

**MEMORANDUM OF AGREEMENT BETWEEN  
THE STATE OF ALABAMA DEPARTMENT OF FINANCE AND  
THE UNIVERSITY OF ALABAMA BIRMINGHAM MEDICINE  
TO SUPPORT  
THE OPERATION AND EXPANSION OF RURAL TELEHEALTH SERVICES  
FOR THE DISTRIBUTION OF  
CORONAVIRUS STATE FISCAL RECOVERY FUNDS**

This Memorandum of Agreement (the "Agreement") is made by and between the State of Alabama Department of Finance, at 600 Dexter Avenue, Montgomery, Alabama 36130 (hereinafter referred to as "DOF"), and the University of Alabama at Birmingham Medicine, at 500 22nd St. S., Birmingham, AL 35233 (hereinafter referred to as "UABM"). DOF and UABM may be referred to herein individually as a "party" and collectively as the "parties." This Agreement becomes effective on the approval of the parties and the Governor of the State of Alabama.

**PURPOSE**

The federal American Rescue Plan Act of 2021, Public Law No. 117-2, 135 Stat. 4. ("ARPA") was signed into law on March 11, 2021. ARPA amended the federal Social Security Act to add Section 602 to the Social Security Act, and by doing so, created the Coronavirus State Fiscal Recovery Fund (hereinafter referred to as "the State Recovery Fund"). ARPA appropriated funds from the State Recovery Fund to the State of Alabama and other states to support their response to the impact of COVID-19 on their communities, residents, and businesses; and to aid in efforts to contain COVID-19. Under Section 602 of the Social Security Act, the State Recovery Fund funds may be used to cover costs obligated on or before December 31, 2024 and incurred by the State on or before December 31, 2026, for four broad purposes:

- A. To respond to the COVID-19 public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits; or for aid to impacted industries;
- B. To respond to workers performing essential work during the COVID-19 public health emergency, by providing premium pay to eligible workers who are performing essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
- C. For the provision of government services to the extent of the reduction in revenue of the State due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
- D. To make necessary investments in water, sewer, or broadband infrastructure.

The Secretary of the Treasury promulgated regulations for the purposes of implementing the FRF. On April 1, 2022, the Final Rule, published in the January 27, 2022, Federal Register, at 87 Fed. Reg. 4338 (the "Final Rule"), took effect. The Final Rule was later supplemented by the Interim Final Rule, published in the September 30, 2023, Federal Register, at 88 Fed. Reg.

64986, and the Obligation Interim Final Rule, published in the November 20, 2023, Federal Register, at 88 Fed. Reg. 80584. (Final Rule, Interim Final Rule, and Obligation Interim Final Rule, as supplemented by later Treasury Final or Interim Final Rules, collectively referred to as "Final Rules").

The State of Alabama was allocated \$2,120,279,417 from the federal State Recovery Fund. Alabama Act No. 2023-1 (the "Act"), Section 1(a)(6) appropriates up to \$9,000,000 of such funds to DOF to be used to support the delivery of health care and related services to citizens of Alabama related to the coronavirus pandemic, including to facilitate the expansion and use of telemedicine, including the facilitation and expansion of healthcare specializations in rural and community hospitals through telemedicine affiliations with hospitals or health systems in rural and educational settings (hereinafter referred to as the "Funds").

The DOF desires to utilize \$1,500,000 of the Funds to support the programs of UABM in support of the expansion and use of telemedicine in accordance with Appendix A (hereinafter referred to as the "Project"), attached hereto and incorporated herein by reference.

Notwithstanding any other provision of this Agreement, the Parties acknowledge and agree that UABM is a "Subrecipient" as that term is defined in Code of Federal Regulations, Title 2, §200.1. As such, UABM is responsible for complying with all federal requirements for Recipients, including the Single Audit Act and the provisions of Code of Federal Regulations, Title 2, Part 200, subpart F regarding audit and procurement requirements. As used in this Agreement, "obligate" or "obligated" shall have the meaning prescribed in the Final Rules, specifically, "An order placed for property and services and entering into contracts, subawards, and similar transactions that require payment." See 31 CFR 35.3.

The proposed utilization of the Funds has been presented to DOF by UABM, and DOF has concluded that the proposed utilization of the Funds is necessary to ensure an adequate response to and mitigation of the COVID-19 pandemic and public health emergency in Alabama and the economic impacts thereof. Further, DOF concludes that funding this project using the Funds is an appropriate use thereof under both federal and state law. DOF fully supports UABM in its effort to support the citizens of Alabama.

## **PARTIES' RESPONSIBILITY**

UABM agrees to the following:

1. To use the Funds to carry out the objectives of the Project as set forth in this Agreement and in Appendix A and for no other purpose;
2. To comply with all federal requirements applicable to Recipients, including the Single Audit Act and Code of Federal Regulations, Title 2, Part 200, subpart F regarding audit requirements;
3. To provide to the State Finance Director's Office by March 10, 2024, and monthly thereafter on the 10th of every month, a report detailing how the Funds are being utilized and details of expenditures made since the preceding report, and further provide

quarterly reports beginning on April 10, 2024 (and quarterly thereafter) interim reports as the State Finance Director's Office may determine necessary;

4. To use the Funds provided by DOF under this Agreement in accordance with Section 602 of the Social Security Act, the Final Rules and other federal and state law, and for the purposes set forth in this Agreement, and for no other purpose;
5. To return any Funds provided by DOF under this Agreement that remain unobligated on June 1, 2024 by June 30, 2024;
6. To provide to the State Finance Director's Office on June 1, 2025 and June 1, 2026, reports setting forth the expenditure status of all obligated Funds, to include the anticipated status of funds between the date of the report and the final return date set forth below; and
7. To return any Funds provided by DOF under this Agreement that remain unspent on June 1, 2026 by December 1, 2026.

DOF agrees to the following:

1. To provide, within fourteen (14) days of the effective date of this Agreement, \$1,500,000 to UABM from the State's Funds appropriated pursuant to Alabama Act 2023-1 for the purposes described in this Agreement and for no other purpose; and
2. To make all reports to the federal government required by ARPA.

## **FINANCIAL ARRANGEMENTS**

The parties agree that within fourteen (14) days of the effective date of this Agreement, DOF will provide and advance \$1,500,000 to UABM under this Agreement towards the Project. UABM acknowledges that all Funds provided under this Agreement must be obligated by June 1, 2024 or returned to DOF by June 30, 2024 and spent by June 1, 2026 or returned to DOF by December 1, 2026. Reimbursements or invoice payments may not occur after that date.

## **OUTSIDE CONSULTANTS**

UABM may employ outside professional consultants to assist with executing the project; however, the consultants must be reasonable in amount and comply with audit requirements for use of the Funds under the Act.

## **TERMINATION OF AGREEMENT**

Except as set forth in this section, this Agreement may be terminated only in a writing signed by each party or representative of each party. If DOF concludes, after a reasonable investigation and in its sole discretion as administrator of the Funds, that the Funds provided

hereunder have been used in a manner inconsistent with federal or state law, DOF may terminate this Agreement immediately upon written notice to UABM.

#### **MISCELLANEOUS PROVISIONS**

- A. The terms and commitments contained herein shall not constitute a debt of the State of Alabama, which is prohibited by the Constitution of Alabama, 2022, Art. XI, Sec. 213.
- B. By signing this Agreement, the parties affirm, for the duration of the Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the state of Alabama. A contracting party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom. As required by Section 31-13-9, verification of enrollment in the E-Verify program will be required prior to any grant to a subrecipient who employs one or more employees within the State of Alabama. To enroll in the E-Verify program visit <https://www.e-verify.gov/>
- C. In the event of any dispute between the parties, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail, and the dispute involves the payment of money, the sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama. For any and all other disputes arising under the terms of this Agreement which are not resolved by negotiation, the parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing, where appropriate, mediators selected from the roster of mediators maintained by the Center for Dispute Resolution of the Alabama State Bar.
- D. In order to comply with federal notice requirements relating to the administration of grants and other federal assistance funds, DOF provides the following information to UABM: this award is provided to UABM through a grant to the State of Alabama in the amount of \$2,120,279,417 from the United States Treasury via Section 602 of the Social Security Act, as added by Public Law No. 117-2, known as the American Rescue Plan Act of 2021 ("ARPA"), which established the Coronavirus State Fiscal Recovery Fund. This award is provided in accordance with the requirements set forth in ARPA and other applicable federal and state law and policy, and UABM affirms that all information it has provided to DOF relating to this award is true and accurate. This award does not include research and development. The parties acknowledge and understand that each recipient of the Funds will be evaluated in accordance with Code of Federal Regulations, Title 2, § 200.331(b) for risk of noncompliance with federal statutes, regulations, and the terms and conditions of the award. Further, each recipient's activities will be monitored as necessary to ensure that the award is used for authorized purposes, in compliance with law, and that award performance goals are achieved. Other monitoring tools may be implemented on the level of risk imposed by the recipient.
- E. Code of Federal Regulations, Title 2, § 200.331(f) requires DOF to verify that each recipient that is expected to expend \$750,000 or more in Federal awards during a fiscal year have a single or program-specific audit conducted for that year in accordance with the

provisions of Code of Federal Regulations, Title 2, § 200.501. The parties acknowledge that DOF has provided notice to UABM of the audit requirements applicable to the award made by this Agreement and UABM agrees to comply therewith.

- F. Ala. Code § 41-16-82 requires a Disclosure Statement to be completed and filed with all proposals, bids, contracts, or grant proposals to the State of Alabama in excess of \$5,000.
- G. The recipient, grantee, contractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement.
- H. Notwithstanding any other provision of this Agreement, the Parties acknowledge and agree that UABM is a "Subrecipient" as that term is defined in the Code of Federal Regulations, Title 2, §200.1. As such, UABM is responsible for complying with all federal requirements for Subrecipients, including all applicable procurement and competitive bidding requirements, the Single Audit Act, and the provisions of Code of Federal Regulations, Title 2, Part 200, subpart F regarding audit requirements. As used in this Agreement, "obligate" or "obligated" shall have the meaning prescribed in the Final Rules, specifically, "An order placed for property and services and entering into contracts, subawards, and similar transactions that require payment." See 31 CFR 35.3. The parties acknowledge and agree that this subaward is a "grant" as defined in the state's procurement code at Ala. Code § 41-4-114. Pursuant to Ala. Code § 41-4-112(3), the state's procurement code does not apply to grants. Therefore, the state's procurement code (Code of Alabama 1975, Title 41, Article 5) is inapplicable to this subaward. However, federal procurement requirements apply to purchases made with this subaward. UABM, as a subrecipient of the State and as a non-federal entity, must follow the procurement standards enumerated in 2 CFR 200.318 through 200.327.

#### **AMENDMENT OF AGREEMENT**


This Agreement may only be amended by a writing signed by each party of representatives of each party.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by those officers, officials duly authorized to execute such agreements.

**State of Alabama**  
**Department of Finance**

**University of Alabama Birmingham Medicine**

 2/21/2024  
\_\_\_\_\_  
Bill Poole Date  
Director of Finance

DocuSigned by:  
Louis Branner 2/20/2024 | 5:03 PST  
ID: A746E24B48F... Date  
TITLE

**APPROVED:**

Kay Ivey 2/28/2024  
Date  
Kay Ivey  
Governor of Alabama