EXHIBIT "A"

SUBRECIPIENT AGREEMENT BETWEEN CITY OF JOPLIN, MISSOURI, AND MISSOURI-AMERICAN WATER COMPANY FOR WATER PROJECTS

THIS SUBRECIPIENT AGREEMENT is made and entered into this _____ day of _____, 2023, hereinafter referred to as "the Effective Date," by and between the City of Joplin, Missouri, a Missouri Municipal Corporation, hereinafter referred to as "City," and Missouri-American Water Company, a Missouri Corporation, hereinafter referred to as "Subrecipient," and with City and Subrecipient being referred to collectively as "the Parties."

WHEREAS, on March 11, 2021, the American Rescue Plan Act ("ARPA") was enacted to provide support to state and local governments to respond to the financial impacts of the COVID-19 pandemic; and

WHEREAS, the State and Local Fiscal Recovery Funds ("SLFRF funds") authorized under ARPA are to be used to mitigate the ongoing effects of COVID-19 and support the nation's pandemic recovery; and

WHEREAS, the City has received SLFRF funds to respond to the continuous impact of COVID-19 as outlined in the Final Rule promulgated by the Department of Treasury ("Treasury"); and

WHEREAS, Treasury has issued guidance for the use of SLFRF funds (31 CFR Part 35 and may be found at: https://www.govinfo.gov/content/pkg/FR-2022-01-27/pdf/2022-00292.pdf) and will continue to issue guidance and clarification on the appropriate use of these funds; and

WHEREAS, the City and Subrecipient find that SLFRF funds distributed in accordance with this Agreement shall meet the eligible uses outlined in the Treasury's Final Rule, and additional guidance; and

WHEREAS, the City and Subrecipient find that the program(s) or project(s) and related expenditures outlined in this Agreement is/are eligible under current SLFRF funds guidance and rules promulgated by the U.S. Treasury and find that the program(s) or project(s) outlined herein will mitigate the ongoing effects of COVID-19 and support pandemic recovery in the City of Joplin, Missouri.

NOW, THEREFORE, in exchange for valuable consideration each received from the other, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

1. GENERAL OVERVIEW AND WATER PROJECT DEFINITIONS

The City has in good faith determined that this Agreement serves a public purpose. This public purpose includes, but is not limited to, Subrecipient's efforts to meet the additional needs and services of the community, specifically providing critical support or public interest benefits to local residents as follows:

This Agreement will provide funding for critical infrastructure improvements to public water systems serving the community.

Additional Scope of Services is set forth in Appendix A, which is attached hereto and incorporated as if copied in full.

The Program or Project Budget is set forth in Appendix B, which is attached hereto and incorporated as if copied in full.

2. RESPONSIBILITIES OF SUBRECIPIENT

Subrecipient's responsibilities under this Agreement include but are not limited to the following:

Subrecipient is responsible for funding costs of design of the infrastructure improvements and such costs will be reimbursable.

Subrecipient is responsible for construction of the improvements.

Subrecipient will own the improvements and be responsible for future maintenance and repair.

Subrecipient will be responsible for funding any project costs in excess of the sum set forth in paragraph 3 of this Agreement.

If Subrecipient does not enter into a contract for construction of any individual project improvement by December 31, 2024, Subrecipient shall not be entitled to funding for any costs associated with the project. In such an event, Subrecipient shall have no obligation to proceed with construction of the improvement.

Any costs funded by Subrecipient after December 31, 2026 shall not be eligible for reimbursement under this Agreement.

3. PAYMENT

The City shall make available an amount of up to **$5,000,000.00 (FIVE MILLION DOLLARS)** to Subrecipient from the City's SLFRF funds awarded by the State. The Parties acknowledge and agree that the City's SLFRF funds awarded by the State are provided on a match basis, and Subrecipient shall be solely responsible for providing all of the matching funds, in an amount of up to **$5,000,000.00 (FIVE MILLION DOLLARS)**. The City's SLFRF funds awarded by the State shall be used to reimburse Subrecipient for expenses related to eligible uses of SLFRF funds as outlined in the Treasury's Final Rule, reflected in Appendix B, and in accordance with the terms and conditions outlined below:

The City will approve and pay reimbursement requests within thirty (30) days of receipt of a complete request. Errors in the reimbursement request, including insufficient documentation, may result in payment delays. Subrecipient is responsible for submitting a complete and accurate reimbursement request. Payment is considered made on the date postmarked.

Each reimbursement request must contain the following supporting documentation:

a. Signed Request for Reimbursement (RFR) form;
b. Invoices of all expenditures (including both grant and matching funds); and
c. Proof of payment of all expenditures (including both grant and matching funds).

Subrecipient acknowledges and agrees that City's obligation to reimburse Subrecipient will be limited to the amount of funds approved and paid by the State.

4. TERM/TERMINATION

This Agreement shall become effective upon signature by both Parties and shall continue in full force and effect until December 31, 2026 unless terminated earlier in accordance with this Agreement. If at any time City's state contract/grant is suspended or revoked, or if Subrecipient becomes excluded, debarred, or suspended from any federal program, this Agreement automatically terminates effective on the date of the suspension, revocation, or exclusion, and Subrecipient must submit a final, formal statement in the manner set out above and below requesting payment.

The City may immediately terminate this Agreement, without prior notice, if Subrecipient fails to perform any obligation found herein and the failure:

a. Creates a potential threat to health or safety: or
b. Violated a law, ordinance, or regulation designed to protect health or safety.

Either party may terminate this Agreement without cause giving ninety (90) days written notice to the other party. Upon receipt of notice to terminate, Subrecipient shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders to contracts are chargeable to this Agreement.

Within ninety (90) days after receipt of a notice of termination, Subrecipient agrees to submit an invoice showing, in detail, the services performed under this Agreement up to and including the date of termination.

5. STANDARDS FOR FINANCIAL MANAGEMENT

In accordance with 2 CFR 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Subrecipient will develop, implement and maintain financial management and control systems, which include at a minimum accurate payroll, accounting and financial reporting records, cost source documentation, effective internal and budgetary controls, and determination of reasonableness, allowability and allocability of costs, and timely and appropriate audits and resolution findings.

Subrecipient shall maintain an effective accounting system, which will:

a. Identify and record valid transactions;
b. Record transactions to the proper accounting period in which transactions occurred;
c. Describe transactions in sufficient detail to permit proper classification;
d. Maintain records that establishes that the funds have been used in compliance with contract requirements;
e. Adequately identify the source and application of funds of each grant contract; and
f. Generate current and accurate financial reports in accordance with contract requirements.

6. MONITORING

Subrecipient agrees that City will, until the expiration of the federal retention period as referenced in 2 CFR 200.334, have access to and the right to examine at reasonable times any directly pertinent books, papers, and records (hard copy, as well as computer generated data) of the subrecipient involving transactions related to this Agreement. This right to audit also extends to any obligations assigned to any subcontracts or agreements formed between Subrecipient and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of Subrecipient's obligations to City under this Agreement. Subrecipient agrees that City will have access during normal working hours to all necessary facilities, staff, and workspace to conduct audits. City will provide the Subrecipient with reasonable advance notice of intended audits. Subrecipient must provide records within ten (10) business days or a mutually agreed upon timeline. Subrecipient may withhold any information that it is mandated to withhold to comply with state or federal law.

7. ALLOWABLE COSTS

City payment to Subrecipient does not preclude City from determining that certain costs were ineligible, in accordance with federal and/or state grant rules and regulations, for reimbursement. If City determines that a cost City has paid for is ineligible for reimbursement, Subrecipient will refund the ineligible amount to City. City will determine whether costs submitted by Subrecipient are allowable and eligible for reimbursement. If City has paid funds to Subrecipient for unallowable or ineligible costs, City will notify Subrecipient in writing, and Subrecipient shall return the funds to City within thirty (30) calendar days of the date of this written notice. City may withhold all or part of any payments to Subrecipient to offset reimbursement for any unallowable or ineligible expenditure that Subrecipient has not refunded to City, or if required financial report(s) are not submitted by the due date(s).

8. DOCUMENTATION

Subrecipient shall keep and maintain, for a period not less than five (5) years after December 31, 2026, any and all records relating to use of the SLFRF FUNDS described herein.

9. MISCELLANEOUS

A. Amendments. The covenants and obligations herein contained are the full and complete terms of this Agreement, and no alteration, amendments, or changes to such terms shall be binding unless first reduced to writing and executed with the same formality as this Agreement.

B. Assignment. This Agreement, including payment hereunder, shall not be sub-let, assigned, or otherwise disposed of, except with the prior written consent of City.

C. Choice of Law and Venue. This Agreement has been made, and its validity, performance and effect shall be determined, in accordance with the laws of the State of Missouri and venue for litigation between the parties shall be solely and exclusively in Jasper County, Missouri.

D. Compliance with laws. Subrecipient shall observe and comply with all Federal, State, and local laws and ordinances that affect those employed or engaged by it on the project, or the material or equipment used, or the conduct of the work, and shall procure all necessary licenses, permits, and insurance.

E. Consequential Damages. In no event shall City be liable to Subrecipient for special, indirect, or consequential damages.

F. Entire Agreement. This Agreement (including any Exhibits) contains the entire understanding of the parties with respect to the subject matter hereof. It may not be altered or amended except by an agreement in writing signed by both parties.

G. Guards and Lights. Subrecipient agrees that during the performance of said work, it will maintain proper guards for the prevention of accidents and put up and maintain suitable and sufficient lights.

H. Headings. The headings of paragraphs in this Agreement are for convenience only. The headings form no part of this Agreement and shall not affect its interpretation.

I. Indemnification. To the fullest extent permitted by law, Subrecipient agrees to defend with counsel selected by City, and indemnify and hold harmless City, its officers, engineers, representatives, agents, and employees from and against any and all liabilities, damages, losses, claims, or suits, including costs and attorneys' fees, for or on account of any kind of injury to person, bodily or otherwise, or death, or damage to or destruction of property, or any other circumstances, sustained by City or others, arising from breach or enforcement of this Agreement or out of services and operations to the extent negligently performed hereunder by Subrecipient, or claims relating thereto, and including but not limited to City's reliance on or use of the services or products provided by Subrecipient under the terms of this agreement.

J. Insurance. Subrecipient shall secure and maintain at its own cost and expense, throughout the duration of this Agreement, insurance of such types, including but not limited to Worker's Compensation Insurance, Commercial General Liability Insurance, and Automobile Liability Insurance, and in such amounts as may be necessary to protect it against all hazards or risks of loss as hereunder specified or which may arise out of the performance of this Agreement. Such policies shall name City as an additional insured for causes of actions and claims arising out of Contractor's services related to the exceptions to sovereign immunity expressly set forth in Section 537.600.1(1) and (2), RSMo., with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo. (See, http://insurance.mo.gov/industry/sovimmunity.php). The foregoing shall not be construed as a waiver of sovereign immunity.

K. Non-Discrimination. Subrecipient agrees in the performance of this Agreement not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Subrecipient or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

L. Notices. All notices required or permitted hereinunder and required to be in writing may be given by first class mail addressed to City and Subrecipient at the addresses as follows:

City of Joplin, Missouri	Missouri-American Water Company
602 S. Main St.	727 Craig Rd
Joplin, MO 64801	St. Louis, MO 63141
Attn: City Attorney	Attn: Legal Department

The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing.

M. Payment for Labor and Materials. Subrecipient agrees and binds itself to pay for all labor done, and for all the materials used in the construction of the work to be completed pursuant to this contract.

N. Prevailing Wage. Subrecipient shall comply with applicable State provisions concerning the payment of prevailing wages on public works projects. Accordingly, all workers performing work under the Contract shall be paid not less than the prevailing hourly rate of wages, when required and as determined by the Department of Labor and Industrial Relations of the State of Missouri (or "MoDOLIR").

O. Representations. The signatories hereto represent and warrant that they have read this Agreement, that they are fully authorized in the capacities shown, that they understand the terms of this Agreement, and that they are executing the same voluntarily and solely for the consideration described herein.

P. Safety Training. Subrecipient shall require all on-site employees to complete a ten-hour Occupational Safety and Health Administration (OSHA) construction safety program provided by Subrecipient which includes a course in construction safety and health approved by OSHA or a similar program approved by MoDOLIR which is at least as stringent as an approved OSHA program, as required under Subsection 292.675.2 RSMo. All employees are required to complete the program within sixty days of beginning work under this Agreement. Subrecipient shall also require all subcontractors under Subrecipient to provide the ten-hour training program required under Subsection 292.675.2 RSMo. to such subcontractors' on-site employees. On-site employees who have previously completed such ten-hour training program must hold documentation of prior completion of the program.

Notice is hereby given to Subrecipient that it shall be subject to the penalties set forth in Subsection 292.675.4 RSMo. and such penalties shall be forfeited to City pursuant to such Subsection. MoDOLIR shall investigate any claim of violation of Section 292.675 RSMo. Upon City's receipt of notification from MoDOLIR of violations of 292.675 by Subrecipient and a determination by MoDOLIR that penalties shall be assessed for such violations, City shall withhold and retain from the Contract all sums and amounts due and owing to the City as a result of any violation of Section 292.675 RSMo. All words in this paragraph shall have the definitions as provided in Section 292.675.1 RSMo.

Q. Severability. If any of the provisions of this Agreement shall be construed to be invalid or illegal, the legality or validity of the other provisions of this Agreement shall not be affected thereby. Any illegal or invalid provision of this Agreement shall be severable and any other provisions shall remain in full force and effect.

R. Subcontractors. Subrecipient shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Subrecipient is for the acts and omissions of persons it directly employs. Subrecipient shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Subrecipient by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Subrecipient the same power regarding termination of any subcontract as City may exercise over Subrecipient under any provisions of this Agreement. Nothing contained

in this Agreement shall create any contractual relation between the subcontractor and City or between any subcontractors.

S. Unauthorized Aliens. That pursuant to Missouri Revised Statute Sections 285.525 through 285.555, if this contract exceeds the amount of $5,000.00 and Subrecipient is associated with a business entity, Subrecipient shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Subrecipient must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

T. Waiver. Waiver of any provision of this Agreement or breach of this Agreement shall not thereafter be deemed to be a consent by the waiving party to any further waiver, modification or breach by the other party, whether new or continuing, of the same or any other covenant, condition or provision of this Agreement. Failure by one of the parties to this Agreement to assert its rights for any breach of this Agreement shall not be deemed a waiver of such rights.

IN WITNESS WHEREOF, the Parties have hereunto set their hands the date first above written.

CITY OF JOPLIN, MISSOURI

_____
Nick Edwards, City Manager

ATTEST:

_____
Holly Nagy, City Clerk

MISSOURI-AMERICAN WATER COMPANY

_____
By:
Its: authorized representative

APPENDIX A - Scope of Services

Infrastructure improvements to community water systems including without limitation, any one or more of the following:

- Zora Street Water Main Installation to Hwy 249
- County Road 180 Water Main Installation
- 7th Street Water Main Installation

APPENDIX B - Program or Project Budget/Allowable Expenses

Budget category	Total Estimated ARPA Eligible Costs
Construction for any one or more of the following public infrastructure improvements:	
• Zora Street Water Main Installation to Hwy 249	$1,987,536
• County Road 180 Water Main Installation	$4,259,005
• 7th Street Water Main Installation	$4,022,393