, plan development, analytic software and graphic design.

Estimate for development of a plan was provided by Davey Resource Group. This accounts for potential inflation costs over the **4-year** grant period and other cost drivers, such as time, size of area, report writing costs, # of meetings/interviews, specialized software and technology and required travel by Consultant.

The estimated hourly rate range for an Urban Forestry Consultant is between \$100-\$165. This rate varies based upon the activity that is being performed. In general, the formula would be Hourly Rate * Projected Cost Per Task. **\$180,000**

2. **Tree inventory** - The tree inventory will entail a General Analysis of a portion of the City's public property as well as Individual Trees within the Right of Way area designated as disadvantaged by Climate and Economic Justice Screening Tool (CEJST). Inventory will evaluate many variables, including general health, species, diameter, health, maintenance requirements.

Cost = Estimated # of Trees within Service Area * the Certified Arborist Rate

The proposal's focus will be on 500 acres of public space (higher use within service area) within the City of San Marcos. There are an estimated 40 Trees per acre within that space. There are also an estimated 80 Trees per mile in rights of way (ROW) and 1025.745 miles of right of way. The ROW within the CEJST area is 307.534 miles or estimated 17,761 trees (80*307.534).

In the City's public space, there are an estimated 20,000 trees. In right of way area, there are an estimated 24,603 trees. 24,603 + 20,000 = 44603.2 trees to be inventoried.

We are asking for this grant to provide the funding support for those trees to be inventoried within the CEJST area, (estimated 17,869 trees @ \$6.70 per tree) for a National Trees*Certified Arborist Rate of **\$119,722**. Additional costs for the completion of the inventory of the public space arena will be covered by the City of San Marcos' Fee in Lieu fees.

The City still intends to include within this Urban Forest Strategic Management Plan and Tree Inventory Project, funded by USDA funding, additional components, as originally planned. These are outlined in the Appendix at the end of the document.

G. CONSTRUCTION

None

H. OTHER

None

TOTAL DIRECT CHARGES \$299,722

I. INDIRECT COSTS

None

J. TOTAL GRANT FUNDED PROJECT COSTS \$299,722

Reporting Requirements and Schedule:

In accordance with 2 CFR 200.301, reports must relate financial data to performance accomplishments of the federal award. City of San Marcos, TX shall submit semi-annual performance reports. These reports are due 15 days before the reporting periods ending June 30 and December 31. The final performance report shall be submitted either with City of San Marcos's final payment request, or separately, but not later than 120 days from the expiration date of the award.

Additional pertinent information: To support consistent and transparent public access to project outcomes funded through the Inflation Reduction Act, grantees are required to report quantitative and qualitative project accomplishments for reporting periods ending June 30 and December 31 to a public-facing Impact Reporting Platform. Grantees will be provided instructions for project impact reporting.

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Washington, DC 20037
Michael.Martini@Forests.org

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- c. Update on the project since last report and what progress has been made

When applicable, financial reports must provide justification when there is a 10% or greater variance in any one direct cost category between the amount budgeted and actual expenditures. Subrecipient is required to seek approval prior to any expenditures 10% or greater in a direct cost category. The USDA Forest Service requires that 10% or greater increase in any direct cost category be pre-approved through a formal agreement modification.

All financial reports and supporting documentation must be sent:

The Sustainable Forestry Initiative
Attn: Marcy Bell
2121 K St NW Suite 750
Washington, DC 20037
Marcy.Bell@forests.org

Federal Reporting SFI on behalf of City (Semi Annual Reports): City will update SFI before these dates			
2024	2025	2026	2027
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EXHIBIT B

The Parties acknowledge and agree that SFI Inc.'s subaward to City of San Marcos, TX under this Agreement is funded by USDA, Forest Service State, Private and Tribal Forestry, Cooperative Forestry Grant No. 24-CA-11132544-009 ("Prime Agreement"). The Prime Agreement to SFI is funded by the following Federal sources:

<i>FUNDING SOURCE</i>	<i>FEDERAL AWARD IDENTIFICATIO N NUMBER</i>	<i>FUNDING PERIOD END DATE</i>
USDA, Forest Service State, Private and Tribal Forestry, Cooperative Forestry	CRGYLA8HWJY4	December 31, 2028

The following Prime Agreement terms are incorporated into this Agreement to the extent (i) that they do not conflict with the terms of the Agreement, and (ii) that they are applicable to and binding upon Subrecipient and its subrecipients. The capitalized term "Subrecipient" used in this Exhibit B shall mean City of San Marcos, TX.

1. REPRESENTATIONS, CERTIFICATIONS, OBLIGATIONS AND OTHER STATEMENTS – GENERAL

1.1. Compliance with Laws

1.1.1. In General

By execution of this Agreement and through its continued performance hereunder, the Subrecipient represents, certifies and agrees that it is and shall continue to conduct all activities in compliance with all applicable federal, state, and local laws, regulations, and ordinances and to secure all appropriate necessary public or private permits and consents. The terms of this provision will survive termination of this Agreement and must be passed down to any and all contractors, subcontractors or subrecipients entered into by the Subrecipient in the performance of this Agreement.

1.1.2. Compliance with Anti-Corruption Laws

The Subrecipient represents, certifies and agrees to ensure that no payments have been or will be made or received by the Subrecipient in connection with this Agreement in violation of the U.S. Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. § dd-1 *et seq.*), or any other applicable anti-corruption laws or regulations (e.g., UK Bribery Act 2010) in the countries in which the Subrecipient performs under this Agreement.

1.1.3. Compliance with Anti-Terrorism Laws

The Subrecipient represents, certifies and agrees not to provide material support or resources directly or indirectly to, or knowingly permit any funds provided by SFI pursuant to this Agreement or Matching Contributions to be transferred to, any individual, corporation or other entity that the Subrecipient knows, or has reason to know, commits, attempts to commit, advocates, facilitates, or participates in any terrorist activity, or has committed, attempted to commit, advocated, facilitated or participated in any terrorist activity, including, but not limited to, the individuals and entities (1) on the master list of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury's Office of Foreign Assets Control, which list is available at www.treas.gov/offices/enforcement/ofac; (2) on the consolidated list of individuals and entities maintained by the

“1267 Committee” of the United Nations Security Council at http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml; (3) on the consolidated list maintained by the U.S. Department of Commerce at http://export.gov/ecr/eg_main_023148.asp, or (4) on such other list as SFI may identify from time to time.

1.1.4. Compliance with Additional Laws and Restrictions

The Subrecipient represents, certifies and agrees to ensure that its activities under this Agreement comply with all applicable U.S. laws, regulations and executive orders regarding money laundering, terrorist financing, U.S. sanctions laws, U.S. export controls, restrictive trade practices, boycotts, and all other economic sanctions or trade restrictions promulgated from time to time by means of statute, executive order, regulation or as administered by the U.S. Department of State, the Office of Foreign Assets Control, U.S. Department of the Treasury, or the Bureau of Industry and Security, U.S. Department of Commerce.

1.2. Subrecipient Debarment and Suspensions

By and through Subrecipient’s execution of this Agreement, Subrecipient warrants and represents its initial and continued compliance that it is not listed on the General Services Administration’s, government-wide System for Award Management Exclusions (SAM Exclusions), in accordance with the OMB guidelines at 2 C.F.R Part 180 that implement E.O.s 12549 (3 C.F.R., 1986 Comp., p. 189) and 12689 (3 C.F.R., 1989 Comp., p. 235), “Debarment and Suspension.” The Subrecipient further provides that it shall not enter into any subaward, contract or other agreement using funds provided by SFI with any party listed on the SAM Exclusions in accordance with Executive Orders 12549 and 12689. The SAM Exclusions can be found at <https://www.sam.gov/portal/public/SAM/>.

1.3. Conflicts of Interest

By execution of this Agreement, Subrecipient acknowledges that it is prohibited from using any Project funds received under this Agreement in a manner which may give rise to an apparent or actual conflict of interest, including organizational conflicts of interest, on the part of the Subrecipient. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of Subrecipient may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. An organizational conflict of interest is defined as a relationship that because of relationships with a parent company, affiliate, or subsidiary organization, the non-federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. The Subrecipient represents and certifies that it has adopted a conflict of interest policy that, at a minimum, complies with the requirements of the OMB Uniform Guidance, and will comply with such policy in the use of any Project funds received under this Agreement. Subrecipient may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of Subrecipient. If Subrecipient becomes aware of any actual or potential conflict of interest or organizational conflict of interest during the course of performance of this Agreement, Subrecipient will immediately notify SFI in writing of such actual or potential conflict of interest, whether organizational or otherwise.

1.4 Insurance

Subrecipient agrees to obtain and maintain all appropriate insurance against liability for injury to persons or

property from any and all activities undertaken by the Subrecipient and associated with this Award in any way.

2. REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS RELATING TO FEDERAL FUNDS – GENERAL

2.1. Use of Federal Funds

If the Funding Source or any funding entity (*i.e.*, a secondary funding source) is a federal agency and/or any portion of the Project provided herein is paid with federal funds, the Subrecipient must read and understand certain applicable federal regulations, including but not limited to, the following in Sections 2 and 3 of this Exhibit set forth herein. The Subrecipient will need to understand and comply with the OMB Uniform Guidance (including related Supplements as may be applicable to a specific federal funding source(s), and Appendices as may be applicable), in addition to other applicable federal regulations. This includes, but is not limited to, the provisions of the Federal Funding Accountability and Transparency Act (FFATA), which includes requirements on executive compensation, and also requirements implementing the Act for the non-federal entity at 2 CFR part 25 Financial Assistance Use of Universal Identifier and System for Award Management and 2 CFR part 170 Reporting Subaward and Executive Compensation Information. The most recent version of the Electronic Code of Federal Regulations can be found at <https://www.ecfr.gov/>.

2.2. 2 CFR § 200 Subpart F Audits

It is the responsibility of the Subrecipient to arrange for audits as required by 2 CFR Part 200, Subpart F – Audit Requirements. The Subrecipient shall notify SFI in writing about 2 CFR Subpart F audit findings related to projects funded by SFI pass-through funds. The Subrecipient understands that SFI may require the Subrecipient to take corrective action measures in response to a deficiency identified during an audit.

2.3. Real and Personal Property

In accordance with 2 C.F.R. § 200.316 (Property trust relationship), real property, equipment, and intangible property acquired or improved with federal funds must be held in trust by the Subrecipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. This trust relationship exists throughout the duration of the property's estimated useful life during which time the Federal Government retains an undivided, equitable reversionary interest in the property (Federal Interest). During the duration of the Federal Interest, the Subrecipient must comply with all use, reporting, and disposition requirements and restrictions as set forth in 2 C.F.R. §§ 200.310 (Insurance coverage) through 200.316 (Property trust relationship) and 200.329 (Reporting on real property), as applicable. Notwithstanding the preceding text, no acquisition of real property or equipment is permitted under this Subaward.

2.4. Mandatory Disclosure

Subrecipient must disclose, in a timely manner, in writing to SFI all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Failure to make required disclosures can result in any of the remedies described in this Agreement, including termination, and any remedies provided under law, including suspension or debarment by cognizant federal authorities.

2.5. Trafficking in Persons

Pursuant to section 106(a) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104(g)) (codified at 2 C.F.R. Part 175), Subrecipient shall comply with the below provision. Further, Subrecipient shall flow down these provisions in all subawards and contracts, including a requirement that Subrecipients similarly flow down these provisions in all lower-tiered subawards and subcontracts.

a. *Provisions applicable to a recipient that is a private entity.*

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
2. We as the federal awarding agency's pass-through entity may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. 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—
 - A. Associated with performance under this award; or
 - B. 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)”.

b. *Provision applicable to a recipient other than a private entity.* We as the federal awarding agency's pass-through entity may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity-

1. Is determined to have violated an applicable 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 an applicable 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 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)”.

c. *Provisions applicable to any recipient*

1. 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.
2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. *Definitions.* For purposes of this award term:

1. “Employee” means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

- ii. 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.
- 2. “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.
- 3. “Private entity”:
 - i. 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.
 - ii. Includes:
 - A. 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).
 - B. A for-profit organization.
- 4. “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).

2.6. 41 United States Code (U.S.C.) 4712, Enhancement of Recipient and Subrecipient Employee Whistleblower Protection:

- (a) This award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award, related subawards, and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies established at 41 U.S.C. 4712.
- (b) Recipients, their subrecipients, and their contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.
- (c) The recipient shall insert this clause, including this paragraph (c), in all subawards and contracts over the simplified acquisition threshold related to this award.

2.7. 41 USC §6306, Prohibition on Members of Congress Making Contracts with Federal Government.

No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public’s general benefit. Subrecipient shall flow down this provision in all subawards and contracts, including a requirement that subrecipients similarly flow down this provision in all lower-tiered subawards and subcontracts.

2.8. Executive Order 13513, Federal Leadership on Reducing Text Messaging while Driving.

(Sub)Recipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the order. Subrecipient shall flow down this provision in all subawards and contracts, including a requirement that subrecipients similarly flow down this provision in all lower-tiered subawards and subcontracts.

2.9. 43 CFR §18 New Restrictions on Lobbying.

By execution of this Agreement, the Subrecipient agrees to comply with 43 CFR 18, New Restrictions on Lobbying, and certifies to the following statements:

(a) No federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

(c) The Subrecipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subawards, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification, as represented by execution of this Agreement, is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. All liability arising from an erroneous representation shall be borne solely by the entity filing that representation and shall not be shared by any entity to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31 of the U.S. Code.

2.10. Prohibition on Issuing Financial Assistance Awards to Entities that Require Certain Internal Confidentiality Agreements.

The Subrecipient must not require their employees, subrecipients, or contractors seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees, subrecipients, or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information. The Subrecipient must notify their employees, subrecipients, or contractors that existing internal confidentiality agreements covered by this condition are no longer in effect.

2.11. Drug-Free Workplace.

The Subrecipient must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 41 USC Chapter 81 Drug-Free Workplace.

2.12. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. (Effective 8/13/2020) As required by 2 CFR 200.216, the Subrecipient is prohibited from obligating or expending funds

awarded under this Agreement to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, and Dahua Technology Company, or any other company, including affiliates and subsidiaries, owned or controlled by the People's Republic of China, which are a substantial or essential component of any system, or as critical technology as part of any system. By and through the Subrecipient's execution of this Agreement, the Subrecipient warrants and represents that the Subrecipient will not obligate or expend funds awarded under this Agreement for "covered telecommunications equipment or services" (as this term is defined and this restriction is imposed under 2 CFR 200.216).

2.13. Domestic Preference for Procurements.

- a) Under this Agreement and in accordance with 2 C.F.R. § 200.322, the Subrecipient shall to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
- b) For purposes of this agreement, the following definitions apply:
 - i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; and
 - ii. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

3. REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS RELATING TO FEDERAL FUNDS – FUNDING SOURCE SPECIFIC

Subrecipient acknowledges that when all or part of this Agreement is funded by a federal award that certain representations, certifications, and other statements relating to the use of such funds or performance of the Project may be necessary. These representations, certifications and other statements are set forth below. Unless otherwise stated in this Agreement, the execution and submission of this Agreement serves as affirmative acknowledgment of and agreement with the below representations, certifications, and other statements. Further, should circumstances of the Subrecipient change during the performance of this Agreement that would render one of these representations, certifications and/or other statements inaccurate, invalid or incorrect, the Subrecipient shall promptly notify SFI of such change in circumstance. Finally, SFI reserves the right to update and require subsequent acknowledgement of and agreement with new or revised representations, certifications, and other statements at no additional cost under this Agreement.

3.1. Department of Agriculture.

3.1.1. National Environmental Policy Act; the Endangered Species Act; and the National Historic Preservation Act.

As a condition of this award, the Subrecipient is approved to begin planning and design aspects related to this award. All project activities must be reviewed and comply with National Environmental Policy Act (NEPA), Endangered Species Act (ESA), and Section 106 of the National Historic Preservation Act (NHPA). Once the final project plans are available and draft compliance documents completed, the Subrecipient must submit them to the

U.S. Fish and Wildlife Service (Service), directly or through SFI. No on the ground work or activities that have the potential to affect resources protected by these Acts will begin until the Service has reviewed, finalized the compliance documents, and notified the Subrecipient in writing that such work can begin. In the event any archaeological or historic materials are encountered during project activity, work in the immediate area must stop and the following actions taken:

1. Implement reasonable measures to protect the discovery site, including any appropriate stabilization or covering;
2. Take reasonable steps to ensure the confidentiality of the discovery sites; and
3. Take reasonable steps to restrict access to the site of discovery.

The Subrecipient must notify the concerned Tribes and all appropriate county, state, and federal agencies, including the State Historic Preservation Office. Agencies and the Tribe(s) will discuss the possible measures to remove or avoid cultural material, and will reach an agreement with the Subrecipient regarding actions to be taken and disposition of material. If Human remains are uncovered, appropriate law enforcement agencies must be notified first, and the above steps followed. If the remains are determined to be Native, consultation with the affected Tribe(s) will take place in order to mitigate the final disposition of said remains.

3.1.2. Department of Agriculture Conflict of Interest Requirements.

(1) Non-Federal entities must avoid prohibited conflicts of interest, including any significant financial interests that could cause a reasonable person to question the recipient's ability to provide impartial, technically sound, and objective performance under or with respect to a Federal financial assistance agreement.

(2) In addition to any other prohibitions that may apply with respect to conflicts of interest, no key official of an actual or proposed recipient or subrecipient, who is substantially involved in the proposal or project, may have been a former Federal employee who, within the last one (1) year, participated personally and substantially in the evaluation, award, or administration of an award with respect to that recipient or subrecipient or in development of the requirement leading to the funding announcement.

(3) No actual or prospective recipient or subrecipient may solicit, obtain, or use non-public information regarding the evaluation, award, or administration of an award to that recipient or subrecipient or the development of a Federal financial assistance opportunity that may be of competitive interest to that recipient or subrecipient.

3.1.3. Data Availability.

(a) Applicability. The Department of Agriculture is committed to basing its decisions on the best available science and providing the American people with enough information to thoughtfully and substantively evaluate the data, methodology, and analysis used by the Department to inform its decisions.

(b) Use of Data. The regulations at 2 CFR 200.315 apply to data produced under a Federal award, including the provision that the Federal Government has the right to obtain, reproduce, publish, or otherwise use the data produced under a Federal award as well as authorize others to receive, reproduce, publish, or otherwise

use such data for Federal purposes.

(c) Availability of Data. The Subrecipient shall make the data produced under this award and any subaward(s) available to the Government for public release, consistent with applicable law, to allow meaningful third party evaluation and reproduction of the following:

- (1) The scientific data relied upon;
- (2) The analysis relied upon; and
- (3) The methodology, including models, used to gather and analyze data.

3.1.4. Prohibition on Issuing Financial Assistance Awards to Entities that Require Certain Internal Confidentiality Agreements.

The Subrecipient must not require their employees, subrecipients, or contractors seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees, subrecipients, or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to

receive such information. The Subrecipient must notify their employees, subrecipients, or contractors that existing internal confidentiality agreements covered by this condition are no longer in effect.

3.1.5. Publicity and Acknowledgement of Support – USDA Forest Service.

The Subrecipient shall not publicize or otherwise circulate promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts or other publications) which states or implies governmental, Departmental, bureau or government employee endorsement of a product, service, or position that the Subrecipient represents. No release of information relating to this award may state or imply that the Government approves of the Subrecipient's work products or considers the work product to be superior to other products or services. The SFI Recipient must obtain prior approval for any public information releases concerning this award which refer to the USDA Forest Service or any bureau or employee (by name or title). The specific text, layout of photographs, etc. of the proposed release must be submitted with the request for approval. The Subrecipient must include this provision in subawards made under this award to any recipient other than a State, local, or federally recognized Indian tribal government.

3.1.6. Deliverables/Products

If deliverables/products other than standard financial and performance reports are produced under this award, the Subrecipient is required to send two printed copies of all final published products to:

- (a) through electronic mail to the SFI Project Manager Michael Martini (Primary) or Paul Johnson.

3.2 Department of Agriculture

3.2.1. Federal Financial Assistance.

The Subrecipient is 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 subaward must follow the regulations found in 2 CFR 200.330 through .332

3.2.2. Eligible Workers.

The Subrecipient 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 USC 1324a). The Subrecipient 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.

3.2.3. Nondiscrimination.

The Subrecipient 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 policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

If the material is too small to permit the full statement to be included, the material must, at minimum include the following statement, in print size no smaller than the text:

"This institution is an equal opportunity provider."

3.3 Highly erodible lands and wetland conservation compliance.

Activities performed under this award may not include operational or policy decisions or political advocacy related to or affecting highly erodible lands or wetland conservation compliance under the Food Security Act of 1985 as amended.

3.4 Privacy Act and Confidentiality.

a. Activities performed under this subaward may involve access to confidential and potentially sensitive information about governmental and landowner issues. The term "confidential information" means proprietary information or data of a personal nature about an individual, or information or data submitted by or pertaining to an organization. This information must not be disclosed without the prior written consent of the Farm Production and Conservation (FPAC).

b. Subrecipient's personnel will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. Section 552a, and implementing regulations and policies with respect to systems of records determined to be subject to the Privacy Act. Subrecipient's personnel must also comply with privacy of personal information relating to natural resources conservation programs in accordance with section 1244 of Title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171).

3.5 Acknowledgment of Section 1619 Compliance.

Subrecipient agrees to comply with FPAC guidelines and requirements regarding the disclosure of information protected under Section 1619 of the Food, Conservation, and Energy Act of 2008 (PL 110-246), 7 U.S.C. 8791.

3.6 Acknowledgment of Support and Disclaimer (USDA).

Subrecipient agrees to ensure that the following acknowledgment of USDA support appear in the publication of any material, whether copyrighted or not, and any products in electronic formats (World Wide Web pages, computer programs, etc.) that is substantially based upon or developed under this subaward:

"This material is based upon work supported by the U.S. Department of Agriculture, under agreement number [recipient should enter the applicable award number(s) here]."

In addition, all publications and other materials, except scientific articles or papers published in scientific journals, must include the following statement:

"Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Agriculture. In addition, any reference to specific grants or types of products or services does not constitute or imply an endorsement by the U.S. Department of Agriculture for those products or services."

All publications printed with Federal Government funds will include the most current USDA nondiscrimination statement, available from the Public Affairs Division, Civil Rights Division, or on the USDA home page. If the material is too small to permit the full nondiscrimination statement to be included, the material must, at a minimum, include the statement:

"USDA is an equal opportunity provider and employer."

Subrecipient must ensure that an acknowledgment of USDA is made during news media interviews, including popular media such as radio, television, and news magazines, that discuss in a substantial way work funded by this subaward.

3.7 National Policy Requirements.

Subrecipient must comply with all relevant public policy requirements, including those in general appropriations provisions, which can be accessed at this link:

https://www.usda.gov/sites/default/files/documents/Regulatory_Statutory_National_Policy_Requirements_Overlay.pdf

3.8 Build America, Buy America for Construction.

"Buy America" preference applies to Federal financial assistance awards that include construction components, even if it is funded by both Federal and non-Federal funds under the subaward. A Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to a construction project.

Subrecipient must ensure that none of the funds provided under this award are used for project construction 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 for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; 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. (Excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.) The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to a construction 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 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 project but are not an integral part of the structure or permanently affixed to it.

DRAFT

ATTACHEMENT 1

1. Project Scope Alignment:

Describe the issues this project is seeking to address and how the project will contribute to the goals in this funding opportunity, including congressional, Justice40, [State Forest Action Plans](#), and [Ten-Year Urban and Community Forestry Action Plan \(2016-2026\)](#) priorities.

Background -The City of San Marcos is a small to mid-size city located in Central Texas approximately mid-way between Austin and San Antonio along interstate highway (IH)35. Home to one of the state's largest public universities, Texas State University, the City has a population of nearly 67,000. As a college town, the city has a high number of renters and rental units. Only 29% of housing units are owner occupied. According to Census Data, the median household income for the City is \$42,030 and the per capita income is \$21,920. This is a five-year average represented in 2020 dollars. The median age is 23-25 years old. The race/ethnicity demographics indicate the population identifies as follows: 45% white, 41% Hispanic, 7% black, and 7% other.

Need -Population Growth – In-Migration San Marcos is part of the Austin-Round Rock-San Marcos Metropolitan Statistical Areas (MSA) – one of the fastest growing regions in the country, especially over the last 3-5 years. With this unprecedented growth comes an increased cost of living. Larger cities such as Austin have become unaffordable resulting in outward migration of individuals and families to surrounding cities, such as San Marcos, which have begun to realize a growth in population in the last 5 years. Much of the growth occurring is on the outlying areas of the City's boundaries, to the far South and North, along IH 35 and the west, abutting natural forested areas. These areas are becoming zoned and developed as new master planned communities to accommodate the region's growth. This affects the amount of tree canopy and the surrounding natural resources connected to those forests which directly impacts the health of our San Marcos Community, particularly in those neighborhoods where most of this growth is occurring.

Tree Canopy At-Risk San Marcos community forest Tree Canopy Coverage (TCC), in accordance with the Texas Forest Service Urban Tree Canopy analysis in 2012, was 16%. I-Tree analysis of 2017 satellite imagery puts the TTC at 22%, with a margin of error +/- 1.33%. For this region, the ideal target would be 30%. Most trees grow on the Edwards Plateau, which includes the Edwards Aquifer, not on the Blackland prairie. These trees are being impacted by new development. It is important to protect them as their health impacts the quality of health and life in San Marcos. According to the American Forest's website, <https://www.americanforests.org/tools-research-reports-and-guides/tree-equity-score/>, the San Marcos area scores an 85 on the Tree Equity score, while the block groups that overlap the CEJST scores lower than surrounding areas in the City. It is estimated 26,647 trees will be need to be planted to get 6 of the block groups within San Marcos to a score of 85, by adding 2.7% canopy. Having such low tree canopy coverage in certain areas, makes this area vulnerable to higher than average temperatures, prime for increases in crime, public health issues, such as cardiovascular disease, asthma, anxiety, and stress.

It is estimated there are 4,280 acres of tree canopy cover, with \$13.2 million dollars of ecosystem services value, and 1,807 acres of canopy at risk. The City needs a plan to manage the growth of this region, as it is trending towards an additional loss of 13% of canopy with the current pace of development. Preservation of existing trees, and planting of non-treed areas can help mitigate this trend and assist in reaching target canopy levels in communities in need. (<https://texasforestinfo.tamu.edu/utc/>)

Lack of Existing Urban Forest Strategic Plan The City has various type of plans that help guide its work: *Transportation Greenways Master Plan*, an *Open Space Master Plan*, a *Sustainability Plan*, a *Sidewalk Master Plan*



and a *Planning and Development Master Plan* (that was recently updated). While these reference natural resources management, there is no guiding document that outlines specific strategies to protect and sustain our urban forest. In a rapidly growing region such as that of Hays County/San Marcos, it is imperative to protect the natural resources, such as our trees which are key in protecting the ephemeral creeks and rivers that feed into the region's largest water resources, the Edwards Aquifer. According to the State Forest Action Plan, Hays County which San Marcos is located within ranked high within the top 19% of 114 counties identified as Important Forest Resources Area. Overall statewide, five issues were identified, and San Marcos (Hays County) met four of the five issues needing addressed through the development of a forestry management plan (Water Resource Protection, Wildfire & public Safety, Urban Forest Sustainability, & Central Texas Woodlands Conservation.) Developing an Urban Forest Strategic Plan will promote the importance of trees and tree management overall and complement existing plans.

Insufficient Staffing The City of San Marcos has one full-time Urban Forester (UF) dedicated to overseeing forest management, tree care and mitigation resulting from various issues, such as natural disasters or lack of coordinated work efforts among City departments. The UF also provides community education and community engagement activities, such as *Tree Giveaway Days* with other City-wide and neighborhood special events. The City's size and existing green infrastructure make it difficult for staff to keep up with the urban forestry demands. The *Sustainable Urban Forest Guide* recommends that cities evaluate their existing operations as part of the development of an urban forest management plan.

Lack of Existing Public Tree Ordinance There currently is no public tree ordinance providing guidance to both City Staff and external parties on how to manage trees. The ordinance now in effect is in the development code and applies to trees on private property or future city properties. With a service area inclusive of such a large, forested area and potentially at-risk due to the reasons listed herein, it is imperative to have an ordinance to provide direction on the forest's sustainability.

No formal collaboration/cohesion among environmentally focused community stakeholders/partners There are several non-governmental and other groups that advocate for or focus on the environment within the City/community of San Marcos. With the rapid pace of growth and development and increasing opportunities for funding supporting environmental causes, it would be advantageous to have a more permanent type of collaboration or group structure. This would allow for better collaboration, program planning and positioning to apply for funding opportunities.

Alignment to National and State Guidance Documents

The City of San Marcos' proposed *Urban and Community Forestry Strategic Plan & Inventory* incorporates and aligns with several of the goals and objectives from **Texas' State Forest Action Plan** and the **10 Year Forest Management Plan**, as well as the **Justice 40 Presidential Executive Order**.

COSM's proposed Forest Strategic plan, Tree Inventory and Canopy Study will encompass all types of planning efforts and thread into the City's Master Plan. The resulting Plan will serve as the "backbone" for its Urban Forestry activities. This aligns with the **State Forest Action Plan's** goal to "integrate urban and community forestry into all scales of planning." Development of the Plan will be used to educate both internal and external clients, thereby increasing public awareness and environmental education to promote stewardship. These specific directives and activities will help in sustaining existing trees and planning for future growth supporting the public health benefits that urban forests provide.

The development of and subsequent oversight of the City's Forest Strategic Plan will be provided by a Steering Committee and Workgroup that will be diverse ensuring equitable representation and participation by various populations ensuring that future generations benefit from the diverse viewpoints and knowledge. *Community*

engagement and correlating community education will occur within the Steering Committee, with targeted communities and the public, during the development of the Plan and when the Plan becomes finalized.

Web-based management tools and databases will be utilized to capture and retain tree data, develop plan as well as inform/educate key stakeholders and the public. This will help promote *community forestry literacy* and support significant tree programs.

Proposal activities that meet the State Forest Action Plan are also aligned to the **National 10-year Forest Management Plan**. Through the activities of both the Steering Committee and Workgroup, the City will promote expanded collaboration and training and communication within the Urban Forestry field.

The City will target underserved populations in areas that have been identified as disadvantaged utilizing the *Climate and Economic Justice Screening Tool (CJEST)*. The City will lead a public awareness and education campaign explaining the Forest Management plan. The City will develop and adopt a Public Tree Ordinance with related policies and procedures that align with integrating urban forestry in creating long term plans. This proposal and its related products will also help leverage additional funding to support urban forestry.

Lastly, the proposal will be strongly aligned to the **Justice 40 initiative**, including representatives from historically disadvantaged communities and spaces throughout the entire project. The community education piece will target areas and populations designated as disadvantaged. Voices and ideas from these communities will be integrated into the development, planning and implementation of the City's Forest Strategic plan.

2. Implementation Strategy/Methodology/Timeline:

Provide a detailed explanation of the proposed approach, methodology, operations strategies, project schedule/timeline with goals/milestones, expected accomplishments or measurable outcomes, and project assessment/evaluation methods.

The City of San Marcos is proposing to secure an Urban Forestry consultant or firm through a formal bid process to manage the development of the Forest Strategic Plan, Tree Inventory, Canopy Study, and other related products. The selected firm will have the discretion to manage and adapt as they see fit. However, the City expects the firm to assume a **resource management approach** to this project, as recommended by the *Sustainable Urban Forest Guide*, meaning they will assess and determine adequacy of available resources needed to develop a written management plan. The associated **methodology** and **operations strategies** will include 4 primary parts and related actions:

1) *Identifying and collecting information to analyze*. Project Staff will collect baseline information from both quantitative (tree canopy study and tree inventory) and qualitative sources, e.g., other plans, practices, programs, policies as well as interviews and/or focus groups. 2) *Constructing the Community Framework*. Project Staff will also "set the stage" for both community engagement and community education to occur by outlining specific strategies aimed at ensuring appropriate inclusion and representation of the community and key stakeholders and partners in discussions and decision-making throughout the project cycle. This will include but may not be limited to the development of a steering committee, interviews, focus groups and targeted awareness campaign. 3) *Analysis /Evaluation*. Following the prescribed process and components above, the City will evaluate its current state of urban forestry to be able to gauge where it is now, where it'd like to be in the future and what it needs to achieve that goal. Staff will review and analyze the information they get from these sources and efforts to draft a plan. 4) *Developing the Plan*. Once a draft has been produced, it will be shared with the Parks Board, Executive Management (City Managers' Office) as well as the Council to receive additional input and considerations.

Feedback received from these bodies will help set specific Urban Forestry Goals, Objectives, and Outcomes that address climate change, natural disasters, pests, financing, etc. The areas to be included in the plan and assigned target goals for **accomplishments or outcomes** will be those that address the i) natural resources (trees and forest), ii) the community framework and iii) resource management (includes city resources, plans, ordinances). Two proposed project outcomes are the development of a public tree ordinance and designation as a Tree City, an honor bestowed to municipalities indicating their commitment to growth and sustainability of their urban forests.

More specific information on the City's proposed Development of a Forest Strategic Plan is outlined in the attached Excel spreadsheet labeled *5-year project plan and timeline*. It is anticipated that the development of the plan and related work will span the entire 5-year grant period. This will allow for appropriate time for a bidding process compliant with both federal and local guidance (3-4 months), setting up a managing community participation (1-2 months at beginning of project and throughout), and the actual plan development (12 -18 months) and public dissemination (2-3 months).

The Project Staff from selected firm will work closely with the Arborist firm establishing a regular communication schedule to periodically **assess project completion and evaluate efficiency/efficacy of methods/strategies** in progress. This may look like weekly meetings at the beginning of the grant period and taper down to monthly meetings by end of Year 1.

3. Capability and Capacity:

Describe how each contributing organization is suited for (mission) and qualified to deliver the project. Provide the names, titles, and organization affiliation and specific roles of key personnel for the project. Include qualifications and experience of key personnel to implement, monitor, and assess/report project outcome.

The City's Urban Forester (UF), Kelly Eby, will serve as the primary contact for this grant, working in tandem with the selected Urban Forestry consultant or firm to oversee and manage this grant project. Ms. Eby is a **certified arborist**, having received her Bachelor of Science degree in Urban Forestry from the Stephen F. Austin State University, Arthur Temple College of Forestry & Agriculture. She is *very qualified* to oversee a federal grant of this nature and scope, *having received a Forest Service grant* in the past to help secure and preserve greenspace. She has **worked in the municipal urban forestry profession for more than 16 years** at the City of New Braunfels and presently at the City of San Marcos.

She served those roles in the rapid developing I-35 corridor working to improve the health and management of the public trees. **She is passionate about planning and planting for the future.** She strives to develop a community forest with greater species diversity that supports food availability, urban wildlife, aesthetics, and a multi-age forest to strengthen the resilience of our community forest against pests, disease, climatic changes, and tree mortality. In 2022, her greatest achievement was giving away over 80 species of trees to residents: 1,200 trees total, 50 percent native and 50 percent fruit trees. Kelly has been a member of the ISA (International Society of Arboriculture) for 18 years and is a former board member of the ISA Texas Chapter. As a long-time ISAT volunteer at the annual Tree conference, she was awarded the ISAT volunteer of the year in 2019 for her many years of service to the organization. She is also a member of the Society of Municipal Arborists.

A program she has developed to help community trees is called Friends of Trees. She invites the public, volunteers, civic, and university organizations to learn and help do hands on tree preservation and planting in public parks. She works with the schools utilizing and training educators with the Project Learning Tree curriculum. Kelly also maintains the Discovery Center Arboretum in San Marcos with over 70 woody shrubs and tree species, accredited by the Arbnet Morton Arboretum Accreditation Program.

She has a strong community partner network comprised of many internal City departments (Parks and Recreation, Planning, transportation, engineering, Facilities, the Habitat Conservation Program) as well as other groups from both Texas State University, civic groups, environmental nonprofits, as well as individual volunteers. See attached pdf labeled Letters of Support for more information on these partners, existing relationship, and potential role for the proposed project.

The Urban Forestry consultant or firm selected, will have demonstrated experience in federal grant program management have intimate knowledge and expertise in compliance with the Office of Management and Budget (OMB) Uniform Guidance as well as operations of the US Department of Agriculture, Forest Service, and cost funding for the Urban Community Forest to comply with required grant requirements.

4. Communications Plan:

Share your plans for communication on the project, including plans for 1) signage acknowledging the source of funding at project locations 2) inclusion of funding information in press and promotional materials.

The development of the COSM's Forest Management Plan will include a comprehensive communication plan that will commence with a public announcement of the USDA/Forest Service *Urban Community Forestry Grant*, if awarded and continued throughout the life of the grant. This will include a press release and inclusion in social media outlets, e.g., City's Facebook page, City website. The City's robust Communications department has experience with and access to various media streams and outlets and actively looks for opportunities to support City departments and initiatives. The Project Director will ensure that the Communications team is included in the Steering Committee to ensure that Communication is appropriately implemented.

Funding acknowledgement will be threaded into the community engagement and community education component of this project. This will be the primary vehicle to educate the community about the Urban Community Forestry program; increase public awareness and environmental education; and promote long term sustainability/stewardship. The City will acknowledge the Urban Community Forestry Program and the USDA/Forest Service as the funder in its educational materials or brochures as well as the final Plan and any related deliverables supported by the Grant.

5. Evidence of Disadvantaged Community Status for projects requesting Match Waiver (if applicable):

Clearly describe the scope of work to be performed in disadvantaged communities, and identify online vulnerability and environmental justice equity data and/or tools referenced to support a disadvantaged community designation, (e.g., White House Council on Environmental Quality [Climate and Economic Justice Screening Tool \(CEJST\)](#), EPA Environmental Justice and Screening Mapping Tool (Screen), EPA [EnviroAtlas Interactive Map](#), Opportunity Zones, or other vulnerability data/tools applicable to the scope of work). Multiple tools may be used. **All work must be tracked at the level that designates disadvantaged communities.** Primary applicants receiving cost-match waiver approval that pass-through funding (sub-award) for work in disadvantaged communities must pass through the cost match waiver to sub-awardees performing the work.

The City of San Marcos intends to still pursue its full scope of work, as originally described in its grant package. Any costs above and beyond the federal grant award will be supported with City funds. However, we would like to share some key information to provide additional context to our proposal. According to the **Climate and Economic Justice Screening Tool**, the City has 6 census tracts that comprise a *disadvantaged community* within city boundaries. These are: 48055960500, 48187210505, 48187210506, 48209010302, 48209010500, and 48209010304. These census tracts all have demonstrated at least one or more indicators of burden and are at or above the threshold for associated socioeconomic burden. The top indicator among 4 of the 6 census tract is that for **climate change**. All 4 tracts noted above the 90th percentile for *expected population loss rate*, or fatalities and

injuries resulting from natural hazards each year. It should be noted that the City of San Marcos suffered two major floods, in 2015 making national headlines and resulting in significant property loss. The second most noted indicator of burden for the City is that for **transportation**. Because of its location along IH35 and other major highways, San Marcos' traffic proximity and volume is high, with 5 of 6 census tracts ranking at or above the 90th percentile. City traffic flow is affected by train tracks located throughout the City with approximately 35 trains passing through daily.

CITY OF SAN MARCOS' BUDGET NARRATIVE

The following budget narrative is aligned to the Budget Summary as well as Section B of 424A. This budget narrative outlines the costs, by line item, involved in implementing the *City of San Marcos, Texas – Urban & Community Forestry Strategic Management Plan*.

The City is requesting funding to support the development of an Urban Community Forestry Strategic Management Plan and a Tree Inventory. A Tree Canopy Study, Public Tree ordinance and application for designation as a Tree City, as planned in original submission, are still planned to occur within the grant period as well and will be paid for with City funds. The City will be supplementing the grant's project with its own funds to provide a holistic and comprehensive approach.

The proposed project will be overseen and managed by a Certified Arborist Consultant or Consulting Firm, working in conjunction with the City's Urban Forester. As such, most of this proposal's costs will be located in the *Consultant* line item.

The information below is for a **four-year grant award period**.

K. PERSONNEL \$0

The City's Urban Forester will work closely with the selected Consultant for this grant. However, no personnel costs are being requested or charged to this grant.

L. FRINGE BENEFITS \$0
Not applicable

M. TRAVEL \$0

N. EQUIPMENT \$0

O. SUPPLIES
TOTAL SUPPLIES \$0

P. CONTRACTUAL

A Consultant will be hired to develop the following deliverables:

- 1. Urban & Community Forest Strategic Management Plan** -Develop Forest Management Plan. The primary activities for this primary deliverable include program evaluation, ordinance review, departmental review, remove and replace schedule with 5-, 10-, and 15-year budget projections, public relations plan, operations review, document review, plan development, analytic software and graphic design.

Estimate for development of a plan was provided by Davey Resource Group. This accounts for potential inflation costs over the **4-year** grant period and other cost drivers, such as time, size of area, report writing costs, # of meetings/interviews, specialized software and technology and required travel by Consultant.

The estimated hourly rate range for an Urban Forestry Consultant is between \$100-\$165. This rate varies based upon the activity that is being performed. In general, the formula would be Hourly Rate * Projected Cost Per Task.

\$180,000



- 2. **Tree inventory** - The tree inventory will entail a General Analysis of a portion of the City’s public property as well as Individual Trees within the Right of Way area designated as *disadvantaged* by *Climate and Economic Justice Screening Tool (CEJST)*. Inventory will evaluate many variables, including general health, species, diameter, health, maintenance requirements.

*Cost = Estimated # of Trees within Service Area * the Certified Arborist Rate*

The proposal’s focus will be on 500 acres of *public space* (higher use within service area) within the City of San Marcos There are an estimated 40 Trees per acre within that space. There are also an estimated 80 Trees per mile in rights of way (ROW)and 1025.745 miles of right of way. The ROW *within the CEJST area* is 307.534 miles or estimated 17,761 trees (80*307.534).

In the City’s public space, there are an estimated 20,000 trees. In right of way area, there are an estimated 24,603 trees. 24,603 + 20,000 = 44603.2 trees to be inventoried.

*We are asking for this grant to provide the funding support for those trees to be inventoried within the CEJST area, (estimated 17,869 trees @ \$6.70 per tree) for a National Trees*Certified Arborist Rate of \$119,722. Additional costs for the completion of the inventory of the public space arena will be covered by the City of San Marcos’ Fee in Lieu fees.*

The City still intends to include within this Urban Forest Strategic Management Plan and Tree Inventory Project, funded by USDA funding, additional components, as originally planned. These are outlined in the Appendix at the end of the document.

Q. CONSTRUCTION

None

R. OTHER

None

TOTAL DIRECT CHARGES \$299,722

S. INDIRECT COSTS

None

T. TOTAL GRANT FUNDED PROJECT COSTS \$299,722