

Escambia County  
Clerk's Original  
4/4/2024 CAR II-24

State of Florida  
Department of Commerce

Federally Funded  
Community Development Block Grant  
Disaster Recovery (CDBG-DR) Rebuild Florida  
Infrastructure Repair Program  
Subrecipient Agreement

THIS SUBRECIPIENT AGREEMENT is entered into by the State of Florida, Department of Commerce ("Commerce" or "Grantee"), and Escambia County, a political subdivision of the State of Florida ("Subrecipient"), each individually a "Party" and collectively "the Parties."

THIS SUBRECIPIENT AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

**WHEREAS**, pursuant to the authority of the Disaster Relief Supplemental Appropriations Act, 2022 (Pub. L. 117-43) approved September 30, 2021 ("Appropriations Act"), the requirements of the Appropriations Act and implementing regulations at 24 CFR 570, and the requirements of the Federal Register (FN) notice, 87 FR 6364 (Docket No. FR-6303-N-01) (February 3, 2022), and 87 FR 31636 (Docket No. FR-6326-N-01) (May 24, 2022) ("Federal Register Guidance"), as now in effect and as may be amended from time to time, and as modified by waivers, alternative requirements, and other requirements described in the Federal Register notices published as of this date or in the future, the U.S. Department of Housing and Urban Development (HUD) has awarded Community Development Block Grant - Disaster Recovery (CDBG-DR) funds to Commerce for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. §§ 5301, *et seq.*) and described in the 2022 State of Florida Action Plan for Disaster Recovery, as now in effect and as may be amended from time to time ("Action Plan"); and

**WHEREAS**, CDBG-DR funds made available for use by Subrecipient under this Subrecipient Agreement constitute a subaward of the Grantee's Federal award, the use of which must be in accordance with requirements imposed by Federal statutes, regulations, and the terms and conditions of Commerce's Federal award; and

**WHEREAS**, Subrecipient has legal authority to enter into this Subrecipient Agreement and by signing this Subrecipient Agreement, Subrecipient represents and warrants to Commerce that it will comply with all the requirements of the subaward described herein; and

**WHEREAS**, the aggregate use of CDBG-DR funds shall principally benefit low- and moderate-income persons in a manner that ensures at least 70 percent of the grant amount awarded under this Subrecipient Agreement is expended for activities that benefit such persons.

**NOW THEREFORE**, Commerce and Subrecipient agree to the following:

Verified By:   
Date: 4/19/2024

**(1) Scope of Work.** The Scope of Work for this Subrecipient Agreement includes **Attachment A**, Scope of Work. With respect to **Attachment B**, Project Budget, and **Attachment C**, Activity Work Plan, Subrecipient shall submit to Commerce such Attachments in conformity with the current examples attached hereto as necessary and appropriate. Provided further, if there is a disagreement between the Parties, with respect to the formatting and contents of such attachments, then Commerce's decisions with respect to same shall prevail, at Commerce's sole and absolute discretion.

**(2) Incorporation of Laws, Rules, Regulations and Policies.** Subrecipient agrees to abide by all applicable State and Federal laws, rules, and regulations, as now in effect and as may be amended from time to time, including, but not limited to, the Federal laws and regulations set forth in 24 CFR 570, applicable Federal Register Notices, and the State's Action Plan, and all applicable CDBG-DR regulations and guidelines.

Subrecipient shall ensure that all its activities under this Subrecipient Agreement shall be conducted in conformance with these provisions, as applicable: 45 CFR 75, 29 CFR 95, 2 CFR 200, 20 CFR 601, 24 CFR 570, Subpart I, *et seq.*, and all other applicable federal laws, regulations, and policies governing the funds provided under this Subrecipient Agreement as now in effect and as may be amended from time to time.

**(3) Period of Agreement.** This Subrecipient Agreement begins upon the date last executed by the Parties (the "Effective Date") and ends June 30, 2027, unless otherwise terminated as provided in this Subrecipient Agreement. Commerce shall not grant any extension of this Subrecipient Agreement unless Subrecipient provides justification satisfactory to Commerce in its sole discretion, and Commerce's Director of the Division of Community Development approves such extension.

**(4) Modification of Agreement.** Modifications to this Subrecipient Agreement shall be valid only when executed in writing by the Parties. Any modification request by Subrecipient constitutes a request to negotiate the terms of this Subrecipient Agreement. Commerce may accept or reject any proposed modification based on Commerce's sole determination and absolute discretion, that any such acceptance or rejection is in the State's best interest.

**(5) Records.**

- (a) Subrecipient's performance under this Subrecipient Agreement shall be subject to 2 CFR 200 – Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards as now in effect and as may be amended from time to time.
- (b) Representatives of Commerce, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability, and representatives of the Federal government and their duly authorized representatives shall have access to any of Subrecipient's books, documents, papers and records, including electronic storage media, as they may relate to this Subrecipient Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions.
- (c) Subrecipient shall maintain books, records and documents in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by Commerce under this Subrecipient Agreement.
- (d) Subrecipient will provide to Commerce all necessary and appropriate financial and compliance audits in accordance with Paragraph (6), Audit Requirements, and **Attachments I and J** herein and ensure that all related party transactions are disclosed to the auditor.
- (e) Subrecipient shall retain sufficient records to show its compliance with the terms of this Subrecipient Agreement and the compliance of all subrecipients, contractors, subcontractors and consultants paid from funds under this Subrecipient Agreement for a period of six (6) years from the date Commerce issues the final closeout for this award.. Subrecipient shall also comply with the provisions of 24 CFR 570.493 and 24 CFR 570.502(a)(7)(ii). Subrecipient shall further ensure that audit working papers are available upon

request for a period of six (6) years from the date Commerce issues the final closeout of this Subrecipient Agreement, unless extended in writing by Commerce. The six-year period may be extended for the following reasons:

1. Litigation, claim, or audit initiated before the six-year period expires or extends beyond the six-year period, in which case the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
  2. Records for the disposition of non-expendable personal property valued at \$1,000 or more at the time of acquisition shall be retained for six (6) years after final disposition.
  3. Records relating to real property acquired shall be retained for six (6) years after the closing on the transfer of title.
- (f) Subrecipient shall maintain all records and supporting documentation for Subrecipient and for all contractors, subcontractors, and consultants paid from funds provided under this Subrecipient Agreement, including documentation of all program costs in a form sufficient to determine compliance with the requirements and objectives of the scope of work and all other applicable laws and regulations.
- (g) Subrecipient shall either: (i) maintain all funds provided under this Subrecipient Agreement in a separate bank account; or (ii) ensure that Subrecipient's accounting system shall have sufficient internal controls to separately track the expenditure of all funds from this Subrecipient Agreement. Provided further, that the only option available for advanced funds is to maintain such advanced funds in a separate bank account. There shall be no commingling of funds provided under this Subrecipient Agreement with any other funds, projects or programs. Commerce may, in its sole discretion, disallow costs made with commingled funds and require reimbursement for such costs as described herein, Subparagraph (21)(e), Repayments.
- (h) Subrecipient, including all of its employees or agents, contractors, subcontractors, and consultants to be paid from funds provided under this Subrecipient Agreement, shall allow access to its records at reasonable times to representatives of Commerce, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability or representatives of the Federal government or their duly authorized representatives. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

**(6) Audit Requirements.**

- (a) Subrecipient shall conduct a single or program-specific audit in accordance with the provisions of 2 CFR 200 if it expends seven hundred fifty thousand dollars (\$750,000) or more in Federal awards from all sources during its fiscal year.
- (b) Within sixty (60) calendar days of the close of Subrecipient's fiscal year, on an annual basis, Subrecipient shall electronically submit a completed Audit Compliance Certification to [audit@Commerce.fl.gov](mailto:audit@Commerce.fl.gov), and Commerce's grant manager; a blank version of which is attached hereto as Attachment J. Subrecipient's timely submittal of one completed Audit Compliance Certification for each applicable fiscal year will fulfill this requirement within all agreements (e.g., contracts, grants, memorandums of understanding, memorandums of agreement, economic incentive award agreements, etc.) between Commerce and Subrecipient.
- (c) In addition to the submission requirements listed in **Attachment I**, Audit Requirements, Subrecipient shall send an electronic copy of its audit report to Commerce's grant manager for this Subrecipient Agreement by June 30 following the end of each fiscal year in which it had an open CDBG-DR subgrant.
- (d) Subrecipient shall also comply with the Federal Audit Clearinghouse rules and directives, including but not limited to the pertinent Report Submissions provisions of 2 CFR 200.512, when such provisions are applicable to this Subrecipient Agreement.

**(7) Reports.**

Subrecipient shall provide Commerce with all reports and information set forth in **Attachment G**, Reports. The monthly, quarterly and administrative closeout reports must include the current status and progress of



Subrecipient and all subcontractors in completing the work described in the Scope of Work, **Attachment A**, and the expenditure of funds under this Subrecipient Agreement. Monthly and quarterly reports are due no later than close of business on the 5<sup>th</sup> of each month. Also, within 5 calendar days of a request by Commerce, Subrecipient shall provide additional program updates or information. Without limiting any other remedy available to Commerce, if all required reports and copies are not sent to Commerce or are not completed in a manner acceptable to Commerce, payments may be withheld until the reports are completed to Commerce's satisfaction. Commerce may also take other action as stated in Paragraph (12) Remedies or otherwise allowable by law.

**(8) Inspections and Monitoring.**

- (a) Subrecipient shall cooperate and comply with Commerce, HUD, and auditors with any inspections and will immediately provide access to records and financial statements as deemed necessary by Commerce, HUD, and their respective auditors at least in accordance with requirements of 2 CFR 200 and 24 CFR 570.489.
- (b) Subrecipient shall cooperate and comply with monitoring of its activities as deemed necessary by Commerce to ensure that the subaward is used for authorized purposes in compliance with federal statutes, regulations, and this Subrecipient Agreement.
- (c) Without limiting the actions Commerce, HUD, or their respective investigators may take, monitoring procedures will include at a minimum: (1) reviewing financial and performance reports required by the Grantee, (2) following-up and ensuring that Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to Subrecipient from the Grantee as detected through audits, on-site reviews, and other means, and (3) issuing a management decision for audit findings pertaining to this Federal award provided to Subrecipient from the Grantee as required by 2 CFR 200.521.
- (d) Corrective Actions: Commerce may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits Commerce may require Subrecipient to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to Subrecipient from the pass-through entity as detected through audits, on-site reviews and other means. In response to audit deficiencies or other findings of noncompliance with this Subrecipient Agreement, Commerce may in its sole discretion and without advance notice, impose additional conditions on the use of the CDBG-DR funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance. Commerce may also take other action as stated in Paragraph (12) Remedies or otherwise allowable by law.

**(9) Duplication of Benefits.**

Subrecipient shall not carry out any of the activities under this Subrecipient Agreement in a manner that results in a prohibited duplication of benefits as defined by section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. §§ 5155, *et seq.*) and described in Appropriations Acts. Subrecipient must comply with HUD's requirements for duplication of benefits, as described in the Federal Register and HUD guidance (including HUD training materials). Subrecipient shall carry out the activities under this Subrecipient Agreement in compliance with Commerce's procedures to prevent a duplication of benefits. Subrecipient shall sign a Subrogation Agreement (*See Attachment M*).

**(10) Liability.**

- (a) If Subrecipient is a state agency or subdivision, as defined in section 768.28(2), Florida Statutes, pursuant to section 768.28(19), Florida Statutes, neither Party indemnifies nor insures or assumes any liability for the other Party for the other Party's negligence.
- (b) Subrecipient assumes sole responsibility for the training and oversight of the parties it deals with or employs to carry out the terms of this Subrecipient Agreement to the extent set forth in section 768.28(19), Florida Statutes. Subrecipient shall defend, indemnify, and hold Commerce harmless against all claims of whatever nature arising from the work and services performed by third parties under this Subrecipient



Agreement. For purposes of this Subrecipient Agreement, Subrecipient agrees that it is not an employee or agent of Commerce, but is an independent contractor.

- (c) Subrecipient agrees to be fully responsible for its negligent or tortious acts or omissions, which result in claims or suits against Commerce. Subrecipient shall defend, indemnify, and hold Commerce harmless against any damages proximately caused by the acts or omissions to the tort monetary limits as set forth in section 768.28, Florida Statutes. Nothing herein shall be construed as consent by Commerce or the State of Florida to be sued by third parties in any matter arising out of any agreement, contract, or subcontract.
- (d) Nothing herein is intended to serve as a waiver of sovereign immunity by Commerce or Subrecipient.

#### (11) Events of Default.

If any of the following events occur ("Events of Default"), Commerce may, in its sole and absolute discretion, elect to terminate any obligation to make any further payment of funds, exercise any of the remedies set forth in Paragraph (12) Remedies or pursue any remedy at law or in equity, without limitation:

- (a) Any warranty or representation made by Subrecipient, in this Subrecipient Agreement or any previous agreement with Commerce, is or becomes false or misleading in any respect, or if Subrecipient fails to keep or perform any of the obligations, terms, or covenants in this Subrecipient Agreement or any previous agreement with Commerce or HUD, and/or has not cured them in timely fashion and/or is unable or unwilling to meet its obligations under this Subrecipient Agreement and/or as required by statute, rule, or regulation;
- (b) Any material adverse change occurs in the financial condition of Subrecipient at any time during the term of this Subrecipient Agreement and Subrecipient fails to cure this adverse change within thirty (30) calendar days from the date written notice is sent by Commerce;
- (c) Subrecipient fails to submit any required report or submits any required report with incorrect, incomplete, or insufficient information or fails to submit additional information as requested by Commerce; or
- (d) Subrecipient fails to perform or timely complete any of its obligations under this Subrecipient Agreement, including participating in Commerce's Implementation Workshop.

The Parties agree that in the event Commerce elects to make payments or partial payments after any Events of Default, it does so without waiving the right to exercise any remedies allowable herein or at law and without becoming liable to make any further payment.

Neither Party shall be liable to the other for any delay or failure to perform under this Subrecipient Agreement if such delay or failure is neither the fault nor the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. However, in the event of delay from the foregoing causes, the Party shall take all reasonable measures to mitigate any and all resulting delay or disruption in the Party's performance obligation under this Subrecipient Agreement. If the delay is excusable under this paragraph, the delay will not result in any additional charge or cost under the Subrecipient Agreement to either Party. In the case of any delay Subrecipient believes is excusable under this paragraph, Subrecipient shall notify Commerce in writing of the delay or potential delay and describe the cause of the delay either: (1) within ten (10) calendar days after the cause that creates or will create the delay first arose, if Subrecipient could reasonably foresee that a delay could occur as a result; or (2) within five (5) calendar days after the date Subrecipient first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. **THE FOREGOING SHALL CONSTITUTE SUBRECIPIENT'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. Commerce, in its sole discretion, will determine if the delay is excusable under this paragraph and will notify Subrecipient of its decision in writing. No claim for damages, other than an extension of time, shall be asserted against Commerce. Subrecipient shall not be entitled to an increase in the Subrecipient Agreement

price or payment of any kind from Commerce for direct, indirect, consequential, impact or other costs, expenses or damages, including, but not limited to, costs of acceleration or inefficiency arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, Subrecipient shall perform at no increased cost, unless Commerce determines, in its sole discretion, that the delay will significantly impair the value of the Subrecipient Agreement to Commerce or the State, in which case, Commerce may do any or all of the following: (1) accept allocated performance or deliveries from Subrecipient, provided that Subrecipient grants preferential treatment to Commerce with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by Subrecipient for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Subrecipient Agreement quantity or (3) terminate the Subrecipient Agreement in whole or in part.

**(12) Remedies.**

If an Event of Default occurs, Commerce may in its sole discretion and without limiting any other right or remedy available, provide thirty (30) calendar days written notice to Subrecipient, and if Subrecipient fails to cure within those thirty (30) calendar days Commerce, may choose to exercise one or more of the following remedies, either concurrently or consecutively:

- (a) Terminate this Subrecipient Agreement upon written notice by Commerce sent in conformity with Paragraph (16) Notice and Contact;
- (b) Begin any appropriate legal or equitable action to enforce performance of this Subrecipient Agreement;
- (c) Withhold or suspend payment of all or any part of a request for payment;
- (d) Demand Subrecipient return to Commerce any funds used for ineligible activities or unallowable costs under this Subrecipient Agreement or any applicable law, rule or regulation governing the use of the funds;
- (e) Exercise any corrective or remedial actions, including, but not limited to:
  1. Requesting additional information from Subrecipient to determine the reasons for or the extent of non-compliance or lack of performance; and/or
  2. Issuing a written warning to advise that more serious measures may be taken if the situation is not corrected; and/or
  3. Advising Subrecipient to suspend, discontinue or refrain from incurring costs for any activities in question; and/or
- (f) Exercise any other rights or remedies which may be otherwise available under law.

Pursuit of any of the above remedies does not preclude Commerce from pursuing any other remedies in this Subrecipient Agreement or provided at law or in equity. Failure to exercise any right or remedy in this Subrecipient Agreement or failure by Commerce to require strict performance does not affect, extend or waive any other right or remedy available or affect the later exercise of the same right or remedy by Commerce for any other default by Subrecipient.

**(13) Dispute Resolution.**

Commerce shall decide disputes concerning the performance of the Subrecipient Agreement, and document dispute decisions in writing and serve a copy of same on Subrecipient. All decisions are final and conclusive unless Subrecipient files a petition for administrative hearing with Commerce within twenty-one (21) days from the date of receipt of the decision. Exhaustion of administrative remedies prescribed in Chapter 120, Florida Statutes, is an absolute condition precedent to Subrecipient's ability to pursue any other form of dispute resolution; provided however, that the Parties may mutually agree to employ the alternative dispute resolution procedures outlined in Chapter 120, Florida Statutes.

**(14) Citizen Complaints.** The goal of Commerce is to provide an opportunity to resolve citizen complaints in a timely manner, usually within fifteen (15) business days of the receipt of the complaint as expected by HUD, if practicable, and to provide the right to participate in the process and appeal a decision when there is reason for an applicant to believe its application was not handled according to program policies. All applications, guidelines and websites will include details on the right to file a complaint or appeal and the process for filing a complaint or beginning an appeal.

The Subrecipient will handle citizen complaints by:

- (a) Conducting investigations, as necessary;
- (b) Finding a resolution; or
- (c) Conducting follow-up actions.

Program Appeals

Applicants may appeal program decisions related to one of the following activities:

- (a) A program eligibility determination;
- (b) A program assistance award calculation; or
- (c) A program decision concerning housing unit damage and the resulting program outcome.

Citizens may file a written complaint or appeal with the Office of Long-Term Resiliency by email at [CDBG-DR@Commerce.fl.gov](mailto:CDBG-DR@Commerce.fl.gov) or by mail to the following address:

Attention: Office of Long-Term Resiliency  
Florida Department of Commerce  
107 East Madison Street  
The Caldwell Building, MSC 420  
Tallahassee, Florida 32399

HUD Complaints

If the complainant is not satisfied by the Subrecipient's determination or Commerce's response then the complainant may file a written appeal by following the instructions issued in the letter of response. If the complainant has not been satisfied with the response at the conclusion of the complaint or appeals process, a formal complaint may then be addressed directly to the regional Department of Housing and Urban Development (HUD) at:

Department of Housing & Urban Development  
Charles E. Bennet Federal Building  
400 West Bay Street, Suite 1015  
Jacksonville, FL 32202

Fair Housing Complaints

The Florida Office of Long-Term Resiliency operates in Accordance with the Federal Fair Housing Law (The Fair Housing Amendments Act of 1988). Anyone who believes he or she has been discriminated against may file a complaint of housing discrimination: 1-800-669-9777 (Toll Free), 1-800-927-9275 (TTY) or [www.hud.gov/fairhousing](http://www.hud.gov/fairhousing).

**(15) Termination.**

- (a) Commerce may immediately suspend or terminate this Subrecipient Agreement for cause by providing written notice, from the date notice is sent by Commerce. Cause includes, but is not limited to; an Event of Default as set forth in this Subrecipient Agreement: Subrecipient's improper or ineffective use of funds



provided under this Subrecipient Agreement; fraud; lack of compliance with any applicable rules, regulations, statutes, executive orders, HUD guidelines, policies, directives or laws; failure, for any reason, to timely and/or properly perform any of Subrecipient's obligations under this Subrecipient Agreement; submission of reports that are incorrect or incomplete in any material respect and refusal to permit public access to any document, paper, letter or other material subject to disclosure under law, including Chapter 119, Florida Statutes, as amended. The aforementioned reasons for termination are listed in the immediately preceding sentence for illustration purposes but are not limiting Commerce's sole and absolute discretion with respect to Commerce's right to terminate this Subrecipient Agreement. In the event of suspension or termination, Subrecipient shall not be entitled to recover any cancellation charges or unreimbursed costs.

- (b) Commerce may unilaterally terminate this Subrecipient Agreement, in whole or in part, for convenience by providing Subrecipient fourteen (14) days written notice from the date notice is sent by Commerce, setting forth the reasons for such termination, the effective date and, in the case of partial termination, the portion to be terminated. However, if in the case of partial termination, Commerce determines that the remaining portion of the award will not accomplish the purpose for which the award was made, Commerce may terminate the portion of the award which will not accomplish the purpose for which the award was made. Subrecipient shall continue to perform any work not terminated. In the event of termination for convenience, Subrecipient shall not be entitled to recover any cancellation charges or unreimbursed costs for the terminated portion of work.
- (c) The Parties may terminate this Subrecipient Agreement for their mutual convenience in writing, in the manner agreed upon by the Parties, which must include the effective date of the termination.
- (d) In the event that this Subrecipient Agreement is terminated, Subrecipient shall not incur new obligations under the terminated portion of the Subrecipient Agreement after the date Subrecipient has received the notification of termination. Subrecipient shall cancel as many outstanding obligations as possible. Commerce shall disallow all costs incurred after Subrecipient's receipt of the termination notice. Commerce may, to the extent authorized by law, withhold payments to Subrecipient for the purpose of set-off until the exact amount of damages due to Commerce from Subrecipient is determined.
- (e) Upon expiration or termination of this Subrecipient Agreement Subrecipient shall transfer to Commerce any CDBG-DR funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG-DR funds.
- (f) Any real property under Subrecipient's control that was acquired or improved in whole or in part with CDBG-DR funds (including CDBG-DR funds provided to subrecipient in the form of a loan) in excess of \$25,000 must either:
  - 1. Be used to meet a national objective until five years after expiration or termination of this Subrecipient Agreement, unless otherwise agreed upon by the Parties, or except as otherwise set forth herein; or
  - 2. If not used to meet a national objective, Subrecipient shall pay to Commerce an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG-DR funds for the acquisition or improvement of the property for five years after expiration or termination of this Subrecipient Agreement.
- (g) The rights and remedies under this clause are in addition to any other rights or remedies provided by law or under this Subrecipient Agreement.

**(16) Notice and Contact.**

(a) All notices provided under or pursuant to this Subrecipient Agreement shall be in writing, either by hand delivery, first class or certified mail with return receipt requested, email with confirmation of receipt of email from Subrecipient, to the representative identified below at the address set forth below or said notification attached to the original of this Subrecipient Agreement.

(b) The name and address of Commerce’s Grant Manager for this Subrecipient Agreement is:

Angela Lewis  
107 E. Madison Street, MSC 400  
Tallahassee, Florida 32399  
Ph: (850) 921-3270  
Angela.Lewis@Commerce.fl.gov

(c) The name and address of the Local Government Project Contact for this Subrecipient Agreement is:

Elizabeth Kissel  
221 Palafox Place  
Pensacola, Florida 32502  
(850) 595-3935  
ekissel@MyEscambia.com

(d) If different representatives or addresses are designated by either Party after execution of this Subrecipient Agreement, notice of the name, title, and address of the new representative will be provided to the other Party to this Subrecipient Agreement. Such change shall not require a formal amendment of the Subrecipient Agreement.

**(17) Contracts.**

If Subrecipient contracts any of the work required under this Subrecipient Agreement, a copy of the proposed contract and any proposed amendments, extensions, revisions, or other changes thereto, must be forwarded to the Commerce grant manager for prior written approval. For each contract, Subrecipient shall report to Commerce as to whether that contractor or any subcontractors hired by the contractor, is a minority vendor, as defined in section 288.703, Florida Statutes. Subrecipient shall comply with the procurement standards in 2 CFR 200.318 - 200.327 and 200.330 when procuring property and services under this Subrecipient Agreement (refer to **Attachments D & E**).

Subrecipient shall include the following terms and conditions in any contract pertaining to the work required under this Subrecipient Agreement:

- (a) the period of performance or date of completion;
- (b) the performance requirements;
- (c) that the contractor is bound by the terms of this Subrecipient Agreement;
- (d) that the contractor is bound by all applicable State and Federal laws, rules, and regulations;
- (e) that the contractor shall hold Commerce and Subrecipient harmless against all claims of whatever nature arising out of the contractor’s performance of work under this Subrecipient Agreement;
- (f) the obligation of Subrecipient to document in Subrecipient’s reports the contractor’s progress in performing its work under this Subrecipient Agreement; and
- (g) the requirements of 2 CFR Appendix II to Part 200 – Contract Provision for Non-Federal Entity Contract Under Federal Awards – (refer to **Attachment L**)

Subrecipient must comply with CDBG regulations regarding debarred or suspended entities 24 CFR 570.489(1), pursuant to which CDBG funds must not be provided to excluded or disqualified persons and provisions addressing bid, payment, performance bonds, if applicable, and liquidated damages.

Subrecipient shall maintain oversight of all activities performed under this Subrecipient Agreement and shall ensure that its contractors perform according to the terms and conditions of the procured contracts or agreements and the terms and conditions of this Subrecipient Agreement.

**(18) Terms and Conditions.**

This Subrecipient Agreement contains all the terms and conditions agreed upon by the Parties. There are no provisions, terms, conditions, or obligations other than those contained in this Subrecipient Agreement; and this Subrecipient Agreement supersedes all previous understandings. No waiver by Commerce may be effective unless made in writing by an authorized Commerce official.

**(19) Attachments.**

(a) If any inconsistencies or conflict between the language of this Subrecipient Agreement and the attachments arise, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

(b) This Subrecipient Agreement contains the following attachments:

- Attachment A – Scope of Work
- Attachment B – Project Budget (Example)
- Attachment C – Activity Work Plan (Example)
- Attachment D – Program and Special Conditions
- Attachment E – State and Federal Statutes, Regulations and Policies
- Attachment F – Civil Rights Compliance
- Attachment G – Reports
- Attachment H – Warranties and Representations
- Attachment I – Audit Requirements
  - Exhibit 1 to Attachment I – Funding Sources
- Attachment J – Audit Compliance Certification
- Attachment K – SERA Access Authorization Form
- Attachment L – 2 CFR Appendix II to Part 200
- Attachment M – Subrogation Agreement

**(20) Funding/Consideration.**

(a) The funding for this Subrecipient Agreement shall not exceed *Twenty-Six Million, Three Hundred Ninety-Six Thousand, Seven Hundred Sixty-Eight Dollars and Zero Cents* (\$26,396,768.00), subject to the availability of funds. The State of Florida and Commerce's performance and obligation to pay under this Subrecipient Agreement is contingent upon annual appropriations by the Legislature and subject to any modification in accordance with Chapter 216, Florida Statutes or the Florida Constitution.

(b) Commerce will provide funds to Subrecipient by issuing a Notice of Subgrant Award/Fund Availability ("NFA") through Commerce's financial management information system. Each NFA may contain specific terms, conditions, assurances, restrictions, or other instructions applicable to the funds provided by the NFA. By accepting funds made available through an NFA, Subrecipient agrees to comply with all terms, conditions, assurances, restrictions, or other instructions listed in the NFA.



- (c) By execution of this Subrecipient Agreement, Subrecipient certifies that necessary written administrative procedures, processes, and fiscal controls are in place for the operation of its CDBG-DR program for which Subrecipient receives funding from Commerce. These written administrative procedures, processes, and fiscal controls must, at minimum, comply with applicable state and federal law, rules, regulations, guidance and the terms of this Subrecipient Agreement. Subrecipient agrees to comply with all the terms and conditions of **Attachment D**, Program and Special Conditions.
- (d) Subrecipient shall expend funds only for allowable costs and eligible activities, in accordance with the Scope of Work.
- (e) Subrecipient shall request all funds in the manner prescribed by Commerce. The authorized signatory for Subrecipient set forth on the SERA Access Authorization Form, **Attachment K**, to this Subrecipient Agreement, must approve the submission of each Request for Funds (“RFF”) on behalf of Subrecipient.
- (f) Except as set forth herein, or unless otherwise authorized in writing by Commerce, costs incurred for eligible activities or allowable costs prior to the Effective Date of this Subrecipient Agreement are ineligible for funding with CDBG-DR funds.
- (g) If the necessary funds are not available to fund this Subrecipient Agreement as a result of action by the United States Congress, the Federal Office of Management and Budget, the Florida Legislature, the State Chief Financial Officer or under Subparagraph (22), Mandated Conditions of this Subrecipient Agreement, all obligations on the part of Commerce to make any further payment of funds will terminate and Subrecipient shall submit its administrative closeout report and subgrant agreement closeout package as directed by Commerce within thirty (30) calendar days from receipt of notice from Commerce.
- (h) Subrecipient is ultimately responsible for the administration of this Subrecipient Agreement, including monitoring and oversight of any person or entity retained or hired by Subrecipient.
- (i) All expenditures under this Subrecipient Agreement shall be made in accordance with this Subrecipient Agreement and any applicable state or federal statutes, rules, or regulations.
- (j) Funding for this Subrecipient Agreement is appropriated under Public Law 117-43, Division I, the “The Disaster Relief Supplemental Appropriations Act, 2022” for the purpose of assisting in long-term recovery from major disasters that occurred in 2022 in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121, et seq., (the “Stafford Act”).
- (k) CDBG-DR funds, appropriated and identified by Public Law, are governed by one or more Federal Register notices that contain requirements, applicable waivers, and alternative requirements that apply to the use of these funds.

**(21) Repayments.**

- (a) Subrecipient shall only expend funding under this Subrecipient Agreement for allowable costs resulting from obligations incurred during the Subrecipient Agreement period. Subrecipient shall ensure that its contractors, subcontractors, and consultants only expend funding under this Subrecipient Agreement for allowable costs resulting from obligations incurred during the Subrecipient Agreement period.
- (b) In accordance with section 215.971, Florida Statutes, Subrecipient shall refund to Commerce any unobligated funds which have been advanced or paid.
- (c) Subrecipient shall refund to Commerce any funds paid in excess of the amount to which Subrecipient or its contractors, subcontractors or consultants are entitled under the terms and conditions of this Subrecipient Agreement.
- (d) Subrecipient shall refund to Commerce any funds received for an activity if the activity does not meet one of the three National Objectives listed in 24 CFR 570.483(b), (c), and (d); provided, however, Subrecipient is not required to repay funds for subgrant administration unless Commerce, in its sole discretion, determines Subrecipient is at fault for the ineligibility of the activity in question.
- (e) Subrecipient shall refund to Commerce any funds not spent in accordance with the conditions of this Subrecipient Agreement or applicable law. Such reimbursement shall be sent to Commerce, by

Subrecipient, within thirty (30) calendar days from Subrecipient's receipt of notification of such non-compliance.

- (f) In accordance with section 215.34(2), Florida Statutes, if a check or other draft is returned to Commerce for collection, Subrecipient shall pay to Commerce a service fee of \$15.00 or five percent of the face amount of the returned check or draft, whichever is greater. All refunds or repayments to be made to Commerce under this Subrecipient Agreement are to be made payable to the order of "Department of Commerce" and mailed directly to Commerce at the following address:

Department of Commerce  
Community Development Block Grant Programs Cashier  
107 East Madison Street – MSC 420  
Tallahassee, Florida 32399-6508

**(22) Mandated Conditions.**

- (a) The validity of this Subrecipient Agreement is subject to the truth and accuracy of all the information, representations and materials submitted or provided by Subrecipient in this Subrecipient Agreement, in any later submission or response to a Commerce request or in any submission or response to fulfill the requirements of this Subrecipient Agreement. All of said information, representations and materials are incorporated herein by reference.
- (b) This Subrecipient Agreement shall be construed under the laws of the State of Florida and venue for any actions arising out of this Subrecipient Agreement shall be in the Circuit Court of Leon County. The Parties explicitly waive any right to jury trial.
- (c) If any provision of this Subrecipient Agreement is in conflict with any applicable statute or rule, or is unenforceable, then that provision shall be null and void only to the extent of the conflict or unenforceability, and that provision shall be severable from and shall not invalidate any other provision of this Subrecipient Agreement.
- (d) Any power of approval or disapproval granted to Commerce under the terms of this Subrecipient Agreement shall survive the term of this Subrecipient Agreement.
- (e) This Subrecipient Agreement may be executed in any number of counterparts, any one of which may be taken as an original.
- (f) Subrecipient shall comply with all applicable local, state and federal laws, including the Americans With Disabilities Act of 1990, as amended (P.L. 101-336, 42 U.S.C. § 12101, *et seq.*); the Florida Civil Rights Act, as amended, Chapter 760, Florida Statutes; Title VII of the Civil Rights Act of 1964, as amended; (P.L. 101-336, 42 U.S.C. § 12101, *et seq.*) and laws which prohibit discrimination by public and private entities on in employment, public accommodations, transportation, state and local government services and telecommunications.
- (g) Pursuant to section 287.133(2)(a), Florida Statutes, a person or affiliate, as defined in section 287.133(1), Florida Statutes, who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of thirty-five thousand dollars (\$35,000) for a period of thirty-six (36) months following the date of being placed on the convicted vendor list. By executing this Subrecipient Agreement, Subrecipient represents and warrants that neither it nor any of its affiliates is currently on the convicted vendor list. Subrecipient shall disclose if it or any of its affiliates is placed on the convicted vendor list.
- (h) Pursuant to section 287.134(2)(a), Florida Statutes, an entity or affiliate, as defined in section 287.134(1), Florida Statutes, who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal,

or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity. By executing this Subrecipient Agreement, Subrecipient represents and warrants that neither it nor any of its affiliates is currently on the discriminatory vendor list. Subrecipient shall disclose if it or any of its affiliates is placed on the discriminatory vendor list.

- (i) All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.
- (j) In the event travel is pre-approved by Commerce, any bills for travel expenses shall be submitted and reimbursed in accordance with section 112.061, Florida Statutes, the rules promulgated thereunder and 2 CFR 200.474.
- (k) If Subrecipient is allowed to temporarily invest any advances of funds under this Subrecipient Agreement, any interest income shall either be returned to Commerce or be applied against Commerce's obligation to pay the Subrecipient Agreement award amount.
- (l) Subrecipient hereby acknowledges that Subrecipient is subject to Florida's Government in the Sunshine Law (Section 286.011, Florida Statutes) with respect to the meetings of Subrecipient's governing board or the meetings of any subcommittee making recommendations to the governing board. Subrecipient hereby agrees that all such aforementioned meetings shall be publicly noticed, open to the public, and the minutes of all the meetings shall be public records made available to the public in accordance with Chapter 119, Florida Statutes.
- (m) Subrecipient shall comply with section 519 of P. L. 101-144, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990; and section 906 of P.L. 101-625, the Cranston-Gonzalez National Affordable Housing Act, 1990, by having, or adopting within ninety (90) days of execution of this Subrecipient Agreement, and enforcing, the following:
  - 1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
  - 2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.
- (n) Upon expiration or termination of this Subrecipient Agreement, Subrecipient shall transfer to Commerce any CDBG-DR funds remaining at the time of expiration or termination and any accounts receivable attributable to the use of CDBG-DR funds.

**(23) Lobbying Prohibition.**

- (a) No funds or other resources received from Commerce under this Subrecipient Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.
- (b) Subrecipient certifies, by its signature to this Subrecipient Agreement, that:
  - 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of Subrecipient, 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 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;
  - 2. 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, Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and



3. Subrecipient shall require that this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose as described in this Subrecipient Agreement. 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 is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

**(24) Copyright, Patent and Trademark.**

Any and all patent rights accruing under or in connection with the performance of this Subrecipient Agreement are hereby reserved to the State of Florida. Any and all copyrights accruing under or in connection with the performance of this Subrecipient Agreement are hereby transferred by Subrecipient to the State of Florida.

- (a) If Subrecipient has a pre-existing patent or copyright, Subrecipient shall retain all rights and entitlements to that pre-existing patent or copyright unless this Subrecipient Agreement expressly provides otherwise.
- (b) If any discovery or invention is developed in the course of or as a result of work or services performed under this Subrecipient Agreement or in any way connected with it, Subrecipient shall refer the discovery or invention to Commerce for a determination whether the State of Florida will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Subrecipient Agreement are reserved to the State of Florida. If any books, manuals, films, or other copyrightable material are produced, Subrecipient shall notify Commerce. Any copyrights accruing under or in connection with the performance under this Subrecipient Agreement are transferred by Subrecipient to the State of Florida.
- (c) Within thirty (30) calendar days after the Effective Date of this Subrecipient Agreement, Subrecipient shall disclose all intellectual properties relating to the performance of this Subrecipient Agreement which give rise to a patent or copyright. Subrecipient shall retain all rights and entitlements to any pre-existing intellectual property which is so disclosed. Failure to disclose will indicate that no such property exists, and Commerce shall have the right to all patents and copyrights which accrue during performance of the Subrecipient Agreement.

**(25) Legal Authorization.**

- (a) Subrecipient certifies that it has the legal authority to receive the funds under this Subrecipient Agreement and that its governing body has authorized the execution and acceptance of this Subrecipient Agreement. Subrecipient certifies that the undersigned person has the authority to legally execute and bind Subrecipient to the terms of this Subrecipient Agreement. Commerce may, at its discretion, request documentation evidencing the undersigned has authority to bind Subrecipient to this Subrecipient Agreement as of the date of execution; any such documentation is incorporated herein by reference.
- (b) Prior to the execution of this Subrecipient Agreement Subrecipient warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, investigation, or any other legal or financial condition that would in any way prohibit, restrain, or diminish Subrecipient's ability to satisfy its obligations. Subrecipient shall immediately notify Commerce in writing if its ability to perform is compromised in any manner during the term of the Subrecipient Agreement.

**(26) Public Record Responsibilities.**

- (a) In addition to Subrecipient's responsibility to directly respond to each request it receives for records, in conjunction with this Subrecipient Agreement and to provide the applicable public records in response to such request, Subrecipient shall notify Commerce of the receipt and content of all such requests by sending an email to [PRRequest@Commerce.fl.gov](mailto:PRRequest@Commerce.fl.gov) within one (1) business day from receipt of the request.
- (b) Subrecipient shall keep and maintain public records required by Commerce to perform Subrecipient's responsibilities hereunder. Subrecipient shall, upon request from Commerce's custodian of public

- records, provide Commerce with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law. Subrecipient shall allow public access to all documents, papers, letters, or other materials made or received by Subrecipient in conjunction with this Subrecipient Agreement, unless the records are exempt from Article I, section 24(a) of the Florida Constitution and section 119.07(1), Florida Statutes. For records made or received by Subrecipient in conjunction with this Subrecipient Agreement, Subrecipient shall respond to requests to inspect or copy such records in accordance with Chapter 119, Florida Statutes. For all such requests for records that are public records, as public records are defined in section 119.011, Florida Statutes, Subrecipient shall be responsible for providing such public records per the cost structure provided in Chapter 119, Florida Statutes, and in accordance with all other requirements of Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) This Subrecipient Agreement may be terminated by Commerce for refusal by Subrecipient to comply with Florida's public records laws or to allow public access to any public record made or received by Subrecipient in conjunction with this Subrecipient Agreement.
  - (d) If, for purposes of this Subrecipient Agreement, Subrecipient is a "contractor" as defined in section 119.0701(1)(a), Florida Statutes ("Subrecipient-contractor"), Subrecipient-contractor shall transfer to Commerce, at no cost to Commerce, all public records upon completion including termination, of this Subrecipient Agreement or keep and maintain public records required by Commerce to perform the service. If Subrecipient-contractor transfers all public records to the public agency upon completion of the Subrecipient Agreement, Subrecipient-contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Subrecipient-contractor keeps and maintains public records upon completion of the Subrecipient Agreement, Subrecipient-contractor shall meet all applicable requirements for retaining public records in accordance with Chapters 119 and 257, Florida Statutes. All records stored electronically must be provided to Commerce, upon request from Commerce's custodian of public records, in a format that is compatible with the information technology systems of Commerce.
  - (e) If Commerce does not possess a record requested through a public records request, Commerce shall notify Subrecipient-contractor of the request as soon as practicable, and Subrecipient-contractor must provide the records to Commerce or allow the records to be inspected or copied within a reasonable time, but in all cases within fourteen (14) business days. If Subrecipient-contractor does not comply with Commerce's request for records, Commerce shall enforce the provisions set forth in this Subrecipient Agreement. Subrecipient-contractor who fails to provide public records to Commerce within a reasonable time may be subject to penalties under section 119.10, Florida Statutes.
  - (f) Subrecipient shall notify Commerce verbally within twenty-four (24) hours and in writing within seventy-two (72) hours if any data in Subrecipient's possession related to this Subrecipient Agreement is subpoenaed or improperly used, copied or removed (except in the ordinary course of business) by anyone except an authorized representative of Commerce. Subrecipient shall cooperate with Commerce, in taking all steps as Commerce deems advisable, to prevent misuse, regain possession or otherwise protect the State's rights and the data subject's privacy.
  - (g) Subrecipient acknowledges that Commerce is subject to the provisions of Chapter 119, Florida Statutes, relating to public records and that reports, invoices and other documents Subrecipient submits to Commerce under this Subrecipient Agreement constitute public records under Florida Statutes. Subrecipient shall cooperate with Commerce regarding Commerce's efforts to comply with the requirements of Chapter 119, Florida Statutes.
  - (h) If Subrecipient submits records to Commerce that are confidential and exempt from public disclosure as trade secrets or proprietary confidential business information, such records should be identified as such by Subrecipient prior to submittal to Commerce. Failure to identify the legal basis for each exemption from the requirements of Chapter 119, Florida Statutes, prior to submittal of the record to Commerce serves as Subrecipient's waiver of a claim of exemption. Subrecipient shall ensure public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Subrecipient Agreement term and following completion of

the Subrecipient Agreement if Subrecipient-contractor does not transfer the records to Commerce upon completion, including termination, of this Subrecipient Agreement.

- (i) **IF SUBRECIPIENT-CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENT-CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS SUBRECIPIENT AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS by telephone at 850-245-7140, via email at [PRRequest@Commerce.fl.gov](mailto:PRRequest@Commerce.fl.gov), or by mail at Department of Commerce, Public Records Coordinator, 107 East Madison Street, Caldwell Building, Tallahassee, Florida 32399-4128.**
- (j) To the extent allowable by law, Subrecipient shall be fully liable for the actions of its agents, employees, partners, contractors and subcontractors and shall fully indemnify, defend, and hold harmless the State and Commerce, and their officers, agents and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to public record requests or public record law violation(s), alleged to be caused, in whole or in part, by Subrecipient, its agents, employees, partners, contractors or subcontractors, provided, however, that Subrecipient shall not be liable does not indemnify for that portion of any costs or damages proximately caused by the negligent act or omission of the State or Commerce. Commerce, in its sole discretion, has the right, but not the obligation, to enforce this indemnification provision.
- (k) Commerce does not endorse any Subrecipient, commodity, or service. Subject to Chapter 119, Florida Statutes, Subrecipient shall not publicly disseminate any information concerning this Subrecipient Agreement without prior written approval from Commerce, including, but not limited to, mentioning this Subrecipient Agreement in a press release or other promotional material, identifying Commerce or the State as a reference, or otherwise linking Subrecipient's name and either a description of the Subrecipient Agreement or the name of Commerce or the State in any material published, either in print or electronically, to any other entity that is not a Party to this Subrecipient Agreement, except potential or actual employees, agents, representatives or subcontractors with the professional skills necessary to perform the work services required by the Subrecipient Agreement.
- (l) Subrecipient shall comply with the requirements set forth in section 119.0701, Florida Statutes, when entering into any public agency contract for services after the Effective Date of this Subrecipient Agreement. If Subrecipient has not complied with the requirements set forth in section 119.0701, Florida Statutes, Subrecipient shall amend each of Subrecipient's public agency contracts for services already in effect as of the Effective Date of this Subrecipient Agreement and which contract will or may be funded in whole or in part with any public funds. Commerce may terminate this Subrecipient Agreement if Subrecipient does not comply with this provision.

**(27) Employment Eligibility Verification.**

- (a) E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. There is no charge to employers to use E-Verify. The Department of Homeland Security's E-Verify system can be found at: <https://www.e-verify.gov/>.
- (b) Section 448.095, Florida Statutes, requires the following:
1. Every public agency and its contractors and subcontractors shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public agency or a contractor or subcontractor thereof may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.
  2. An employer shall verify each new employee's employment eligibility within three (3) business days after the first day that the new employee begins working for pay as required under 8 CFR



274a. Beginning July 1, 2023, a private employer with 25 or more employees shall use the E-Verify system to verify a new employee's employment eligibility.

- (c) If an entity does not use E-Verify, the entity shall enroll in the E-Verify system prior to hiring any new employee or retaining any contract employee after the Effective Date of this Subrecipient Agreement.

**(28) Program Income.**

- (a) Subrecipient shall report to Commerce all program income (as defined at 24 CFR 570.500(a) or in the Federal Register Guidance governing the CDBG-DR funds) generated by activities carried out with CDBG-DR funds made available under this Subrecipient Agreement as part of Subrecipient's Quarterly Progress Report. Subrecipient shall use program income in accordance with the applicable requirements of 2 CFR 200, 24 CFR 570.504, and the terms of this Subrecipient Agreement.
- (b) Program income generated after closeout shall be returned to Commerce. Program income generated prior to closeout shall be returned to Commerce unless the program income is used to fund additional units of CDBG-DR activities, specified in a modification to this Subrecipient Agreement and duly executed prior to administrative closeout.

**(29) National Objectives.**

All activities funded with CDBG-DR funds must meet the criteria for one of the CDBG program's National Objectives. Subrecipient certifies that the activities carried out under this Subrecipient Agreement shall meet the following National Objectives and satisfy the following criteria:

- (a) Benefit to low- and moderate- income persons;
- (b) Aid in prevention or elimination of slums or blight; and
- (c) Meet a need having particular urgency (referred to as urgent need).

**(30) Independent Contractor.**

- (a) In Subrecipient's performance of its duties and responsibilities under this Subrecipient Agreement, it is mutually understood and agreed that Subrecipient is at all times acting and performing as an independent contractor. Nothing in this Subrecipient Agreement is intended to or shall be deemed to constitute an employer/employee relationship, partnership or joint venture between the Parties. Subrecipient shall at all times remain an independent contractor with respect to the services to be performed under this Subrecipient Agreement. Nothing in this Subrecipient Agreement shall be construed to create any agency or employment relationship between Commerce, Subrecipient, its employees, subcontractors or agents. Neither Party shall have any right, power or authority to assume, create or incur any expense, liability, or obligation, express or implied, on behalf of the other.
- (b) Subrecipient, its officers, agents, employees, subcontractors, or assignees, in performance of this Subrecipient Agreement shall act in the capacity of an independent contractor and not as an officer, employee, agent, joint venturer, or partner of the State of Florida.
- (c) Subrecipient shall have sole right to control the manner, method, and means by which the services required by this Subrecipient Agreement are performed. Commerce shall not be responsible to hire, supervise, or pay Subrecipient's employees. Neither Subrecipient, nor its officers, agents, employees, subcontractors, or assignees are entitled to State retirement or State leave benefits, or to any other compensation of State employment as a result of performing the duties and obligations of this Subrecipient Agreement.
- (d) Subrecipient agrees to take such actions as may be necessary to ensure that each subcontractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, employee, servant, joint venturer, or partner of the State of Florida.
- (e) Unless justified by Subrecipient, and agreed to by Commerce in the Scope of Work, Commerce will not furnish services of support (*e.g.*, office space, office supplies, telephone service, secretarial, or clerical support) to Subrecipient or its subcontractor or assignee.

Commerce Agreement No.: HS005

- (f) Commerce shall not be responsible for withholding taxes with respect to Subrecipient's use of funds under this Subrecipient Agreement. Subrecipient shall have no claim against Commerce for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, reemployment assistance benefits, or employee benefits of any kind. Subrecipient shall ensure that its employees, subcontractors and other agents, receive benefits and necessary insurance (health, workers' compensation, reemployment assistance benefits) from an employer other than the State of Florida.
- (g) Subrecipient, at all times during the Subrecipient Agreement, must comply with the reporting and Reemployment Assistance contribution payment requirements of Chapter 443, Florida Statutes.
- (h) Commerce shall not be responsible for providing any training to Subrecipient, its employees, assigns, agents, representatives, or subcontractors in the professional skills necessary to perform the work services required by this Subrecipient Agreement; Commerce may provide training in the form of an Implementation Workshop.

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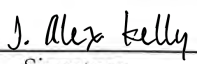
State of Florida  
Department of Commerce  
Federally Funded Subrecipient Agreement  
Signature Page

IN WITNESS THEREOF, and in consideration of the mutual covenants set forth above and in the attachments and exhibits hereto, the Parties executed this Subrecipient Agreement by their duly authorized undersigned officials.

ESCAMBIA COUNTY, FLORIDA

DEPARTMENT OF COMMERCE

By   
Signature  
Steven Barry

By   
Signature  
J. Alex Kelly

Title Chairman

Title Secretary

Date 4/4/2024

Date 5/7/2024

Federal Tax ID # 59-6000598

UEI # LLHWX867E5J6

ATTEST: Pam Childers  
Clerk of the Circuit Court

Approved as to form and legal sufficiency, subject only to full and proper execution by the Parties.



By:   
Deputy Clerk

OFFICE OF GENERAL COUNSEL  
DEPARTMENT OF COMMERCE

By: 

Approved Date: 5/6/2024

Approved as to form and legal sufficiency.

By/Title: Kristin D. Hual, DCA

Date: 03-27-2024



## Attachment A – Scope of Work

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### 1. PROGRAM DESCRIPTION:

On September 16, 2020, Hurricane Sally (DR-4564) swept over the Florida panhandle as a Category 2 hurricane, bringing heavy rainfall and flooding. The impacts of Hurricane Sally further demonstrated the need for an effective, comprehensive long-term recovery plan that would address and meet the remaining needs of Floridians following this catastrophic event. In the wake of this natural disaster, Florida came together to recover and rebuild, but significant unmet needs remain.

Recognizing this, Congress appropriated, and the U.S. Department of Housing and Urban Development (HUD) allocated a total of \$187 million in funding to support long-term recovery efforts following Hurricane Sally through the Florida Department of Commerce's (Commerce's) Community Development Block Grant Disaster Recovery (CDBG-DR) Program. Commerce has allocated \$110,990,384.82 of this funding for the Rebuild Florida Infrastructure Repair Program through the CDBG-DR Program.

Infrastructure activities that are eligible under the Rebuild Florida Infrastructure Repair Program include:

- Restoration of infrastructure damaged by Hurricane Sally (such as water and sewer facilities, streets, removal of debris, drainage, bridges, etc.);
- Demolition and/or rehabilitation of publicly or privately owned commercial or industrial buildings;
- Renourishment of protective coastal dunes systems and state beaches;
- Repairs to damaged buildings that are essential to the health, safety, and welfare of a community when repairs to these buildings constitutes an urgent need (this can include police stations, fire stations, parks and recreational centers, community and senior centers, hospitals, clinics, homeless shelters, schools and educational facilities, and other public properties, including properties serving as emergency shelters); and
- Repairs to water lines and systems, sewer lines and systems, drainage, and flood mitigation systems.

Mitigation activities that are eligible under the Rebuild Florida Infrastructure Repair Program include:

- Development of mitigation standards, regulations, policies, and programs;
- Land use/zoning policies;
- Strong statewide building code and floodplain management regulations;
- Dam safety programs, seawalls, and levee systems;
- Acquisition of flood prone and environmentally-sensitive lands;
- Retrofitting/hardening/elevating structures and critical facilities;
- Relocation of structures, infrastructure, and facilities out of vulnerable areas;
- Permanent relocation of residential housing and businesses located in high-risk areas through voluntary buyback programs, appropriate relocation assistance, and rebuilding in low-risk areas within the neighborhood or areas of opportunity;
- Public awareness/education campaigns; and
- Improvement of warning and evacuation systems.

## 2. PROJECT DESCRIPTION:

The County of Escambia has been awarded \$26,396,768.00 of CDBG-DR funding that will provide environmentally sound, comprehensive, and cost-effective solutions to stormwater challenges facing neighborhoods located within Low-Moderate Income areas. This project will improve stormwater infrastructure allowing these areas to be more resilient when faced with future events like Hurricane Sally. The neighborhoods and areas proposed for improvements as a part of this project are as follows:

➤ **PHS Drainage Improvements Phase I, II, III:**

The proposed project consists of constructing up to two (2) stormwater ponds with underground detention facilities at the apparent low point of Pensacola High School on the west side of the school access road that may be used as soccer fields by the Escambia County Schoolboard in the future. These improvements include storm sewer collection/conveyance systems for both the inflow and outflow systems associated with these ponds. This phase will also include the construction of all onsite swale collection system improvements along the west property line of the school.

➤ **Oakfield Acres / Palafox:**

Drainage Project area surrounding Palafox Street at Oakfield/ Kenmore/ Pacific/ Majors/ Pinestead to install a drainage system to mitigate flooding. Most of the infrastructure that was built with these developments involved overland stormwater flow in road swales and along the internal roadways. Over the years, these road swales have been filled in and are not allowing for adequate stormwater runoff as originally intended. The design will analyze the existing capacity of the downstream pipe system, address the current conditions of the conveyance system, and provide solutions to upgrade (when possible) the storm system to current drainage standards, within the Beverly Parkway Basin Study to include, Branches O, N, & P (in order of priority), with Q in parallel with other branches. Branch O would include a new stormwater pond located south of Majors Road with conveyance.

➤ **Carver Park Phase II:**

The proposed project includes the expansion to and or replacement/upsizing of the existing stormwater system components within the existing watershed with the aim of reducing the frequency, severity, and duration of localized flooding in a residential neighborhood located in the Carver area of Escambia County, Florida.

➤ **Monroe Avenue:**

The proposed project includes clearing of all hurricane debris and removal of the existing articulating blocks, performing of a flow analysis to determine if the recently constructed culverts are producing velocities that require additional erosion controls such as baffles. Moreover, the project includes the installation of articulating blocks with cable ties in the existing drainage ditch, as well as restabilizing and re-sodding the ditch.

➤ **Brickyard Road:**

Brickyard Road sustained damage from Hurricane Sally, which caused an existing culvert pipe running underneath Brickyard Road, the existing headwall, outfall system, and road to fail. The adjacent CSX Railroad track could sustain damage and/or flooding if drainage infrastructure on Brickyard Rd that was damaged by hurricane Sally isn't repaired.

➤ **Olive Road Street and Drainage Improvements:**

This project will provide environmentally sound, comprehensive, and cost-effective solutions to stormwater challenges facing neighborhoods located within Low-Moderate Income areas. This project will improve stormwater infrastructure allowing these areas to be more resilient when faced with future events like Hurricane Sally.

The proposed improvements to these neighborhoods and areas strongly emphasizes the grant's purpose to preserve low-income area while mitigating against future damage to make the community more resilient.

This project meets the "Restoration and Repair of infrastructure damaged by Hurricane Sally" Disaster Recovery eligible activity and is allocated \$20,436,768.00 in Disaster Recovery Funds. The project also meets the "Retrofitting/hardening/elevating structures and critical facilities" Mitigation Activity and is allocated \$5,960,000.00 for the mitigation set-aside.

This project will take place at multiple sites within Escambia County to provide infrastructure upgrades per the storm masterplan and associated basin studies.

- a) The County will directly oversee this project. Grant administration (project implementation), engineering, construction, and construction engineering inspection vendors may be procured to complete this agreement.
- b) The project will meet the Low- and Moderate-Income (LMI) National Objective.
- c) The County participates in the National Flood Insurance Program (NFIP).

The County will leverage \$10,490,000.00 towards this project. Any leverage funds associated with this agreement shall be fully expended prior to utilization of these CDBG-DR funds.

**3. SUBRECIPIENT RESPONSIBILITIES:**

- A. Complete and submit the following items to Commerce within thirty (30) calendar days of execution of the agreement:
  - 1) Organizational Chart with contact information;
  - 2) Job descriptions for Subrecipient's employees, contracted staff, vendors, and contractors. If staffing changes, there must be a submittal stating the names and job descriptions included with the monthly report.
  - 3) Attachment B, Project Budget – Develop and submit to Commerce a detailed budget for implementation of the project.
  - 4) Attachment C, Activity Work Plan - Develop and submit to Commerce a detailed timeline for implementation consistent with the milestones outlined in the Infrastructure Program Guidelines.

Should any changes to the organizational chart, Attachment B or Attachment C be deemed necessary, an updated plan must be submitted to Commerce with your monthly report for review and approval by the Commerce Grant Manager.

- B. Develop and submit a copy of the following policies and procedures to the Commerce Grant Manager for review and approval within thirty (30) calendar days of Agreement execution. The Commerce Grant Manager will provide approval in writing prior to the policies and procedures being implemented.
  - 1) Procurement policies and procedures that incorporate 2 C.F.R. Part 200.317-326.
  - 2) Administrative financial management policies, which must comply with all applicable HUD CDBG-DR and State of Florida rules.



- 3) Quality assurance and quality control system policies and procedures that comply with all applicable HUD CDBG-DR and Commerce policies.
  - 4) Policies and procedures to detect and prevent fraud, waste and abuse that describe how the subrecipient will verify the accuracy of monitoring policy indicating how and why monitoring is conducted, the frequency of monitoring policy, and which items will be monitored, and procedures for referring instances of fraud, waste and abuse to HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email [hotline@hudoig.gov](mailto:hotline@hudoig.gov)).
  - 5) Policies and procedures for the requirements under 2 C.F.R. 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award.
- C. Attend fraud related training offered by HUD OIG to assist in the proper management of the CDBG-DR grant funds when available.
  - D. Upload required documents into a system of record provided by Commerce.
  - E. Maintain organized subrecipient agreement files and make them accessible to Commerce or its representatives upon request.
  - F. Comply with all terms and conditions of the subrecipient agreement, Infrastructure Program Guidelines, Action Plans, Action Plan amendments, and Federal, State, and local laws.
  - G. Provide copies of all proposed procurement documents to Commerce ten (10) business days prior to posting as detailed in Attachment D of Subrecipient Agreement. The proposed procurement documents will be reviewed and approved by the Commerce Grant Manager. Should the procurement documents require revisions based on state or federal requirements, Subrecipient will be required to postpone procurement and submit revised documents for review and approval.
  - H. Provide the following information on a monthly and quarterly basis within five (5) calendar days after the end of each month/quarter: Monthly and Quarterly Reports as detailed in Attachment G.
  - I. Close out report will be due no later than sixty (60) calendar days after this Agreement ends or is otherwise terminated.
  - J. Subrecipient shall provide photographs to document progress and completion of tasks and final project.

#### 4. ELIGIBLE TASKS:

##### A. Deliverable No. 1 – Project Implementation

Tasks that are eligible for reimbursement are as follows:

- 1) Environmental review administrative activities (Environmental Exemption, Public Notice Publication(s), etc.).
- 2) Develop policies for the Recipient to adopt related to special conditions listed in this subgrant agreement.
- 3) Prepared procurement documents.
- 4) Prepared list of minority and women business enterprise (MBE/WBE) firms that operate in the Recipient's area.
- 5) Prepared and submitted public notices for publications.
- 6) Maintained financial records related to project activities on-site.
- 7) Conducted a Fair Housing activity.
- 8) Attended a pre-bid conference, bid opening, or preconstruction meeting.
- 9) Reviewed contractor payrolls and interviewed employees to determine compliance with Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland "Anti-Kickback" Act.
- 10) Maintain project files.
- 11) Attended meetings of the Recipient's local governing body to provide progress reports on subgrant activities.
- 12) Prepared documentation for and attend on-site monitoring visits by Commerce.

- 13) Prepared financial activity for submission to Commerce.
- 14) Prepared and submitted detailed monthly and quarterly reports to Commerce.
- 15) Prepared and submitted Section 3 reports to Commerce.
- 16) Responded to citizens' complaints.
- 17) Prepared subgrant modification document for submission to Commerce for review and approval.
- 18) Prepared responses to monitoring findings and concerns for Recipient to submit to Commerce or HUD.
- 19) Project Closeout, Engineer's Certification of Completion, Grant Closeout Package completed and submitted to Commerce.

**B. Deliverable No. 2 – Engineering Services**

Tasks that are eligible for reimbursement are as follows:

- 1) Create a full design package(s), signed and sealed by a Professional Engineer (PE) licensed in the State of Florida, including engineering drawings, specifications, construction cost estimate, surveys, and any other reports, documents, or information relevant to this project that meet all local current hurricane code ratings, local codes and building codes.
- 2) Obtain copies of all permit applications, correspondence with permitting agencies, final permits, and any other permit-related documentation for the project.
- 3) Conduct an Environmental Review/Assessment in accordance with HUD and Commerce Policies and the National Environmental Policy Act referenced in Attachment D.4.b of this Agreement and carry out any mitigation measures required as a result to the Environmental Review findings.

**C. Deliverable No. 3 – Construction**

Tasks that are eligible for reimbursement are as follows:

- 1) Site(s) preparation and/or mobilization;
- 2) Demolition;
- 3) Purchase of materials and installation of stormwater drainage/management and repairs;
- 4) Purchase of materials and repair/construction of roadside ditches;
- 5) Purchase of materials and repair/construction of conveyance system to include the curb and gutters; and
- 6) Construction engineering inspection(s)

**5. DELIVERABLES:** Subrecipient agrees to provide the following services as specified:

<b>Deliverable No. 1 – Project Implementation</b>		
<b>TASKS</b>	<b>MINIMUM LEVEL OF SERVICE</b>	<b>FINANCIAL CONSEQUENCES</b>
Subrecipient shall complete Project Implementation activities as identified in Section 4.A of this Scope of Work.	Subrecipient may request reimbursement upon completion of a minimum of one (1) Project Implementation task on a per completed task basis as detailed in Section 4.A of this Scope of Work; evidenced by invoice(s) noting completed tasks as well as payroll and other supporting documentation, as applicable.	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.

<b>Deliverable 1 Cost- \$1,319,838.40</b>		
<b>Deliverable No. 2 – Engineering Services</b>		
<b>TASKS</b>	<b>MINIMUM LEVEL OF SERVICE</b>	<b>FINANCIAL CONSEQUENCES</b>
Subrecipient shall complete Engineering Services tasks as detailed in Section 4.B of this Scope of Work.	Subrecipient may request reimbursement upon completion of a minimum of one (1) task in accordance with Section 4.B of this Scope of Work, evidenced by submittal of the following documentation: 1) Engineering design, working drawings and associated cost estimates, if applicable; 2) Copies of all required permits, if applicable; 3) Copy of Environmental Review/Assessment; and 4) Invoice package in accordance with Section 7 of this Scope of Work.	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.
<b>Deliverable 2 Cost- \$250,000.00</b>		
<b>Deliverable No. 3 – Construction</b>		
<b>TASKS</b>	<b>MINIMUM LEVEL OF SERVICE</b>	<b>FINANCIAL CONSEQUENCES</b>
Subrecipient shall complete Construction tasks as detailed in Section 4.C of this Scope of Work.	Subrecipient may request reimbursement upon completion of activities in accordance with Section 4.C of this Scope of Work in 5% increments evidenced by submittal of the following documentation: 1) AIA forms G702 and G703, or similar accepted Commerce form, completed by a licensed professional certifying to the percentage of project completion; 2) Photographs of project in progress and completed; and 3) Invoice package in accordance with Section 7 of this Scope of Work.	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.
<b>Deliverable 3 Cost- \$24,826,929.60</b>		
<b>Total Project Costs Not to Exceed \$26,396,768.00</b>		

**COST SHIFTING:**



The deliverable amounts specified within the Deliverables Section 5 table above are established based on the Parties' estimation of sufficient delivery of services fulfilling grant purposes under the Agreement in order to designate payment points during the Agreement Period; however, this is not intended to restrict Commerce's ability to approve and reimburse allowable costs Subrecipient incurred providing the deliverables herein. Prior written approval from Commerce's Grant Manager is required for changes to the above Deliverable amounts that do not exceed 25% of each deliverable total funding amount. Changes that exceed 25% of each deliverable total funding amount will require a formal written amendment request from Subrecipient, as described in **MODIFICATION** section of the Agreement. Regardless, in no event shall Commerce reimburse costs of more than the total amount of this Agreement.

#### **6. COMMERCE RESPONSIBILITIES:**

- A. Monitor the ongoing activities of Subrecipient to ensure all activities are being performed in accordance with the Agreement to the extent required by law or deemed necessary by Commerce in its discretion.
- B. Assign a Grant Manager as a point of contact for Subrecipient.
- C. Review Subrecipient's invoices described herein and process them on a timely basis.
- D. Commerce shall monitor progress, review reports, conduct site visits as Commerce determines necessary at Commerce's sole and absolute discretion, and process payments to Subrecipient.

#### **7. INVOICE SUBMITTAL:**

Commerce shall reimburse the Subrecipient in accordance with Section 5 of this Scope of Work. In accordance with the Funding Requirements of Section 215.971(1), Florida Statutes and Section (20) of this Agreement, the Subrecipient and its subcontractors may only expend funding under this Agreement for allowable costs resulting from obligations incurred during this Agreement period. To be eligible for reimbursement, costs must be in compliance with laws, rules and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures: (<https://myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/reference-guide-for-state-expenditures.pdf>).

- A. Subrecipient shall provide one invoice per month for services rendered during the applicable period of time as defined in the deliverable table. In any month no deliverable has been completed, the subrecipient will provide notice that no invoicing will be submitted.
- B. The following documents shall be submitted with the itemized invoice:
  - 1) A cover letter signed by Subrecipient's Agreement Manager certifying that the costs being claimed in the invoice package: (1) are specifically for the project represented to the State in the budget appropriation; (2) are for one or more of the components as stated in Section 5, DELIVERABLES, of this SCOPE OF WORK; (3) have been paid; and (4) were incurred during this Agreement.
  - 2) Subrecipient's invoices shall include the date, period in which work was performed, amount of reimbursement, and work completed to date.
  - 3) A certification by a licensed professional using AIA forms G702 and G703, or their substantive equivalents, certifying that the project, or a quantifiable portion of the project, is complete, as appropriate to the deliverable.
  - 4) Photographs of the project in progress and completed work, as appropriate to the deliverable.
  - 5) A copy of all supporting documentation for vendor payments.
  - 6) A copy of the bank statement that includes the cancelled check or evidence of electronic funds transfer. The State may require any other information from Subrecipient that the State deems necessary to verify that the services have been rendered under this Agreement.

- C. If the Subrecipient is a county or municipality that is a rural community or rural area of opportunity as those terms are defined in Section 288.0656(2), Florida Statutes, the payment of submitted invoices may be issued for verified and eligible performance that has been completed in accordance with the terms and conditions set forth in this Agreement to the extent that federal or state law, rule, or other regulation allows such payments. Upon meeting either of the criteria set forth below, the Subrecipient may elect in writing to exercise this provision.
- 1) A county or municipality that is a rural community or rural area of opportunity as those terms are defined in Section 288.0656(2), Florida Statutes, that demonstrates financial hardship; or
  - 2) A county or municipality that is a rural community or rural area of opportunity as those terms are defined in Section 288.0656(2), Florida Statutes, and which is located in a fiscally constrained county, as defined in Section 218.67(1), Florida Statutes. If the Subrecipient meets the criteria set forth in this paragraph, then the Subrecipient is deemed to have demonstrated financial hardship.
- D. The Subrecipient's invoice and all documentation necessary to support payment requests must be submitted through Commerce's Subrecipient Enterprise Resource Application (SERA) System. Further instruction on SERA invoicing and reporting, along with a copy of the invoice template, will be provided after the Effective Date of the Agreement.

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Commerce Agreement No.: HS005

### Attachment B – Project Budget (Example)

Subrecipient: \_\_\_\_\_ Contract Number: \_\_\_\_\_ Project Title: \_\_\_\_\_

Activity		Budget			
Activity	Description	CDBG-DR Amount	Other Funds	Source*	Total Funds
1. Project Implementation					
2. Engineering Services					
3. Construction					
4. Acquisition					
<b>TOTALS</b>					

\*Show the sources and amounts of Other Funds needed to complete the project below, including local funds, grants from other agencies and program income.

	Source of Other Funds	Amount
1.		
2.		
3.		
4.		



### Attachment C – Activity Work Plan (Example)

Subrecipient \_\_\_\_\_ Project Title: \_\_\_\_\_ Project Budget: \_\_\_\_\_  
 Contract Number: \_\_\_\_\_ Date Prepared: \_\_\_\_\_ Modification Number: \_\_\_\_\_

Activity Start Date (month/year)	Activity End Date (month/year)	Describe Proposed Action to be Completed by the "End Date." Please have the Action reflect an activity or task within the Subrecipient Agreement under Section 4, Eligible Tasks within Attachment 1 – Scope of Work.	Estimated Funds Leveraged Funds to be Expended per "Activity End Date"	Estimated Funds to be Requested per "Activity End Date"
		EXAMPLE: Deliverable 1 – Prepare Procurement Documents for Submittal and Approval		
		EXAMPLE: Deliverable 2 – Complete Design Package		
		EXAMPLE: Deliverable 2 – Complete Environmental Review		

## Attachment D – Program and Special Conditions

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1. Subrecipient shall demonstrate that progress is being made in completing project activities in a timely fashion pursuant to the activity work plan (**Attachment C**). If Subrecipient does not comply with the activity work plan schedule, a justification for the delay and a plan for timely accomplishment shall be submitted to Commerce within 21 calendar days of receiving Commerce's request for justification for the delay. Any project for which Subrecipient has not completed the activities listed in the Activity Work Plan may be rescinded unless Commerce agrees that Subrecipient has provided adequate justification for the delay.
2. Subrecipient shall maintain records of expenditure of funds from all sources that will allow accurate and ready comparison between the expenditures and the budget/activity line items as defined in the Project Budget (**Attachment B**) and Activity Work Plan (**Attachment C**).
3. Subrecipient shall request Commerce's approval for all professional services contracts and/or agreements that will be reimbursed with CDBG-DR funds. Copies of the following procurement documents must be provided to Commerce for review:
  - a. When publication of a Request for Proposal (RFP) is used as a means of solicitation, a copy of the advertisement, including an affidavit of publication.
  - b. Commerce will either approve the procurement or notify Subrecipient that the procurement cannot be approved because it violates State, Federal, or local procurement guidelines. Subrecipient shall notify Commerce in writing no later than 90 calendar days from the Effective Date of this Subrecipient Agreement if it will not be procuring any professional services or if it will be using non-CDBG-DR funds to pay for professional services.
4. Prior to the obligation or disbursement of any funds, except for administrative expenses and not to exceed \$5,000, Subrecipient shall complete the following:
  - a. Submit for Commerce's approval the documentation required in paragraph 3 above for any professional services contract. Subrecipient proceeds at its own risk if more than the specified amount is incurred before Commerce approves the procurement. If Commerce does not approve the procurement of a professional services contract, the local government will not be able to use CDBG-DR funds for that contract beyond \$5,000.
  - b. Comply with 24 CFR 58, as well as Parts 35, 51, 55 and other federal environmental compliance requirements as appropriate. When Subrecipient has completed the environmental review process for any project that includes activities categorized as neither exempt pursuant to section 58.34 nor categorically excluded pursuant to section 58.35(b), it shall submit a Request for Release of Funds and Certification. Commerce will issue an Authority to Use Grant Funds (form HUD-7015.16) when this condition has been fulfilled to the satisfaction of Commerce. If Commerce has not issued an Authority to use Grant Funds within 15 days of Subrecipient's submission of the required documentation, Commerce shall provide Subrecipient a written update regarding the status of the review process upon subrecipient request. **SUBRECIPIENT SHALL NOT CARRY OUT ANY CHOICE-LIMITING ACTIONS OR COMMIT HUD FUNDS OR NON-HUD FUNDS TO ACTIVITIES OTHER THAN THOSE PREVIOUSLY CERTIFIED AS EXEMPT IN ACCORDANCE WITH 24 CFR 58.34 OR CATEGORICALLY EXCLUDED IN ACCORDANCE WITH 24 CFR 58.35(b) BEFORE COMMERCE HAS ISSUED THE "AUTHORITY TO USE GRANT FUNDS."**
5. Subrecipient agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. §§ 4601-4655; hereinafter, the "URA"), implementing regulations at 24 CFR 42, 49 CFR 24, and 24 CFR 570.606(b), the requirements of 24 CFR 42.325 – 42.350 governing the Residential Anti-displacement

and Relocation Assistance Plan under section 104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. §5304(d)), and the requirements in 24 CFR 570.606(d) governing optional relocation assistance policies.

6. If Subrecipient undertakes any activity subject to the URA, Subrecipient shall document completion of the acquisition by submitting all documentation required for a desk monitoring of the acquisition, including a notice to property owners of his or her rights under the URA, an invitation to accompany the appraiser, all appraisals, offer to the owner, acceptance, contract for sale, statement of settlement costs, copy of deed, and waiver of rights (for donations), as applicable. The documentation shall be submitted prior to completing the acquisition (closing) so that Commerce can determine whether remedial action may be needed. Subrecipient shall provide relocation assistance to displaced persons, as defined by 24 CFR 570.606(b)(2), that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project.
7. Subrecipient shall timely submit completed forms for all prime and subcontractors as required by this Subrecipient Agreement, Commerce, HUD, and applicable, regulations and guidance laws, specifically including but not limited to:
  - a. Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Primary Covered Transactions); Subrecipient must provide proof to Commerce Grant Manager that they have completed a debarment check of SAM.gov for all prime and subcontractors;
  - b. Section 3 Participation Report (Construction Prime Contractor);
  - c. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Subcontractor), (if applicable); and
  - d. Section 3 Participation Report (Construction Subcontractor), (if applicable).
8. In addition, each construction contract or agreement for new or replacement housing must contain language that requires the contractor to meet the Green Building Standard for Replacement and New Construction of Residential Housing, as defined in the Allocation notice published in the Federal Register Volume 81, Number 224 on Monday, November 21, 2016.
9. For each Request for Funds (RFF) that includes reimbursement of construction costs, Subrecipient shall provide a copy of the American Institute of Architects (AIA) form G702, Application and Certification for Payment, or a comparable form approved by Commerce, signed by the contractor and inspection engineer, and a copy of form G703, Continuation Sheet, or a comparable form approved by Commerce. For each RFF that includes construction costs, Subrecipient shall provide a copy of AIA form G702, or a comparable form approved by Commerce, if applicable, signed by the contractor and the local building inspector or housing specialist and a copy of form G703, or a comparable form approved by Commerce, if applicable.
10. For each project, when Subrecipient issues the Notice to Proceed to the contractor(s), copies of the following documents shall be sent to Commerce:
  - a. Notice to Proceed;
  - b. The contractor's performance bond (100 percent of the contract price); and
  - c. The contractor's payment bond (100 percent of the contract price).
11. Subrecipient shall undertake an activity each quarter to affirmatively further fair housing pursuant to 24 CFR 570.487(b)(4).

12. Subrecipient shall ensure that a deed restriction is recorded on any real property or facility, excluding easements, acquired with CDBG-DR funds. This restriction shall limit the use of that real property or facility to the use stated in the subgrant application and that title shall remain in the name of Subrecipient. Such deed restriction shall be made a part of the public records in the Clerk of Court of the county in which the real property is located. Any future disposition of that real property shall be in accordance with 24 CFR 570.505. Any future change of use of real property shall be in accordance with 24 CFR 570.489(j).
13. Subrecipient shall comply with the historic preservation requirements of the National Historic Preservation Act of 1966, as amended, the procedures set forth in 36 CFR 800, and the Secretary of the Interior's Standards for Rehabilitation, codified at 36 CFR 67, and Guidelines for Rehabilitating Historic Buildings.
14. Pursuant to section 102(b), Public Law 101-235, 42 U.S.C. §3545, Subrecipient shall update and submit Form HUD 2880 to Commerce within thirty (30) calendar days of Subrecipient's knowledge of changes in situations which would require that updates be prepared. Subrecipient must disclose:
  - a. All developers, contractors, consultants and engineers involved in the application or in the planning, development or implementation of the project or CDBG-DR-funded activity; and
  - b. Any person or entity that has a financial interest in the project or activity that exceeds \$50,000 or 10 percent of the grant, whichever is less.
15. If required, Subrecipient shall submit a final Form HUD 2880, to Commerce with Subrecipient's request for administrative closeout, and its absence or incompleteness shall be cause for rejection of the administrative closeout.
16. Conflicts of interest relating to procurement shall be addressed pursuant to 24 CFR 570.489(g). Title 24 CFR 570.489(h) shall apply in all conflicts of interest not governed by 24 CFR 570.489(g), such as those relating to the acquisition or disposition of real property; CDBG-DR financial assistance to beneficiaries, businesses or other third parties; or any other financial interest, whether real or perceived. Additionally, Subrecipient agrees to comply with, and this Subrecipient Agreement is subject to, Chapter 112 Florida Statutes.
17. Any payment by Subrecipient using CDBG-DR funds for acquisition of any property, right-of-way, or easement that exceeds fair market value as determined through the appraisal process established in HUD Handbook 1378 shall be approved in writing by Commerce prior to distribution of the funds. Should the Recipient fail to obtain Commerce pre-approval, any portion of the cost of the acquisition exceeding Fair Market Value shall not be paid or reimbursed with CDBG-DR funds.
18. Subrecipient shall take photographs or video of all activity locations prior to initiating any construction. As the construction progresses, additional photography or videography shall document the ongoing improvements. Upon completion of construction, final documentation of the activity locations will be provided to Commerce with the administrative closeout package for this Subrecipient Agreement.
19. If an activity is designed by an engineer, architect, or other licensed professional, it shall be certified upon completion by a licensed professional as meeting the specifications of the design, as may have been amended by change orders. The date of completion of construction shall be noted as part of the certification. This certification shall be accomplished prior to submission of an administrative closeout package and a copy of the certification shall be submitted with the administrative closeout package.



## **Attachment E – State and Federal Statutes, Regulations, and Policies**

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The CDBG-DR funds available to Subrecipient through this Subrecipient Agreement constitute a subaward of the Grantee's Federal award under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR 200. This Subrecipient Agreement includes terms and conditions of the Grantee's Federal award that are imposed on Subrecipient, and Subrecipient agrees to carry out its obligations in compliance with all of the obligations described in this Subrecipient Agreement.

Subrecipient agrees to, and, by signing this Subrecipient Agreement, certifies that, it will comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 CFR 570, as modified by the Federal Register notices that govern the use of CDBG-DR funds available under this Subrecipient Agreement. These Federal Register notices include, but are not limited to, Federal Register (FN) notice, 87 FR 6364 (Docket No. FR-6303-N-01) (February 3, 2022), and 87 FR 31636 (Docket No. FR-6326-N-01) (May 24, 2022). Notwithstanding the foregoing, the Subrecipient assumes responsibilities for environmental review, decision-making and action, described in 24 CFR 58 including the decision making and determination of environmental compliance.

Subrecipient shall also comply with all other applicable Federal, state and local laws, regulations, and policies as now in effect and as may be amended from time to time that govern the use of the CDBG-DR funds in complying with its obligations under this Subrecipient Agreement, regardless of whether CDBG-DR funds are made available to Subrecipient on an advance or reimbursement basis.

Subrecipient also agrees to use funds available under this Subrecipient Agreement to supplement rather than supplant funds otherwise available. Subrecipient further agrees to comply with all other applicable Federal, State and local laws, regulations and policies governing the funds provided under this Subrecipient Agreement, including, but not limited to the following:

### **I. State of Florida Requirements**

State of Florida Requirements are stated throughout this Subrecipient Agreement and Attachments thereto.

### **II. Audits, Inspections, and Monitoring**

#### **1. Single Audit**

Subrecipient must be audited as required by 2 CFR 200, subpart F when it is expected that Subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR 200.501 Audit requirements.

#### **2. Inspections and Monitoring**

Subrecipient shall permit the Grantee and auditors to have access to Subrecipient's records and financial statements as necessary for the Grantee to meet the requirements of 2 CFR 200.

Subrecipient must submit to monitoring of its activities by the Grantee as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of this Subrecipient Agreement.

This review must include:

- (1) Reviewing financial and performance reports required by the Grantee;

(2) Following-up and ensuring that Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to Subrecipient from the Grantee detected through audits, on-site reviews, and other means; and

(3) Issuing a management decision for audit findings pertaining to this Federal award provided to Subrecipient from the Grantee as required by 2 CFR 200.521.

3. **Corrective Actions**

Subrecipient shall be subject to reviews and audits by the Grantee, including onsite reviews of Subrecipient as may be necessary or appropriate to meet the requirements of 42 U.S.C. § 5304(e)(2). The Grantee may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits. The Grantee may require Subrecipient to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Subrecipient from the pass-through entity detected through audits, on-site reviews and other means. In response to audit deficiencies or other findings of noncompliance with this Subrecipient Agreement, Grantee may impose additional conditions on the use of the CDBG-DR funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance.

**III. Drug-Free Workplace**

Subrecipients must comply with drug-free workplace requirements in Subpart B of part 2429, which adopts the government-wide implementation (2 CFR 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. §§ 701-707).

**IV. Procurement and Contractor Oversight**

Subrecipient shall comply with the procurement standards in 2 CFR 200.318-327 when procuring property and services under this Subrecipient Agreement. Subrecipient shall impose the Subrecipient's obligations under this Subrecipient Agreement on its contractors, specifically or by reference, so that such obligations will be binding upon each of its contractors.

Subrecipient must comply with CDBG regulations regarding debarred or suspended entities, specifically including, 24 CFR 570.609 and 24 CFR 570.489, as applicable. CDBG funds may not be provided to excluded or disqualified persons.

Subrecipient shall maintain oversight of all activities under this Subrecipient Agreement and shall ensure that for any procured contract or agreement, its contractors perform according to the terms and conditions of the procured contracts or agreements, and the terms and conditions of this Subrecipient Agreement. To check for debarred or suspended entities, please visit <https://www.sam.gov/SAM/>

**V. Property Standards**

Real property acquired by Subrecipient under this Subrecipient Agreement shall be subject to 24 CFR 570.489(j) and 24 CFR 570.200(j). Subrecipient shall also comply with the Property Standards at 2 CFR 200.310, 2 CFR 200.312, 2 CFR 200.314-316. Subrecipient shall also comply with 2 CFR 200.313 Equipment, except that when the equipment is sold, the proceeds shall be program income and equipment not needed by Subrecipient for activities under this Subrecipient Agreement shall be transferred to the Grantee for its CDBG-DR program or shall be retained after compensating the Grantee.

Subrecipient shall also comply with the Property Standards in 2 CFR 200.310-316, except to the extent they are inconsistent with 24 CFR 570.200(j) and 24 CFR 570.489(j), in which case Subrecipient shall comply with 24 CFR 570.200(j) and 24 CFR 570.489(j), except to the extent that proceeds from the sale of equipment are program income and

subject to the program income requirements under this Subrecipient Agreement, pursuant to 24 CFR 570.489(e)(1)(ii).

#### **VI. Federal Funding Accountability and Transparency Act (FFATA)**

Subrecipient shall comply with the requirements of 2 CFR 25 Universal Identifier and System for Award Management (SAM). Subrecipient must have an active registration in SAM, <https://www.sam.gov/SAM/>, in accordance with 2 CFR 25, appendix A, and must have a Unique Entity Identifier (UEI) number. Subrecipient must also comply with provisions of the Federal Funding Accountability and Transparency Act, which includes requirements on executive compensation, 2 CFR 170 Reporting Subaward and Executive Compensation Information.

#### **VII. Relocation and Real Property Acquisition**

Subrecipient shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 U.S.C. §§ 4601 – 4655, 49 CFR 24, 24 CFR 42, and 24 CFR 570.606.

In addition to other URA requirements, these regulations (49 CFR 24.403(d)) implement section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC § 5181, which provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the URA shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act."

#### **VIII. Nondiscrimination**

##### **1. 24 CFR 6**

Subrecipient will comply with 24 CFR 6, which implements the provisions of section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. § 5309). Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion or sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance. Subrecipient will adhere to the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) (Section 504). Section 109 of the HCDA makes these requirements applicable to programs or activities funded in whole or in part with CDBG-DR funds. Thus, Subrecipient shall comply with regulations of 24 CFR 8, which implement section 504 for HUD programs, and the regulations of 24 CFR 146, which implement the Age Discrimination Act for HUD programs.

##### **2. Architectural Barriers Act and the Americans with Disabilities Act**

Subrecipient shall ensure that its activities are consistent with requirements of Architectural Barriers Act and the Americans with Disabilities Act. The Architectural Barriers Act of 1968 (42 U.S.C. §§ 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed or altered with funds allocated or reallocated under this part after December 11, 1995 and meets the definition of "residential structure" as defined in 24 CFR 40.2 or the definition of "building" as defined in 41 CFR 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. §§ 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR 40 for residential structures, and appendix A to 41 CFR 101-19, subpart 101-19.6, for general type buildings).

The Americans with Disabilities Act (42 U.S.C. §12131; 47 U.S.C. §§ 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural



barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

### 3. State and Local Nondiscrimination Provisions

Subrecipient must comply with the Florida Small and Minority Business Assistance Act (FS §§ 288.703-288.706); Title VI of the Civil Rights Act of 1964 (24 CFR 1).

#### A. **General Compliance:**

Subrecipient shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended. No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this Subrecipient Agreement. The specific nondiscrimination provisions at 24 CFR 1.4 apply to the use of these funds. Subrecipient shall not intimidate, threaten, coerce or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Civil Rights Act of 1964 or 24 CFR 1, or because an individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under 24 CFR 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 2 CFR 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

#### B. **Assurances and Real Property Covenants:**

As a condition to the approval of this Subrecipient Agreement and the extension of any Federal financial assistance, Subrecipient assures that the program or activities described in this Subrecipient Agreement will be conducted and the housing, accommodations, facilities, services, financial aid, or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to this part 1.

If the Federal financial assistance under this Subrecipient Agreement is to provide or is in the form of personal property or real property or interest therein or structures thereon, Subrecipient's assurance herein shall obligate Subrecipient or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases, the assurance shall obligate Subrecipient for the period during which Federal financial assistance is extended pursuant to the contract or application. This assurance gives the Grantee and the United States a right to seek judicial enforcement of the assurance and the requirements on real property.

In the case of real property, structures or improvements thereon, or interests therein, acquired with Federal financial assistance under this Subrecipient Agreement or acquired with CDBG-DR funds and provided to Subrecipient under this Subrecipient Agreement, the instrument effecting any disposition by Subrecipient of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If Subrecipient receives real property interests or funds or for the acquisition of real property interests under this Subrecipient Agreement, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this part 1 shall extend to any facility located wholly or in part in such space.

### 4. Affirmative Action

#### A. **Approved Plan**

Subrecipient agrees that it shall carry out pursuant to the Grantee's specifications an Affirmative Action Program in compliance with the President's Executive Order 11246 of September 24, 1965, as amended, and



implementing regulations at 41 CFR 60. The Grantee shall provide Affirmative Action guidelines to Subrecipient to assist in the formulation of such program. Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the release of funds under this Subrecipient Agreement.

**B. Women- and Minority-Owned Businesses (W/MBE)**

Subrecipient shall take the affirmative steps listed in 2 CFR 200.321(b)(1) through (5) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible when Subrecipient procures property or services under this Subrecipient Agreement.

**C. Notifications**

Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

**D. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement**

Subrecipient shall, in all solicitations or advertisements for employees placed by or on behalf of Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

**IX. Labor and Employment**

**1. Labor Standards**

Subrecipient shall comply with the in labor standards in section 110 of the Housing and Community Development Act of 1974, as amended and ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this Subrecipient Agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. §§ 3141, *et seq.*) and 29 CFR 1, 3, 5, 6 and 7, provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.

Subrecipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. § 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR 3 and part 5. Subrecipient shall maintain documentation that demonstrates compliance with applicable hour and wage requirements. Such documentation shall be made available to the Grantee for review upon request.

**X. Section 3 of the Housing and Urban Development Act of 1968**

**1. Low-Income Person Definition**

A low-income person, as this term is defined in Section 3 (b)(2) of the 1937 Act (42 U.S.C. § 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary of HUD, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or A very low-income person, as this term is defined in Section 3(b)(2) of the 1937 Act (42 U.S.C. § 1437a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. § 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

**2. Compliance**

Subrecipient shall comply with the provisions of Section 3 of the Housing Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u, and implementing its implementing regulations at 24 CFR 75 (formerly 24 CFR 135). Compliance with Section 3 shall be achieved, to the greatest extent feasible, consistent with existing Federal, state, and local laws and regulations. Accordingly, a subrecipient of Section 3-covered assistance is required to

develop strategies for meeting both the regulatory requirements at 24 CFR 75 and any other applicable statutes or regulations. Subrecipient and any of its contractors and subcontractors shall include the following "Section 3 clause" in every "Section 3-covered contract".

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
  - B. The parties to this contract agree to comply with HUD's regulations in 24 CFR 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
  - C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
  - D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR 75, and agrees to take appropriate actions, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR 75.
  - E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR 75.
  - F. Noncompliance with HUD's regulations in 24 CFR 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
  - G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
3. **Section 3 Benchmarks and Reporting**
- A. **Benchmarks.** Contracts over \$200,000 trigger Section 3 Benchmark requirements. When triggered, best efforts must be made to extend Section 3 opportunities to verified Section 3 workers and business concerns to meet these *minimum* numeric goals:
    1. Twenty-five percent (25%) of the total hours on a Section 3 project must be worked by Section 3 workers; and
    2. Five percent (5%) of the total hours on a Section 3 project must be worked by Targeted Section 3 workers.
  - B. **Reporting.** If the subrecipient's reporting indicates that the subrecipient has not met the Section 3 benchmarks described in 24 CFR 75.23, pursuant to 24 CFR 75.25(b), the subrecipient must report in a form prescribed by HUD on the qualitative nature of its activities and those its contractors and subcontractors pursued.
  - C. Recipient will comply with any Section 3 Project Implementation Plan documents, if any, provided by HUD or Commerce which may be amended from time to time for HUD reporting purposes.

## **XI. Conduct**

### **1. Hatch Act**

Subrecipient shall comply with the Hatch Act, 5 U.S.C. §§ 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this Subrecipient Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

### **2. Conflict of Interest**

In the procurement of supplies, equipment, construction, and services pursuant to this Subrecipient Agreement, Subrecipient shall comply with the conflict of interest provisions in the Grantee's procurement policies and procedures. In all cases not governed by the conflict of interest provisions in the Grantee's procurement policies and procedures, Subrecipient shall comply with the conflict of interest provisions in 24 CFR 570.489(h).

### **3. Lobbying Certification**

Subrecipient hereby certifies that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, 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 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- C. The language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly; and
- D. 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 is required by Section 1352, Title 31, U.S.C. 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.

## **XII. Religious Activities**

Subrecipient agrees that funds provided under this Subrecipient Agreement shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction or proselytization.

Any State or local government receiving funds under any Department program, or any intermediate organization with the same duties as a governmental entity, is prohibited from discriminating for or against an organization on the basis of the organization's religious character or affiliation. Religious organizations are prohibited from engaging in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance. An organization that participates in programs funded by direct financial assistance from the Department, in providing services, is prohibited from discriminating against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. Any restrictions on the use of grant funds shall apply equally to religious and non-religious organizations.

## **XIII. Environmental Conditions**

### **1. Prohibition on Choice Limiting Activities Prior to Environmental Review**



Subrecipient must comply with the limitations in 24 CFR 58.22, which imposes limitations on activities pending clearance and specifically limits commitments of HUD funds or non-HUD funds by any participant in the development process before completion of the environmental review. A violation of this requirement may result in a prohibition on the use of Federal funds for the activity. If Commerce has not issued an Authority to Use Grant Funds within 15 days of Subrecipient's submission of the required documentation, Commerce shall provide Subrecipient a written update regarding the status of the review process upon subrecipient request.

2. **Air and Water**

Subrecipient shall comply with the following requirements insofar as they apply to the performance of this Subrecipient Agreement:

- A. Air quality. (1) The Clean Air Act (42 U.S.C. §§ 7401, *et seq.*) as amended; particularly section 176(c) and (d) (42 U.S.C. § 7506(c) and (d)); and (2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 CFR 6, 51, and 93); and
- B. Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251, *et seq.*, as amended, including the requirements specified in section 114 and section 308 of the Federal Water Pollution Control Act, as amended, and all regulations and guidelines issued thereunder.
- C. The Clean Air and Water Act: If this Contract is in excess of \$100,000, Contractor shall comply with all applicable standards, orders or regulations issued under the Clean Air Act, as amended, 42 U.S.C. § 7401, section 508 of the Clean Water Act, as amended, 33 U.S.C. §§ 1368, *et seq.*, Executive Order 11738 and Environmental Protection Agency regulations. Contractor shall report any violation of the above to Commerce.
- D. Energy Efficiency: Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State of Florida's energy conservation plan issued in compliance with the Energy Policy and Conservation Act, Pub. L. 94-163.

3. **Flood Disaster Protection**

Subrecipient shall comply with the mandatory flood insurance purchase requirements of section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 U.S.C. § 4012a. Additionally, Subrecipient shall comply with 24 CFR 58.6(a) and section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. § 5154a), which includes a prohibition on the provision of flood disaster assistance, including loan assistance, to a person for repair, replacement or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. Section 582 also includes a responsibility to notify property owners of their responsibility to notify transferees about mandatory flood purchase requirements. More information about these requirements is available in the Federal Register notices governing the CDBG-DR award and listed at the beginning of this Attachment.

4. **Lead-Based Paint**

The Subrecipient shall follow the Grantee's procedures with respect to CDBG assistance that fulfill the objectives and requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§ 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title and 24 CFR 35.

5. **Historic Preservation**

Subrecipient shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, codified in Title 54 of the United States Code, and the procedures set forth in 36 CFR 800 insofar as they apply to the performance of this Subrecipient Agreement.

The process typically involves obtaining approval not just from the State Historic Preservation Officer, but also, when relevant, from tribal authorities. This approval is required for a range of projects that could impact historic



resources. These include, but are not limited to, rehabilitation and demolition of properties that are fifty years old or older or listed on a Federal, state, or local historic property list. Furthermore, this extends to new construction projects, particularly those located in areas known to have archaeological resources or in any area that could potentially affect the historic character of an eligible district

#### **XIV. Additional Regulations**

- A. The Temporary Assistance for Needy Families Program (“TANF”), 45 CFR 260-265, the Social Services Block Grant (“SSBG”), 42 U.S.C. § 1397d, and other applicable federal regulations and policies promulgated thereunder.
- B. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681, *et seq.*, which prohibits discrimination on the basis of sex in educational programs.
- C. Section 654 of the Omnibus Budget Reconciliation Act of 1981, as amended, 42 U.S.C. § 9849, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicap, political affiliation or beliefs.
- D. The Pro-Children Act: Subrecipient and contractors of Subrecipient agrees to comply with the Pro-Children Act of 1994, 20 U.S.C. § 6083. Failure to comply with the provisions of the law may result in the imposition of civil monetary penalty up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. This clause is applicable to all approved sub-contracts. In compliance with Public Law (Pub. L.) 103-277, the Contract shall not permit smoking in any portion of any indoor facility used for the provision of federally funded services including health, day care, early childhood development, education or library services on a routine or regular basis, to children up to age 18.
- E. Public Announcements and Advertising: When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with federal money, Subrecipient and contractors of Subrecipient shall clearly state: (1) the percentage of the total costs of the program or project which will be financed with federal money, (2) the dollar amount of federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.
- F. Purchase of American-Made Equipment and Products Subrecipient and contractors of Subrecipient assures that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Subrecipient Agreement will be American-made.
- G. The Consolidated Appropriations Act, 2010, Division E, section 511 (Pub. L. 111-117), which prohibits distribution of federal funds made available under the Act to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries. The Continuing Appropriations Act, 2011, sections 101 and 103 (Pub. L. 111-242), provides that appropriations made under Pub. L. 111-117 are available under the conditions provided by Pub. L. 111-117.
- H. Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333) — If this Subrecipient Agreement involves federal funding in excess of \$2,000 for construction contracts or in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers, compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), as supplemented by Department of Labor regulations (29 CFR 5) is required. Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- I. Resource Conservation and Recovery Act (RCRA). Under RCRA (Pub. L. 94–580 codified at 42 U.S.C. § 6962), state and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.

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- J. Immigration Reform and Control Act. Subrecipient and contractors of Subrecipient shall comply with the requirements of the Immigration Reform and Control Act of 1986, which requires employment verification and retention of verification forms for any individuals hired who will perform any services under the contract.

**XV. Non-Compliance**

When it is determined that the Subrecipient is in non-compliance with federal or state program requirements, the State may impose any of the additional conditions and/or requirements outlined in 2 CFR 200.208 and/or 2 CFR 200.339.

## Attachment F – Civil Rights Compliance

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### Fair Housing

As a condition for the receipt of CDBG-DR funds, each Subrecipient must certify that it will "affirmatively further fair housing" in its community. A Subrecipient shall demonstrate its commitment to affirmatively further fair housing by implementing the actions listed below.

Each Subrecipient shall do the following:

- 1) Have in place a fair housing resolution or ordinance that covers all Federally protected classes (race, color, familial status, handicap, national origin, religion and sex);
- 2) Designate an employee as the Fair Housing Coordinator who is available during regular business hours to receive fair housing calls;
- 3) Publish the Fair Housing Coordinator's contact information quarterly in a newspaper of general circulation in Subrecipient's jurisdiction so that people know who to call to ask fair housing questions or register a complaint. Alternatively, Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website;
- 4) Establish a system to record the following for each fair housing call or email:
  - a) The nature of the call or email,
  - b) The actions taken in response to the call or email,
  - c) The results of the actions taken and
  - d) If the caller was referred to another agency, the results obtained by the referral agency;
- 5) Conduct at least one fair housing activity each quarter. Identical activities (see examples below) shall not be conducted in consecutive quarters; and
- 6) Display a fair housing poster in the CDBG-DR Office. (This does not count as a fair housing activity.)

Subrecipient shall ensure that the fair housing contact person has received training so that he/she can handle fair housing phone inquiries or refer the inquiries to the appropriate people/agencies. Records maintained by the contact will help the community do the following:

- Define where discriminatory practices are occurring,
- Help the community measure the effectiveness of its outreach efforts, and
- Provide the community with a means to gain information that can be used to design and implement strategies that will eliminate fair housing impediments.

Examples of fair housing activities include the following:

- Making fair housing presentations at schools, civic clubs and neighborhood association meetings;
- Conducting a fair housing poster contest or an essay contest;
- Manning a booth and distributing fair housing materials at libraries, health fairs, community events, yard sales and church festivals; and
- Conducting fair housing workshops for city/county employees, realtors, bank and mortgage company employees, insurance agents and apartment complex owners.

Printing a fair housing notice on a utility bill is no longer accepted as a fair housing activity; however, mailing a Commerce-approved fair housing brochure as an insert with utility bills will be accepted as an activity. Placing posters in public buildings does not meet the requirement for a fair housing activity.

Subrecipient shall document its fair housing activities by keeping photographs, newspaper articles, sign-in sheets and copies of handouts in their CDBG-DR project file and include information about the activities in the comment section of each quarterly report.

### **Equal Employment Opportunity**

As a condition for the receipt of CDBG-DR funds, each Subrecipient must certify that it and the contractors, subcontractors, subrecipients and consultants that it hires with CDBG-DR funds will abide by the Equal Employment Opportunity (EEO) Laws of the United States. A Subrecipient shall demonstrate its commitment to abide by the laws through the actions listed below.

Each Subrecipient shall do the following:

- 1) Have in place an equal employment opportunity resolution or ordinance that protects its applicants and employees and the applicants and employees of its contractors, subcontractors, subrecipients and consultants from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral and other aspects of employment, on the basis of race, color, religion, sex, national origin, disability, age or genetics;
- 2) Designate an employee as the EEO Coordinator who is available during regular business hours to receive EEO calls;
- 3) Publish the EEO Coordinator's contact information quarterly in a newspaper of general circulation in Subrecipient's jurisdiction so that people know who to call to ask EEO questions or register a complaint. Alternatively, Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website; and
- 4) Establish a system to record the following for each EEO call:
  - a) The nature of the call,
  - b) The actions taken in response to the call and
  - c) The results of the actions taken;
- 5) Each Subrecipient shall maintain a list of certified minority-owned business enterprises (MBE) and women-owned business enterprises (WBE) that operate in its region. Subrecipient shall use this list to solicit companies to bid on CDBG-DR-funded construction activities and shall provide a copy of the list to the prime contractor(s) to use when it hires subcontractors and consultants. The Florida Department of Management Services maintains a list of certified minority- and women-owned businesses that can be used to develop a local MBE/WBE list at the following website: <https://osd.dms.myflorida.com/directories>.
- 6) Incorporate the Equal Employment Opportunity clause set forth in 41 CFR 60-1.4(b) into any contracts or subcontracts that meets the definition of "federally assisted construction contract" in 41 CFR 60-1.3.

### **Section 504 and the Americans with Disabilities Act (ADA)**

As a condition for the receipt of CDBG-DR funds, Subrecipient must certify that it provides access to all federally funded activities to all individuals, regardless of handicap. Subrecipient shall demonstrate its commitment to abide by the laws through the actions listed below.

Subrecipient shall do the following:

- 1) Have in place a resolution or ordinance that is designed to eliminate discrimination against any person who:
  - a) Has a physical or mental impairment which substantially limits one or more major life activities,
  - b) Has a record of such an impairment, or



- c) Is regarded as having such an impairment;
- 2) Designate an employee as the section 504/ADA Coordinator who is available during regular business hours to receive section 504/ADA calls;
- 3) Publish the section 504/ADA Coordinator's contact information quarterly in a newspaper of general circulation in Subrecipient's jurisdiction so that people know who to call to ask section 504/ADA questions or register a complaint. Alternatively, Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website; and
- 4) Establish a system to record the following for each section 504/ADA call:
  - a) The nature of the call,
  - b) The actions taken in response to the call and
  - c) The results of the actions taken.

Section 504 prohibitions against discrimination (see 45 CFR 84) apply to service availability, accessibility, delivery, employment and the administrative activities and responsibilities of organizations receiving Federal financial assistance. A Subrecipient of Federal financial assistance may not, on the basis of disability:

- Deny qualified individuals the opportunity to participate in or benefit from Federally funded programs, services or other benefits,
- Deny access to programs, services, benefits or opportunities to participate as a result of physical barriers, or
- Deny employment opportunities, including hiring, promotion, training and fringe benefits, for which they are otherwise entitled or qualified.

The ADA regulations (Title II, 28 CFR 35, and Title III, 28 CFR 36) prohibit discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability.

Title II covers all activities of state and local governments regardless of the government entity's size or receipt of Federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services and activities (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting and town meetings). State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision or speech disabilities.

Title III covers businesses and nonprofit service providers that are public accommodations, privately operated entities offering certain types of courses and examinations, privately operated transportation and commercial facilities. Public accommodations are private entities who own, lease, lease to or operate facilities such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors' offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers and recreation facilities including sports stadiums and fitness clubs. Transportation services provided by private entities are also covered by Title III.

### **Section 3 - Economic Opportunities for Low- and Very Low-Income Persons**

Each Subrecipient shall encourage its contractors to hire qualified low- and moderate-income residents for any job openings that exist on CDBG-DR-funded projects in the community. Per 29 CFR 75, Subrecipients and their contractors must track and document the number of Section 3 and Targeted Section 3 labor hours worked by low- and moderate-income individuals on CDBG-DR-funded projects. This detailed account of labor hours should then be included in the comments section of each quarterly report.

The following Section 3 clause is required to be included in any contracts and subcontracts funded by this Subrecipient Agreement:

### Section 3 Clause

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are Subrecipients of HUD assistance for housing.
- B. The Parties to this contract agree to comply with HUD's regulations in 24 CFR 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR 75.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled: (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR 75.
- F. Noncompliance with HUD's regulations in 24 CFR 75 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).


### Civil Rights Regulations

As a condition for the receipt of CDBG-DR funds, each Subrecipient must certify that it will abide by the following Federal laws and regulations:

Commerce Agreement No.: HS005

1. Title VI of the Civil Rights Act of 1964 – Prohibits discrimination by government agencies that receive Federal funding;
2. Title VII of the Civil Rights Act of 1964 – prohibits employment discrimination on the basis of race, color, religion, sex or national origin;
3. Title VIII of the Civil Rights Act of 1968 – as amended (the Fair Housing Act of 1988);
4. 24 CFR 570.487(b) – Affirmatively Furthering Fair Housing;
5. 24 CFR 570.490(b) – Unit of general local government's record;
6. 24 CFR 570.606(b) – Relocation assistance for displaced persons at URA levels;
7. Age Discrimination Act of 1975;
8. Executive Order 12892 – Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing;
9. Section 109 of the Housing and Community Development Act of 1974 – No person shall be excluded from participation in, denied benefits of or subjected to discrimination under any program or activity receiving CDBG-DR funds because of race, color, religion, sex or national origin;
10. Section 504 of the Rehabilitation Act of 1973 and 24 CFR 8, which prohibits discrimination against people with disabilities;
11. Executive Order 11063 – Equal Opportunity in Housing;
12. Executive Order 11246 – Equal Employment Opportunity; and
13. Section 3 of the Housing and Urban Development Act of 1968, as amended – Employment/Training of Lower Income Residents and Local Business Contracting.

I hereby certify that Subrecipient shall comply with all of the provisions and Federal regulations listed in this **Attachment F**.

By:  Date: 4/14/2024

Name: Steven Barry

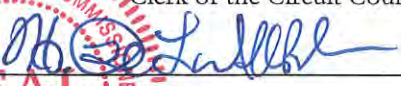
Approved as to form and legal sufficiency.

Title: Chairman

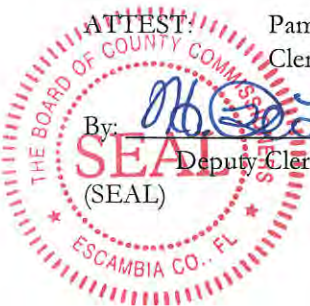
By/Title: Kristin D. Hual, DCA

Date: 03-27-2024

ATTEST: Pam Childers  
Clerk of the Circuit Court

By:   
Deputy Clerk

(SEAL)





## Attachment G – Reports

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The following reports must be completed and submitted to Commerce in the time frame indicated below. Failure to timely file these reports constitutes an Event of Default, as defined in Paragraph (10) Default, of this Subrecipient Agreement.

1. **Monthly Progress Report** must be submitted to Commerce five (5) calendar days after the end of each month.
2. A **Quarterly Progress Report** must be submitted to Commerce on forms to be provided by Commerce no later than the 5<sup>th</sup> of every April, July, October and January.
3. Subrecipient shall closeout its use of the CDBG-DR funds and its obligations under this Subrecipient Agreement by complying with the closeout procedures in 2 CFR 200.343. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances and accounts receivable to the Grantee) and determining the custodianship of records.

Notwithstanding the terms of 2 CFR 200.343, upon the expiration of this Subrecipient Agreement, Subrecipient shall transfer to Commerce any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Further, any real property under Subrecipient's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to Subrecipient in the form of a loan) shall be treated in accordance with 24 CFR 570.503(b)(7).

4. In accordance with 2 CFR 200, should Subrecipient meet the threshold for submission of a single or program specific audit, the audit must be conducted in accordance with 2 CFR 200 and submitted to Commerce no later than nine months from the end of Subrecipient's fiscal year. If Subrecipient did not meet the audit threshold, an **Audit Certification Memo** must be provided to Commerce Grant Manager no later than nine months from the end of Subrecipient's fiscal year.

5. A copy of the **Audit Compliance Certification** form, **Attachment J**, must be emailed to [audit@Commerce.fl.gov](mailto:audit@Commerce.fl.gov) and Commerce Grant Manager within sixty (60) calendar days of the end of each fiscal year in which this subgrant was open.

6. **Section 3 Quarterly Reporting Requirements.** Reporting of labor hours for Section 3 projects must comply with 24 CFR 75.25(a). Subrecipients must report the following: (i) the total number of labor hours worked; (ii) the total number of labor hours worked by Section 3 workers; and (iii) the total number of labor hours worked by Targeted Section 3 workers. If Section 3 benchmarks are not met, the Subrecipient's qualitative efforts must be reported in a manner required by 24 CFR 75.25(b).

Subrecipients shall provide Section 3 Reporting quarterly to Commerce Grant Manager by the 5th of each quarter (January 5, April 5, July 5, and October 5). For Section 3 Reporting, subrecipients should complete and return the Project Implementation Plan template to Commerce.

7. Request for Funds must be submitted as required by Commerce and in accordance with the **Project Description and Deliverables, Project Budget and Activity Work Plan**.

8. All forms referenced herein are available online or upon request from Commerce's grant manager for this Subrecipient Agreement.



## Attachment H – Warranties and Representations

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### Financial Management

Subrecipient's financial management system must comply with the provisions of 2 CFR 200 (and particularly 2 C.F.R. 200.302 titled "Financial Management"), section 218.33, Florida Statutes, and include the following:

- (1) Accurate, current and complete disclosure of the financial results of this project or program.
- (2) Records that identify the source and use of funds for all activities. These records shall contain information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
- (3) Effective control over and accountability for all funds, property and other assets. Subrecipient shall safeguard all assets and assure that they are used solely for authorized purposes.
- (4) Comparison of expenditures with budget amounts for each Request for Funds (RFF). Whenever appropriate, financial information should be related to performance and unit cost data.
- (5) Written procedures to determine whether costs are allowed and reasonable under the provisions of the 2 CFR 200 (and particularly 2 CFR 200, Subpart E, titled "Costs Principles") and the terms and conditions of this Subrecipient Agreement.
- (6) Cost accounting records that are supported by backup documentation.

### Competition

All procurement transactions must follow the provisions of 2 CFR 200.318-200.327 and be conducted in a manner providing full and open competition. Subrecipient shall be alert to conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids or requests for proposals shall be excluded from competing for such procurements. Awards must be made to the responsible and responsive bidder or offeror whose proposal is most advantageous to the program, considering the price, quality and other factors. Solicitations shall clearly set forth all requirements that the bidder or offeror must fulfill in order for the bid or offer to be evaluated by Subrecipient. Any and all bids or offers may be rejected if there is a sound, documented reason.

### Codes of Conduct

Subrecipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer or agent shall participate in the selection, award or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict 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, has a financial or other interest in a tangible personal benefit from a firm considered for a contract. The officers, employees and agents of Subrecipient shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts. The standards of conduct must provide for disciplinary actions to be applied for violations of the standards by officers, employees or agents of the Subrecipient. (*See* 2 CFR 200.318(c)(1)).

### Business Hours

Subrecipient shall have its offices open for business, with the entrance door open to the public, and at least one employee on site at all reasonable times for business. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

### Licensing and Permitting

All contractors or employees hired by Subrecipient shall have all current licenses and permits required for all of the particular work for which they are hired by Subrecipient.

Commerce Agreement No.: HS005

## Attachment I – Audit Requirements

The administration of resources awarded by Commerce to Subrecipient may be subject to audits and/or monitoring by Commerce as described in this section.

### MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and section 215.97, Florida Statutes, as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Commerce staff, limited scope audits as defined by 2 CFR 200.425, or other procedures. By entering into this Subrecipient Agreement, Subrecipient agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by Commerce. In the event Commerce determines that a limited scope audit of Subrecipient is appropriate, Subrecipient agrees to comply with any additional instructions provided by Commerce staff to Subrecipient regarding such audit. Subrecipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

### AUDITS

**PART I: FEDERALLY FUNDED.** This part is applicable if Subrecipient is a state or local government or nonprofit organization as defined in 2 CFR 200.1.

1. A Subrecipient that expends \$750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. **EXHIBIT 1** to this form lists the federal resources awarded through Commerce by this Subrecipient Agreement. In determining the federal awards expended in its fiscal year, Subrecipient shall consider all sources of federal awards, including federal resources received from Commerce. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR 200.502-503. An audit of the Subrecipient conducted by the Auditor General in accordance with the provisions of 2 CFR 200.514 will meet the requirements of this Part.
2. For the audit requirements addressed in Part I, paragraph 1, Subrecipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508-512.
3. A Subrecipient that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If Subrecipient expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from Subrecipient resources obtained from other than federal entities).

**PART II: STATE FUNDED.** This part is applicable if Subrecipient is a non-state entity as defined by section 215.97(2), Florida Statutes.

1. In the event that Subrecipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such Subrecipient (for fiscal years ending June 30, 2017, and thereafter), Subrecipient must have a state single or project-specific audit for such fiscal year in accordance with section 215.97, Florida Statutes; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **EXHIBIT 1** to this form lists the state financial assistance awarded through Commerce by this Subrecipient Agreement. In determining the state financial assistance expended in its fiscal year, Subrecipient shall consider all sources of state financial assistance, including state financial assistance received from Commerce, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and

resources received by a nonstate entity for federal program matching requirements.

- 2. For the audit requirements addressed in Part II, paragraph 1, Subrecipient shall ensure that the audit complies with the requirements of section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- 3. If Subrecipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal years ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of section 215.97, Florida Statutes, is not required. If Subrecipient expends less than \$750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, Florida Statutes, the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from Subrecipient's resources obtained from other than state entities).

**PART III: OTHER AUDIT REQUIREMENTS**

*(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to section 215.97(8), FLORIDA STATUTES, State agencies may conduct or arrange for audits of state financial assistance that are in addition to audits conducted in accordance with section 215.97, FLORIDA STATUTES. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)*

N/A

**PART IV: REPORT SUBMISSION**

- 1. Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and required by Part I of this form shall be submitted, when required by 2 CFR 200.512, by or on behalf of Subrecipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR 200.1 and §200.512.

The FAC's website provides a data entry system and required forms for submitting the single audit reporting package. Updates to the location of the FAC and data entry system may be found at the OMB website.

- 2. Copies of financial reporting packages required by Part II of this form shall be submitted by or on behalf of Subrecipient directly to each of the following:

- a. Commerce at each of the following addresses:

Electronic copies (preferred):  
[Audit@Commerce.fl.gov](mailto:Audit@Commerce.fl.gov)

or

Paper (hard copy):  
Department of Commerce  
MSC # 75, Caldwell Building  
107 East Madison Street  
Tallahassee, FL 32399-4126

- b. The Auditor General's Office at the following address:

Auditor General  
Local Government Audits  
342 Claude Pepper Building, Room 401  
111 West Madison Street



Tallahassee, Florida 32399-1450

The Auditor General's website (<https://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

- 3. Copies of reports or the management letter required by Part III of this form shall be submitted by or on behalf of Subrecipient directly to:

Electronic copies (preferred):  
[Audit@Commerce.fl.gov](mailto:Audit@Commerce.fl.gov)

or

Paper (hard copy):  
Department of Commerce  
MSC # 75, Caldwell Building  
107 East Madison Street  
Tallahassee, FL. 32399-4126

- 4. Any reports, management letters, or other information required to be submitted to Commerce pursuant to this Subrecipient Agreement shall be submitted timely in accordance with 2 CFR 200.512, section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
- 5. Subrecipients, when submitting financial reporting packages to Commerce for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to Subrecipient in correspondence accompanying the reporting package.

**PART V: RECORD RETENTION.** Subrecipient shall retain sufficient records demonstrating its compliance with the terms of this Subrecipient Agreement for a period of five (5) years from the date the audit report is issued, or six (6) state fiscal years after all reporting requirements are satisfied and final payments have been received, whichever period is longer, and shall allow Commerce, or its designee, CFO, or Auditor General access to such records upon request. Subrecipient shall ensure that audit working papers are made available to Commerce, or its designee, CFO, or Auditor General upon request for a period of six (6) years from the date the audit report is issued, unless extended in writing by Commerce. In addition, if any litigation, claim, negotiation, audit, or other action involving the records has been started prior to the expiration of the controlling period as identified above, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the controlling period as identified above, whichever is longer.

## Exhibit 1 to Attachment I – Funding Sources

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**Federal Resources Awarded to the Subrecipient Pursuant to this Subrecipient Agreement Consist of the Following:**

**Federal Awarding Agency:** U.S. Department of Housing and Urban Development

**Federal Funds Obligated to Subrecipient:** \$26,396,768.00

**Catalog of Federal Domestic Assistance Title:** Community Development Block Grants/State's Program and Non-Entitlement Grants in Hawaii

**Catalog of Federal Domestic Assistance Number:** 14.228

**Project Description:**

*This is not a research and development award.*

Escambia County has been awarded \$26,396,768.00 of CDBG-DR funding to provide environmentally sound, comprehensive, and cost-effective solutions to stormwater challenges facing neighborhoods located within Low-Moderate Income areas. This project will improve stormwater infrastructure allowing these areas to be more resilient when faced with future events like Hurricane Sally.

**Compliance Requirements Applicable to the Federal Resources Awarded Pursuant to this Subrecipient Agreement are as Follows:**

### **Federal Program**

1. Subrecipient shall perform its obligations in accordance with sections 290.0401- 290.048, Florida Statutes.
2. Subrecipient shall perform its obligations in accordance with 24 CFR 570.480–570.497.
3. Subrecipient shall perform the obligations as set forth in this Subrecipient Agreement, including any attachments or exhibits thereto.
4. Subrecipient shall perform the obligations in accordance with Chapter 73C-23.0051(1) and (3), F.A.C.
5. Subrecipient shall be governed by all applicable laws, rules and regulations, including, but not necessarily limited to, those identified in Award Terms & Conditions and Other Instructions of Subrecipient's Notice of Subgrant Award/Fund Availability (NFA).

**State Resources Awarded to the Subrecipient Pursuant to this Subrecipient Agreement Consist of the Following:**  
*N/A*

**Matching Resources for Federal Programs:** *N/A*

**Subject to Section 215.97, Florida Statutes:** *N/A*

**Compliance Requirements Applicable to State Resources Awarded Pursuant to this Subrecipient Agreement are as Follows:** *N/A*

Commerce Agreement No.: HS005

NOTE: Title 2 CFR 200.331 and section 215.97(5), Florida Statutes, require that the information about Federal Programs and State Projects included in **Exhibit 1** and the Notice of Subgrant Award/Fund Availability be provided to the Subrecipient.

## Attachment J – Audit Compliance Certification

*Email a copy of this form within 60 days of the end of each fiscal year in which this subgrant was open to audit@Commerce.fl.gov.*

Subrecipient:

FEIN:

Subrecipient's Fiscal  
Year:

Contact Name:

Contact's Phone:

Contact's Email:

1. Did Subrecipient expend state financial assistance, during its fiscal year that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between Subrecipient and the Department of Commerce (Commerce)?  
 Yes  No

If the above answer is yes, answer the following before proceeding to item 2.

Did Subrecipient expend \$750,000 or more of state financial assistance (from Commerce and all other sources of state financial assistance combined) during its fiscal year?

Yes  No

**If yes, Subrecipient certifies that it will timely comply with all applicable State single or project-specific audit requirements of Section 215.97, Florida Statutes and the applicable rules of the Department of Financial Services and the Auditor General.**

2. Did Subrecipient expend federal awards during its fiscal year that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between Subrecipient and Commerce?  Yes  No

If the above answer is yes, also answer the following before proceeding to execution of this certification:

Did Subrecipient expend \$750,000 or more in federal awards (from Commerce and all other sources of federal awards combined) during its fiscal year?  Yes  No

**If yes, Subrecipient certifies that it will timely comply with all applicable single or program-specific audit requirements of 2 CFR 200, subpart F, as revised.**

**By signing below, I certify, on behalf of Subrecipient, that the above representations for items 1 and 2 are true and correct.**

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Authorized Representative

\_\_\_\_\_  
Title of Authorized Representative



## Attachment K – Subrecipient Enterprise Resource Application (SERA) Form

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Attachment K will be provided after the Effective Date of this Subrecipient Agreement

## Attachment L

### 2 CFR Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

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#### Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. §§ 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 CFR 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. § 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be

required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR 1986 Comp., p. 189) and 12689 (3 CFR 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See 2 CFR 200.323 - Procurement of recovered materials.

(K) See 2 CFR 200.216 - Prohibition on certain telecommunications and video surveillance services or equipment.

(L) See 2 CFR 200.322 - Domestic Preferences for procurements.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]

## Attachment M

### State of Florida Department of Commerce

### Federally Funded Community Development Block Grant Disaster Recovery (CDBG-DR) Subrogation Agreement

This Subrogation and Assignment Agreement (“Agreement”) is made and entered by and between Escambia County (“Subrecipient”) and the State of Florida, Department of Commerce (“Commerce”).

In consideration of Subrecipient’s receipt of funds or the commitment by Commerce to evaluate Subrecipient’s application for the receipt of funds (collectively, the “Grant Proceeds”) under the Commerce Community Development Block Grant-Disaster Recovery Program (the “CDBG-DR Program”) administered by Commerce, Subrecipient hereby assigns to Commerce all of Subrecipient’s future rights to reimbursement and all payments received from any grant, subsidized loan, lawsuit or insurance policies of any type or coverage or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency (“FEMA”) or the Small Business Administration (“SBA”) (singularly, a “Disaster Program” and collectively, the “Disaster Programs”) that was the basis of the calculation of Grant Proceeds paid or to be paid to Subrecipient under the CDBG-DR Program and that are determined in the sole discretion of Commerce to be a duplication of benefits (“DOB”) as provided in this Agreement.

The proceeds or payments referred to in the preceding paragraph, whether they are from insurance, FEMA or the SBA or any other source, and whether or not such amounts are a DOB, shall be referred to herein as “Proceeds,” and any Proceeds that are a DOB shall be referred to herein as “DOB Proceeds.” Upon receiving any Proceeds, Subrecipient agrees to immediately notify Commerce who will determine in its sole discretion if such additional amounts constitute a DOB. If some or all of the Proceeds are determined to be a DOB, the portion that is a DOB shall be paid to Commerce, to be retained and/or disbursed as provided in this Agreement. The amount of DOB determined to be paid to Commerce shall not exceed the amount received from the CDBG-DR Program.

Subrecipient agrees to assist and cooperate with Commerce to pursue any of the claims Subrecipient has against the insurers for reimbursement of DOB Proceeds under any such policies. Subrecipient’s assistance and cooperation shall include but shall not be limited to allowing suit to be brought in Subrecipient’s name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing record and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by Commerce. Subrecipient further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that Subrecipient would be entitled to under any applicable Disaster Program.

If requested by Commerce, Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better assign to Commerce, to the extent of the Grant Proceeds paid to Subrecipient under the CDBG-DR Program, the Policies, any amounts received under the Disaster Programs that are DOB Proceeds and/or any rights thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by Commerce to consummate and make effective the purposes of this Agreement.



Subrecipient explicitly allows Commerce to request of any company with which Subrecipient held insurance policies, or FEMA or the SBA or any other entity from which Subrecipient has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by Commerce to monitor/enforce its interest in the rights assigned to it under this Agreement and give Subrecipient's consent to such company to release said information to Commerce.

If Subrecipient (or any lender to which DOB Proceeds are payable to such lender, to the extent permitted by superior loan documents) hereafter receives any DOB Proceeds, Subrecipient agrees to promptly pay such amounts to Commerce, if Subrecipient received Grant Proceeds under the CDBG-DR Program in an amount greater than the amount Subrecipient would have received if such DOB Proceeds had been considered in the calculation of Subrecipient's award.

In the event that Subrecipient receives or is scheduled to receive any subsequent Proceeds, Subrecipient shall pay such subsequent Proceeds directly to Commerce, and Commerce will determine the amount, if any, of such subsequent Proceeds that are DOB Proceeds ("Subsequent DOB Proceeds"). Subsequent Proceeds in excess of Subsequent DOB Proceeds shall be returned to Subrecipient. Subsequent DOB Proceeds shall be disbursed as follows:

1. If Subrecipient has received full payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be retained by Commerce.
2. If Subrecipient has received no payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be used by Commerce to reduce payments of the Grant Proceeds to Subrecipient, and all Subsequent DOB Proceeds shall be returned to Subrecipient.
3. If Subrecipient has received a portion of the Grant Proceeds, any Subsequent DOB Proceeds shall be used, retained and/or disbursed in the following order: (A) Subsequent DOB Proceeds shall first be used to reduce the remaining payments of the Grant Proceeds, and Subsequent DOB Proceeds in such amount shall be returned to Subrecipient; and (B) any remaining Subsequent DOB Proceeds shall be retained by Commerce.
4. If Commerce makes the determination that Subrecipient does not qualify to participate in the CDBG-DR Program or Subrecipient determines not to participate in the CDBG-DR Program, the Subsequent DOB Proceeds shall be returned to Subrecipient, and this Agreement shall terminate.

Once Commerce has recovered an amount equal to the Grant Proceeds paid to Subrecipient, Commerce will reassign to Subrecipient any rights assigned to Commerce pursuant to this Agreement.

Subrecipient represents that all statements and representations made by Subrecipient regarding Proceeds received by Subrecipient shall be true and correct as of the date of the signing of this Agreement.

**Warning:** Any person who intentionally or knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. § 287, 18 U.S.C. § 1001, and 31 U.S.C. § 3729.

~ Remainder of this page is intentionally left blank ~

The person executing this Agreement on behalf of Subrecipient hereby represents that he\she has received, read, and understands this notice of penalties for making a false claim or statement regarding Proceeds received by Subrecipient.

In any proceeding to enforce this Agreement, Commerce shall be entitled to recover all costs of enforcement, including actual attorney's fees.

ESCAMBIA COUNTY, FLORIDA

DEPARTMENT OF COMMERCE

By [Signature]  
Signature  
Steven Barry

By [Signature]  
Signature  
J. Alex Kelly

Title Chairman

Title Secretary

Date 4/4/2024

Date 5/7/2024

ATTEST: Pam Childers  
Clerk of the Circuit Court



By [Signature]  
Deputy Clerk

Approved as to form and legal sufficiency.

By/Title: Kristin D. Hual, DCA

Date: 03-27-2024