



City of Pensacola

City Council

Agenda

City of Pensacola
222 W. Main Street
Pensacola, FL 32502

July 18, 2024, 5:30 PM

Hagler-Mason Conference Room, 2nd Floor

The meeting can be watched via live stream at cityofpensacola.com/video.

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

Council Member Jennifer Brahier

AWARDS

FIRST LEROY BOYD FORUM

APPROVAL OF MINUTES

1. 24-397 APPROVAL OF MINUTES: REGULAR MEETING DATED JUNE 13, 2024
Recommendation: That City Council approve regular meeting minutes dated June 13, 2024.
Sponsors: Council President Casey Jones
Attachments: *Draft: Regular Meeting Dated 6/13/2024*

APPROVAL OF AGENDA

CONSENT AGENDA

2. 24-597 APPOINTMENT OF SPECIAL MAGISTRATE
Recommendation: That City Council appoint Jason Onacki as a Special Magistrate for the City of Pensacola.
Sponsors: Mayor D.C. Reeves
Attachments: *Jason Onacki Resume*
3. 24-619 APPOINTMENT OF CHERYL JACKSON TO THE GENERAL PENSION BOARD

Recommendation: That City Council approve the Council President's appointment of Cheryl Jackson, as his appointed representative, to the General Pension Board in accordance with City Code Sec. 9-4-103(2).

Sponsors: Council President Casey Jones

Attachments: *Larry Porto Letter of Resignation*

4. 24-631 APPOINTMENT - PRIMARY ARCHITECT ADVISOR - COMMUNITY REDEVELOPMENT AREA URBAN DESIGN OVERLAY STANDARDS ABBREVIATED REVIEW PROCESS

Recommendation: That City Council appoint William Brantley, an architect, who is licensed by the State of Florida and licensed to conduct business within the City of Pensacola, to serve as primary architect advisor to the Community Redevelopment Area Urban Design Overlay Standards Abbreviated Review Process for a term of two years, expiring May 31, 2026.

Sponsors: Council President Casey Jones

Attachments: *Member List*
Nomination Form - William Brantley
Application of Interest - William Brantley
Resume - William Brantley
Ballot - Primary

5. 24-633 APPOINTMENTS - ZONING BOARD OF ADJUSTMENT

Recommendation: That City Council reappoint Steven Sebold, Troy Stepherson, and William Weeks who are residents or property owners of the City, to the Zoning Board of Adjustment, for a term of three (3) years, expiring July 14, 2027.

Sponsors: Council President Casey Jones

Attachments: *Member List*
Application of Interest - Steven Sebold
Application of Interest - Troy Stepherson
Application of Interest - William Weeks
Ballot

6. 24-617 SIXTH ADDENDUM TO THE PARTIAL ASSIGNMENT TO VALENCIA DEVELOPMENT CORPORATION OF THE OPTION AGREEMENT BETWEEN THE CITY OF PENSACOLA AND STUDER PROPERTIES, LLP - PARCEL 7 AT THE COMMUNITY MARITIME PARK

Recommendation: That City Council approve and authorize the Mayor to execute the Sixth Addendum to the Partial Assignment to Valencia Development Corporation of the Option Agreement between the City of Pensacola and Studer Properties, LLP for the development of Parcel 7 of the Vince J.

Whibbs Sr. Community Maritime Park, extending the agreement through September 30, 2024. Also, that City Council authorize the Mayor to take the actions necessary to execute and administer this agreement consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments: *Draft - Sixth Addendum to the Partial Assignment of Valencia Option Agreement Parcel 7*

7. 24-551 AWARD OF BID NO. 24-027 - SUMMIT BOULEVARD DRAINAGE IMPROVEMENTS, 12TH AVENUE TO FIRESTONE DRIVE

Recommendation: That City Council award Bid # 24-027, Summit Boulevard Drainage Improvements, 12th Avenue to Firestone Drive to Chavers Construction, Inc., of Cantonment, Florida, the lowest and most responsible bidder with a base bid of \$124,518.20, plus a 10% contingency of \$12,451.82 for a total of \$136,970.02. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this contract and complete the work, consistent with the bid, contracting documents, and the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments: *24-027 NOI and Bid Tabulation*

8. 24-607 AIRPORT - AWARD OF BID NO. 24-032 - AIRPORT AIRCRAFT PARKING APRON PROJECT

Recommendation: That City Council award Bid No. 24-032 for Airport Aircraft Parking Apron project to Independence Excavating, Inc. of Independence, Ohio, the lowest and most responsible bidder with a base bid of \$4,491,175.00 plus a 10% contingency of \$449,117.50 for a total of \$4,940,292.50. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this contract and complete the work, consistent with the bid, contracting documents, and the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments: *ITB No. 24-032 Tabulation of Bids*
ITB No. 24-032 Final Vendor Reference List

9. 24-609 AIRPORT - AMENDMENT NO. 1 TO DESIGN-BUILDER CONTRACT WITH ROY ANDERSON CORPORATION FOR PROJECT TITAN - ELEMENT 2 AT PENSACOLA INTERNATIONAL AIRPORT

Recommendation: That City Council approve Amendment No. 1 to the Design-Builder contract between the City and Roy Anderson Corporation which provides for the construction of Project Titan, Element 2. Further, that City Council authorize the

Mayor to take the actions necessary to execute and administer this contract and contract amendment, including but not limited to the approval of amendments, modifications, budgets, plans and specifications, cost estimates and breakdowns, and schedules provided that the total cost of Project Titan shall not exceed the amount of committed funds, and complete the work, consistent with the bid, contracting documents, and the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments: *Design-Build Contract between the City and Roy Anderson Corp - Amendment No. 1*
Design-Build Contract between the City and Roy Anderson Corp

10. 24-629 AMENDMENT TO 2017 HUD ANNUAL ACTION PLAN - COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FUNDS REALLOCATION

Recommendation: That City Council approve an Amendment to the 2017 HUD Annual Action Plan for the Community Development Block Grant program reallocating \$2,925.57 in funds. Further, that City Council authorize the Mayor to take the actions necessary to effect the Amendment, consistent with the terms of the grant and the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments: *Public Notice 2017 HUD Annual Plan Amendment*

11. 24-630 AMENDMENT #2 TO COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)-CV LEGAL SERVICES PROGRAM AGREEMENT

Recommendation: That City Council approve Amendment #2 to the CDBG-CV Legal Services Program Agreement with Legal Services of North Florida, Inc. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer Amendment #2 to the Agreement, consistent with the terms of Amendment #2 and the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments: *Amendment 2 to CDBG-CV Legal Services Program Agreement*

12. 24-605 DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL MEMBER DELARIAN WIGGINS - DISTRICT 7

Recommendation: That City Council approve funding of \$500 for the Westside Garden District Neighborhood Association and \$368 to the Real Women's Radio Foundation from the City Council Discretionary Funds for District 7.

Sponsors: Council Member Delarian Wiggins

Attachments: None

13. 24-649 DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL MEMBER TENIADE BROUGHTON - DISTRICT 5

Recommendation: That City Council approve funding of \$300 to the Real Women Radio Foundation, \$500 to the Woodland Heights Neighborhood Association and \$500 to the Northeast Neighborhood Association the City Council Discretionary Funds for District 5.

Sponsors: Council Member Teniadè Broughton

Attachments: None

14. 24-653 DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL PRESIDENT CASEY JONES - DISTRICT 3

Recommendation: That City Council approve funding of \$1,000 to HYPE Pensacola from the City Council Discretionary Funds for District 3.

Sponsors: Council President Casey Jones

Attachments: None

REGULAR AGENDA

15. 24-618 THIRD ADDENDUM TO OPTION AGREEMENT WITH INSPIRED COMMUNITIES OF FLORIDA LLC FOR LOTS 4 AND 5 AT THE COMMUNITY MARITIME PARK

Recommendation: That City Council approve and authorize the Mayor to execute the Third Addendum to the Option Agreement with Inspired Communities of Florida LLC for the development of Lots 4 and 5 of Vince J. Whibbs Sr. Community Maritime Park, extending the agreement through August 31, 2024. Also, that City Council authorize the Mayor to take actions necessary to execute and administer this agreement, consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter

Sponsors: Mayor D.C. Reeves

Attachments: *Third Addendum to Inspired Option Agreement for Lots 4 and 5*

16. 24-639 FISCAL YEAR 2024-2025 SCHOOL RESOURCE OFFICER PROGRAM MEMORANDUM OF UNDERSTANDING (MOU) - BETWEEN THE SCHOOL BOARD OF ESCAMBIA, COUNTY, FLORIDA, AND THE CITY OF PENSACOLA POLICE DEPARTMENT

Recommendation: That City Council approve a Memorandum of Understanding between the Pensacola Police Department and The School Board of Escambia County for the purpose of providing School Resources Officers at

Pensacola High School, Washington High School and Workman Middle School in the City of Pensacola, Escambia County, Florida for the Fiscal Year 2024-2025 in an amount not to exceed \$477,072.17. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this memorandum of understanding, consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments: *School Resource Officer Program Memorandum of Understanding (MOU) 2024-2025*

- 17. 24-640** FISCAL YEAR 2024-2025 IN SUPPORT AND PARTNERSHIP OF SAFE SCHOOLS MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE SCHOOL BOARD OF ESCAMBIA COUNTY, FLORIDA, AND THE PENSACOLA POLICE DEPARTMENT

Recommendation: That City Council approve the Memorandum of understanding between the Pensacola Police Department and the School Board of Escambia County for the purpose of providing protection and safety to the students and staff at all School Board of Escambia County schools located in the City of Pensacola. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this Memorandum of Understanding consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments: *PPD and ECSB Safe Schools Memorandum of Understanding 2024-2025*

- 18. 24-586** TENTATIVE MILLAGE RATE - FISCAL YEAR 2025

Recommendation: That City Council set the tentative Fiscal Year 2025 millage rate for the City of Pensacola at 4.2895 mils and for the Downtown Improvement District at 2.0000 mils and authorize the Mayor to set final levies in compliance with all property tax reform regulations. Further, that the Mayor may administratively adjust the final adopted millage rate upon receipt of the final valuation if the City's final current year gross taxable value is reduced by more than 1%. Finally, that the first public hearing on the Fiscal Year 2025 millage rates be held on September 4, 2024, at 5:30 p.m. in Council Chambers.

Sponsors: Mayor D.C. Reeves

Attachments: *FY 25 Taxable Value Estimates - updated july*

- 19. 24-594** SCULPTURE DONATION "LEARNING TO FLY" FOR BARTRAM PARK

Recommendation: That City Council approve the donation of "Learning to Fly" sculpture to be located in Bartram Park. Further, that City Council adopt a supplemental budget resolution to appropriate the revenues and expenditures for the sculpture art donation.

Sponsors: Mayor D.C. Reeves

Attachments: *Park Amenity Dedication Form*
Image of Coderch & Malavis Learning to Fly Sculpture

20. 24-552 SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-48 - "LEARNING TO FLY" SCULPTURE DONATION FOR BARTRAM PARK

Recommendation: That City Council adopt Supplemental Budget Resolution No. 2024-48.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

Sponsors: Mayor D.C. Reeves

Attachments: *Supplemental Budget Resolution No. 2024-48*
Supplemental Budget Explanation No. 2024-48
INV-6949 (City of Pensacola)
Email from Holly Benson with Pictures

21. 24-600 SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-49 - APPROPRIATING INSURANCE PROCEEDS FOR GENERATOR AT FIRE STATION 1

Recommendation: That City Council adopt Supplemental Budget Resolution No. 2024-24.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING AN EFFECTIVE DATE.

Sponsors: Mayor D.C. Reeves

Attachments: *Supplemental Budget Resolution No. 2024-49*
Supplemental Budget Explanation No. 2024-49

22. 24-610 FLORIDA COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT - GRANT NO. HS016 - BAPTIST HOSPITAL

Recommendation: That City Council approve the acceptance of grant award HS016 to acquire, abate, and demolish a 20-acre portion of the abandoned Baptist Hospital campus in the amount of \$5,000,000 with a \$800,000 local match for a total value of \$5,800,000. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this

grant, consistent with the terms of the grant and the Mayor's Executive Powers as granted in the City Charter. Finally, that City Council adopt a supplemental budget resolution appropriating the grant funds.

Sponsors: Mayor D.C. Reeves

Attachments: *HS016 Baptist Hospital HRP*

- 23.** 24-612 SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-51 - FLORIDA COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR) FUNDING - FORMER BAPTIST HOSPITAL CAMPUS

Recommendation: That City Council adopt Supplemental Budget Resolution No. 2024-51

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

Sponsors: Mayor D.C. Reeves

Attachments: *Supplemental Budget Resolution No. 2024-51*
Supplemental Budget Explanation No. 2024-51
Grant Agreement No. HS016

- 24.** 24-611 FLORIDA COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT - GRANT NO. HS017 - PACE AND CERVANTES

Recommendation: That City Council approve the acceptance of grant award HS017 for rehabilitating the Pace/Cervantes corridor in the amount of \$5,000,000 with a \$700,000 local match for a total value of \$5,700,000. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this grant, consistent with the terms of the grant and the Mayor's Executive Powers as granted in the City Charter. Finally, that City Council adopt a supplemental budget resolution appropriating the grant funds.

Sponsors: Mayor D.C. Reeves

Attachments: *HS017 Pace-Cervantes HRP*

- 25.** 24-613 SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-52 - FLORIDA COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG- DR) - PACE/CERVANTES

Recommendation: That City Council adopt Supplemental Budget Resolution No.2024-52.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

Sponsors: Mayor D.C. Reeves

Attachments: *Supplemental Budget Resolution No. 2024-52*
Supplemental Budget Explanation No. 2024-52
HS017 Pace-Cervantes HRP

- 26.** 24-608 RESOLUTION NO. 2024-50 - DESIGNATING CITY STAFF AS CLERK TO TRAFFIC INFRACTION DETECTOR SPECIAL MAGISTRATES

Recommendation: That City Council adopt Resolution No. 2024-50.

A RESOLUTION OF THE CITY COUNCIL OF PENSACOLA, FLORIDA, PROVIDING FOR USE OF CITY STAFF AS CLERK TO TRAFFIC INFRACTION DETECTOR SPECIAL MAGISTRATES IN ACCORDANCE WITH FLORIDA STATUTES IN THE CITY OF PENSACOLA, FLORIDA; PROVIDING AN EFFECTIVE DATE

Sponsors: Mayor D.C. Reeves

Attachments: *Resolution No. 2024-50*

- 27.** 24-632 RESOLUTION NO. 2024-53 - TERMINATING FDOT BEAUTIFICATION GRANT AGREEMENT

Recommendation: That City Council adopt Resolution No. 2024-53:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA; TERMINATING THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) BEAUTIFICATION GRANT AGREEMENT NO. G2533 FOR GARDEN STREET LANDSCAPE IMPROVMENTS WEST OF "A" STREET; PROVIDING AN EFFECTIVE DATE.

Sponsors: Council Member Jennifer Brahier

Attachments: *Resolution No. 2024-53*

- 28.** 24-634 SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-54 - TERMINATING FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) BEAUTIFICATION GRANT AGREEMENT

Recommendation: That City Council adopt Supplemental Budget Resolution No. 2024-54:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024, PROVIDING FOR AN EFFECTIVE DATE.

Sponsors: Council Member Jennifer Brahier

Attachments: *Supplemental Budget Resolution No. 2024-54*
 Supplemental Budget Explanation No. 2024-54

COUNCIL EXECUTIVE'S REPORT

MAYOR'S COMMUNICATION

COUNCIL COMMUNICATIONS & CIVIC ANNOUNCEMENTS

SECOND LEROY BOYD FORUM

ADJOURNMENT

Any opening invocation that is offered before the official start of the Council meeting shall be the voluntary offering of a private person, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the City Council or the city staff, and the City is not allowed by law to endorse the religious or non-religious beliefs or views of such speaker. Persons in attendance at the City Council meeting are invited to stand during the invocation and to stand and recite the Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. No person in attendance at the meeting shall be required to participate in any opening invocation that is offered or to participate in the Pledge of Allegiance. You may remain seated within the City Council Chambers or exit the City Council Chambers and return upon completion of the opening invocation and/or Pledge of Allegiance if you do not wish to participate in or witness the opening invocation and/or the recitation of the Pledge of Allegiance.

If any person decides to appeal any decision made with respect to any matter considered at such meeting, he will need a record of the proceedings, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

The City of Pensacola adheres to the Americans with Disabilities Act and will make reasonable accommodations for access to City services, programs and activities. Please call 435-1606 (or TDD 435-1666) for further information. Request must be made at least 48 hours in advance of the event in order to allow the City time to provide the requested services.



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-397

City Council

7/18/2024

MINUTES

SUBJECT:

APPROVAL OF MINUTES: REGULAR MEETING DATED JUNE 13, 2024

ATTACHMENTS:

1. Draft: Regular Meeting Dated 6/13/2024



City of Pensacola

CITY COUNCIL

MINUTES

City of Pensacola
222 W. Main Street
Pensacola, FL
32502

June 13, 2024

5:30 PM

Hagler-Mason Conference Room,
2nd Floor

ROLL CALL

Council President Jones called the regular meeting to order at 5:31 P.M.

Council Members Present: Casey Jones, Charles Bare, Jennifer Brahier, Teniade Broughton, Allison Patton, Delarian Wiggins

Council Members Absent: Jared Moore

Also Present: Mayor D.C. Reeves

INVOCATION

Moment of Silence

PLEDGE OF ALLEGIANCE

Council Member Charles Bare

AWARDS

Mayor Reeves recognized Senator Doug Broxson presenting him with a key to the City of Pensacola as he had just recently left office. Senator Broxson made follow-up remarks.

FIRST LEROY BOYD FORUM

Susan Wesler: Addressed Council regarding flooding, runoff, and overgrowth in Goya Park negatively impacting Cordova Villas (she provided a handout detailing the problems with pictures). She indicated that this has been a problem for over a decade and the City has not provided a viable solution.

Mayor Reeves made follow-up remarks indicating he would follow-up with staff and contact Ms. Wesler next week. Council President Jones also made follow-up remarks.

APPROVAL OF MINUTES

1. 24-396 APPROVAL OF MINUTES: REGULAR MEETING DATED MAY 23, 2024

Recommendation: That City Council approve regular meeting minutes dated May 23, 2024.

A motion to approve was made by Council Member Bare and seconded by Council Member Patton.

The motion passed by the following vote:

Yes: 6 Casey Jones, Charles Bare, Jennifer Brahier, Teniade Broughton,
Allison Patton, Delarian Wiggins

No: 0 None

APPROVAL OF AGENDA

A motion to approve was made by Council Member Patton and seconded by Council Member Wiggins.

The motion passed by the following vote:

Yes: 6 Casey Jones, Charles Bare, Jennifer Brahier, Teniade Broughton,
Allison Patton, Delarian Wiggins

No: 0 None

CONSENT AGENDA

2. 24-503 MAYORAL APPOINTMENT - DOWNTOWN IMPROVEMENT BOARD

Recommendation: That City Council affirm the Mayor's reappointment of Chris McKean to the Downtown Improvement Board (DIB) for a term of three (3) years expiring June 30, 2027.

3. 24-533 APPOINTMENTS - ENVIRONMENTAL ADVISORY BOARD

Recommendation: That City Council appoint Mark Gottschalk, an individual who is an employed or retired environmental professional, or member of local environmental organizations or businesses with an interest in City environmental issues; and appoint Jordan Poole, an individual who is a resident or property owner of the City to a term of two (2) years, expiring March 1, 2026.

4. 24-509 CITY OF PENSACOLA HOUSING DEPARTMENT PUBLIC HOUSING AGENCY 2024-2025 ANNUAL PLAN

Recommendation: That City Council approve the Public Housing Agency 2024-2025 Annual Plan for the Housing Choice Voucher program for submission to the U.S. Department of Housing and Urban Development. Further, that City Council authorize the Mayor to take the actions necessary to execute the Plan documents and administer the program, consistent with the terms of the program and the Mayor's Executive Powers as granted in the City Charter.

5. 24-506 LOCAL GOVERNMENT AREA OF OPPORTUNITY FOR 9% HOUSING TAX CREDIT APPLICATION

Recommendation: That City Council authorize funding in the amount of \$460,000 to support a Local Government Area of Opportunity application for Kupfrian Manor for Florida Housing Finance Corporation's RFA 2024-201 Housing Credit Financing for Affordable Housing Developments located in Medium and Small Counties. Further, that City Council authorize the Mayor to sign the Local Government Verification of Contribution Form as required by Florida Housing Finance Corporation.

6. 24-418 AIRPORT - U.S. GENERAL SERVICES ADMINISTRATION (GSA) LEASE AGREEMENT

Recommendation: That City Council authorize the Mayor to execute the lease agreement with U.S. General Services Administration (GSA) to provide for office and training space for the Transportation Security Administration at the Pensacola International Airport. Further, that City Council authorize the Mayor to execute any amendments to the lease agreement governing the annual terminal building rental rate adjustment. Finally, that City Council authorize the Mayor to take the actions necessary to execute and administer this lease agreement, consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter.

7. 24-492 FLORIDA LOCAL GOVERNMENT CYBERSECURITY PROGRAM GRANT AGREEMENT NO. DMS-24/25-071

Recommendation: That City Council approve acceptance of Florida Local Government Cybersecurity Grant Contract No. DMS-24/25-071 to provide for the continued funding of Endpoint-Based Asset Discovery and Security Operations

Platform, and that City Council authorize the Mayor to take the actions necessary relating to the acceptance and execution of this grant, consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter.

8. 24-508 COMMUNITY DEVELOPMENT BLOCK GRANT-CV AGREEMENT FOR SERVICES WITH OPENING DOORS NORTHWEST FLORIDA, INC.

Recommendation: That City Council approve the Community Development Block Grant-CV Agreement for Services with Opening Doors Northwest Florida, Inc. to provide direct financial assistance for Emergency Housing Voucher program clients. Further, that City Council authorize the Mayor to take the action necessary to execute and administer the Agreement, consistent with the terms of the Agreement and the Mayor's Executive Powers as granted in the City Charter.

9. 24-538 STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT - STATEWIDE MUTUAL AID AGREEMENT

Recommendation: That City Council approve the State of Florida Division of Emergency Management Statewide Mutual Aid Agreement. Further, the City Council authorize the Mayor to take the actions necessary to execute and administer this Memorandum of Agreement, consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter.

10. 24-507 REVISED - DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL MEMBER TENIADE BROUGHTON - DISTRICT 5

Recommendation: That City Council approve funding of \$500 to the Muscogee Nation of Northwest Florida, \$250 to Safe Women and Girls, \$200 to the East Hill Neighborhood Association, \$500 to the University of West Florida (UWF) Historic Trust, \$500 to the Gulf Coast Minority Chamber of Commerce from the City Council Discretionary Funds for District 5.

11. 24-500 ADD-ON: AIRPORT - AWARD OF BID NO. 24-028 - PENSACOLA INTERNATIONAL AIRPORT TIPPIN AVENUE PARKING LOT

Recommendation: That City Council award Bid # 24-028, Pensacola International Airport Tippin Avenue Parking Lot to C.W. Roberts Contracting, Inc. of Pensacola, FL, the lowest and most responsible bidder with a base bid of \$2,845,539.10 plus a 10% contingency of \$284,553.91 for a total of \$3,130,093.01. Further, that City Council authorize the Mayor to take the actions necessary to execute and

administer this contract and complete the work, consistent with the bid, contracting documents, and the Mayor's Executive Powers as granted in the City Charter.

12. 24-578 ADD-ON -- SECOND ADDENDUM TO OPTION AGREEMENT WITH INSPIRED COMMUNITIES OF FLORIDA, LLC FOR LOTS 4 AND 5 AT THE COMMUNITY MARITIME PARK

Recommendation: That City Council approve and authorize the Mayor to execute the Second Addendum to the Option Agreement with Inspired Communities of Florida, LLC for the development of Lots 4 and 5 of Vince J. Whibbs Sr. Community Maritime Park, extending the agreement through July 31, 2024. Also, that City Council authorize the Mayor to take actions necessary to execute and administer this agreement, consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter.

A motion to approve consent agenda items 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 was made by Council Member Brahier and seconded by Council Member Wiggins.

The motion passed by the following vote:

Yes: 6 Casey Jones, Charles Bare, Jennifer Brahier, Teniade Broughton,
 Allison Patton, Delarian Wiggins
No: 0 None

REGULAR AGENDA

13. 24-554 PUBLIC HEARING -- DISPOSITION OF REAL PROPERTY - 1491 N. E. ST., 2300 W. JACKSON ST., 113 N. SPRING ST.

Recommendation: That City Council conduct a Public Hearing regarding the disposition of real property located at 1491 N. E. Street, 2300 W. Jackson Street, and 113 N. Spring Street, in accordance with Chapter 163, Part III, Florida Statutes.

Mayor Reeves made comments indicating that the two (2) items following the public hearing are related and that CRA staff is available to answer questions.

Council Member Brahier (CRA Chairperson) provided clarification in response to a question she received from a citizen.

A motion to approve was made by Council Member Brahier and seconded by Council Member Wiggins.

There being no public input or discussion, the vote was called.

The motion passed by the following vote:

Yes: 6 Casey Jones, Charles Bare, Jennifer Brahier, Teniade Broughton,
 Allison Patton, Delarian Wiggins
No: 0 None

14. 24-511 DISPOSITION OF REAL PROPERTY - THREE RESIDENTIAL INFILL LOTS (COMMUNITY LAND TRUST)

Recommendation: That City Council authorize the Mayor to dispose of each of three previously-surplused residential infill parcels located at 1491 North E Street (formerly addressed as 901 West Blount Street), 2300 West Jackson Street, and 113 North Spring Street via a land donation agreement in direct negotiation with Northwest Florida Community Land Trust LLC, as selected using the criteria of the required public notice, pursuant to Florida Statute 163.380. Also, that City Council authorize the Mayor to take all action necessary to execute and administer the transactions consistent with the Mayor's Executive Powers as granted by the City Charter.

A motion to approve was made by Council Member Bare and seconded by Council Member Wiggins.

The motion passed by the following vote:

Yes: 6 Casey Jones, Charles Bare, Jennifer Brahier, Teniade Broughton,
 Allison Patton, Delarian Wiggins
No: 0 None

15. 24-553 APPROVAL OF LAND DONATION AGREEMENT WITH COMMUNITY LAND TRUST FOR AFFORDABLE HOUSING INFILL

Recommendation: That City Council approve the land donation agreement with the Northwest Florida Community Land Trust for the redevelopment of 2300 W Jackson Street, A (Parcel ID# 000S009060020172) and 113 N. Spring Street (Parcel ID#000S009003001462) and the rehabilitation of 1491 N E Street (Parcel ID# 000S009050016054) for long-term affordable housing.

A motion to approve was made by Council Member Brahier and seconded by Council Member Patton.

The motion passed by the following vote:

Yes: 6 Casey Jones, Charles Bare, Jennifer Brahier, Teniade Broughton,
 Allison Patton, Delarian Wiggins

No: 0 None

16. 24-499 PRELIMINARY RATE RESOLUTION TO IMPOSE AN ANNUAL STORMWATER ASSESSMENT ON REAL PROPERTY IN THE CITY OF PENSACOLA

Recommendation: That City Council adopt Resolution No. 2024-45.

A RESOLUTION OF THE CITY OF PENSACOLA, FLORIDA, RELATING TO THE PROVISION OF STORMWATER MANAGEMENT SERVICES; ESTIMATING THE COST OF STORMWATER MANAGEMENT SERVICES PROVIDED BY THE CITY'S STORMWATER UTILITY; DESCRIBING THE METHOD OF CHARGING THE STORMWATER SERVICE COST OF STORMWATER MANAGEMENT SERVICES AGAINST ASSESSED PROPERTY; DIRECTING THE STORMWATER UTILITY DIRECTOR TO PREPARE OR DIRECT THE PREPARATION OF A STORMWATER ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING FOR THE PROPOSED STORMWATER SERVICE ASSESSMENTS AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING FOR COLLECTION; AND PROVIDING AN EFFECTIVE DATE.

A motion to adopt was made by Council Member Patton and seconded by Council President Jones.

Discussion ensued among Council with Mayor Reeves (sponsor) and Finance Director Lovoy fielding comments and questions. Sandi Neubarth, Assistant Director of Municipal Services with Anser Advisory also responded to questions (via Microsoft Teams).

Council Member Bare made a motion to amend that Section 5(D) of the resolution be stricken, "~~The maximum rate of assessment equal to \$136.01 per Net ESU for Stormwater Management Services is hereby approved for future Fiscal Years.~~"

Discussion took place regarding the amendment with Mayor Reeves responding to the amendment. Finance Director Lovoy and Ms. Neubarth responded accordingly to questions.

Upon conclusion of discussion, **the vote was called on the amendment.**

The motion to amend failed by the following vote:

Yes: 2 Charles Bare, Jennifer Brahier

No: 4 Casey Jones, Teniade Broughton, Allison Patton, Delarian Wiggins

There being no further discussion, **the vote was called on the main motion.**

The motion passed by the following vote:

Yes: 4 Casey Jones, Teniade Broughton, Allison Patton, Delarian Wiggins
No: 2 Charles Bare, Jennifer Brahier

17. 24-512 DECLARATION OF SURPLUS AND DISPOSITION OF REAL PROPERTY - 101 WEST MAIN STREET (SHORT TERM LEASE)

Recommendation: That City Council declare as surplus the real property located at 101 West Main Street (Parcel ID No. 000S009100080026) and authorize the CRA to dispose of the parcel via direct negotiation with Hixardt Technologies, Inc. for a short term lease in the interim of previously-approved redevelopment of the site. Also, that City Council authorize the Mayor to take all action necessary to administer the transaction consistent with the Mayor's Executive Powers as granted by the City Charter.

A motion to approve was made by Council Member Bare and seconded by Council Member Wiggins.

The motion passed by the following vote:

Yes: 6 Casey Jones, Charles Bare, Jennifer Brahier, Teniade Broughton,
Allison Patton, Delarian Wiggins
No: 0 None

18. 24-530 APPROVAL OF SHORT TERM LEASE AGREEMENT WITH HIXARDT TECHNOLOGIES, INC. FOR 101 W. MAIN STREET

Recommendation: That City Council ratify the CRA Board's recommendation to approve a lease agreement with Hixardt Technologies, Inc. for the property located at 101 West Main Street for a period of twelve (12) months, terminating on June 15, 2025, reverting to month-to-month lease thereafter, until terminated.

A motion to approve was made by Council Member Bare and seconded by Council Member Brahier.

The motion passed by the following vote:

Yes: 6 Casey Jones, Charles Bare, Jennifer Brahier, Teniade Broughton,
Allison Patton, Delarian Wiggins
No: 0 None

19. 24-513 ACQUISITION OF REAL PROPERTY - 2301 WEST CERVANTES STREET

Recommendation: That City Council approve the purchase of real property located at 2301 West Cervantes Street (Parcel No. 000S009060030173) from Rosario

Danzie dba Amerasian LLC for \$18,000 plus an estimated \$7,500 in closing costs and lien abatement, for a total amount not to exceed \$25,500. Also, that City Council authorize the Mayor to take the necessary actions to execute and administer the acquisition, consistent with the Mayor's Executive Powers as granted in the City Charter.

A motion to approve was made by Council Member Wiggins and seconded by Council Member Brahier.

Mayor Reeves (sponsor) explained the intent of the acquisition related to the Pensacola Motor Lodge property.

There being no discussion, the vote was called.

The motion passed by the following vote:

Yes: 6 Casey Jones, Charles Bare, Jennifer Brahier, Teniade Broughton,
 Allison Patton, Delarian Wiggins
No: 0 None

20. 24-514 RESOLUTION NO. 2024-46 - ACQUISITION OF REAL PROPERTY AT 2301 WEST CERVANTES STREET WITH COMMUNITY REDEVELOPMENT AGENCY (CRA) FUNDS

Recommendation: That City Council adopt Resolution No. 2024-46:

A RESOLUTION OF THE CITY OF PENSACOLA, FLORIDA RELATING TO COMMUNITY REDEVELOPMENT WITHIN THE WESTSIDE COMMUNITY REDEVELOPMENT AREA; PROVIDING FINDINGS; APPROVING AND AUTHORIZING THE EXPENDITURE OF CRA FUNDS TO ACQUIRE CERTAIN REAL PROPERTY THEREIN LOCATED AT 2301 WEST CERVANTES STREET IN FURTHERANCE OF THE PURPOSES ESTABLISHED IN CHAPTER 163, PART III, FLORIDA STATUTES AND THE WESTSIDE REDEVELOPMENT PLAN; AND PROVIDING AN EFFECTIVE DATE.

A motion to adopt was made by Council Member Bare and seconded by Council Member Brahier.

The motion passed by the following vote:

Yes: 6 Casey Jones, Charles Bare, Jennifer Brahier, Teniade Broughton,
 Allison Patton, Delarian Wiggins
No: 0 None

21. 24-455 PENSACOLA INTERNATIONAL AIRPORT - STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION PUBLIC TRANSPORTATION GRANT

**AGREEMENT NO. 446645-1-94-01 TAXIWAY A7 & TAXIWAY A/B
INTERSECTION RECONFIGURATION**

Recommendation: That City Council accept the Florida Department of Transportation, Public Transportation Grant Agreement No. 446645-1-94-01 for the Taxiway A7 & Taxiway A/B Intersection Reconfiguration in the amount of \$450,000 with a \$545,160 local match and \$8,961,840 federal ask for a total grant value of \$9,957,000. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this grant, consistent with the terms of the grant and the Mayor's Executive Powers as granted in the City Charter.

A motion to approve was made by Council Member Patton and seconded by Council Member Brahier.

Airport Director Coughlin provided an overview of the project.

There being no discussion, the vote was called.

The motion passed by the following vote:

Yes: 6 Casey Jones, Charles Bare, Jennifer Brahier, Teniade Broughton,
 Allison Patton, Delarian Wiggins

No: 0 None

**22. 24-456 RESOLUTION NO. 2024-41 - STATE OF FLORIDA DEPARTMENT OF
TRANSPORTATION PUBLIC TRANSPORTATION AGREEMENT NO. 446645-1-
94-01 - TAXIWAY A7 & TAXIWAY A/B INTERSECTION RECONFIGURATION**

Recommendation: That City Council adopt Resolution No. 2024-41.

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF PENSACOLA TO EXECUTE THE PUBLIC TRANSPORTATION GRANT AGREEMENT NO. 446645-1-94-01 WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR TAXIWAY A7 & A/B INTERSECTION RECONFIGURATION – CONSTRUCTION/ CONSTRUCTION ADMINISTRATION AT THE PENSACOLA INTERNATIONAL AIRPORT; PROVIDING AN EFFECTIVE DATE.

A motion to adopt was made by Council Member Bare and seconded by Council Member Brahier.

The motion passed by the following vote:

Yes: 6 Casey Jones, Charles Bare, Jennifer Brahier, Teniade Broughton,
 Allison Patton, Delarian Wiggins

No: 0 None

COUNCIL EXECUTIVE'S REPORT

Council Executive Kraher advised that Council Meetings will resume in the Council Chambers on July 18th and Agenda Conference will continue in the Hagler-Mason Conference room.

MAYOR'S COMMUNICATION

Mayor Reeves expressed gratitude for \$14.2 million in funding approved in the state budget by the legislature and recognized Senator Broxson and the local delegation for their support. He also recognized Special Assistant Smith for his efforts along with the City's lobbying consultant. He then highlighted the projects to which the funds will be applied. He referenced this week's groundbreaking events: ST Aerospace at the Airport and IHMC downtown. He advised that the City's internship program is in full-swing. Further, he highlighted upcoming events for Juneteenth. He also advised that Council would receive weekly updates regarding issues with CivicClerk. Finally, he thanked City Administrator Fiddler for his tenure as this was his last Council meeting and wished him well.

COUNCIL COMMUNICATIONS & CIVIC ANNOUNCEMENTS

Several Council Members made follow-up remarks regarding Mayor Reeves' comments (indicated above) related to the state funding awards, groundbreakings, City interns, Juneteenth, and kind words for City Administrator Fiddler.

SECOND LEROY BOYD FORUM

None

ADJOURNMENT

WHEREUPON the meeting was adjourned at 6:57 P.M.

Adopted: _____

Approved: _____
Casey Jones, President of City Council

Attest:

Ericka L. Burnett, City Clerk



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-597

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

APPOINTMENT OF SPECIAL MAGISTRATE

RECOMMENDATION:

That City Council appoint Jason Onacki as a Special Magistrate for the City of Pensacola.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City of Pensacola utilizes Special Magistrates to conduct Code Enforcement case hearings, hear municipal parking citation appeals (i.e. conduct "parking court"), and conduct other quasi-judicial proceedings on behalf of the City. Currently, the City has four Special Magistrates, all of whom were appointed by City Council on Sept. 14, 2023. One of those magistrates, Tracey Robinson-Coffee is unable to continue serving in this capacity. After an evaluation of qualifications and in-person interviews, Jason Onacki is being recommended for appointment. His resume is attached as information.

PRIOR ACTION:

September 14, 2023 - City Council appointed four Special Magistrates

FUNDING:

Budget: \$38,000

Actual: \$38,000

FINANCIAL IMPACT:

Funding for Special Magistrate services is budgeted within the Parking Department and Code Enforcement budgets. Once engaged via a legal services agreement, the Special Magistrate will be paid an hourly rate for his time preparing for and conducting the hearings and other quasi-judicial proceedings to which he is assigned.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

6/17/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
Adam Cobb, City Attorney
Vanessa Moore, Assistant City Attorney

ATTACHMENTS:

1. Jason Onacki Resume

PRESENTATION: No



Jason@onackimmediation.com / 850-384-9273 / www.onackimmediation.com

May 31, 2024

City Hall (Lobby)
222 West Main Street
Pensacola, FL 32502
Attention: City Attorney's Office

Via Hand Delivery

RE: Interest in serving as Special Magistrate

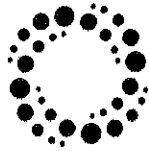
To Whom It May Concern:

May I please submit this letter of interest for the position of Special Magistrate, together with the attached résumé. Having most recently worked as a full-time mediator and arbitrator for over four years, I previously spent over fifteen years as a lawyer litigating a wide range of cases in courts and administrative forums. Those experiences, coupled with several clerkships for state and federal court judges early in my legal career, as well as time spent working for a large utility company; collectively have inspired me to pursue public service and provide me significant insight into the unique duties and responsibilities of the Special Magistrate position.

Beyond the experience and motivation noted above, what sets me apart is my ability to provide a reasoned approach and calm disposition to make difficult decisions even when those decisions may be unpopular. I recognize and embrace that a Special Magistrate has a solemn duty to the community to make timely decisions with great care and regard for the controlling law.

Your consideration is appreciated. Please do not hesitate to let me know if I may provide any further information to support your consideration of my interest.

Best regards,
/s/ Jason Onacki



JASON ONACKI

MEDIATOR / ARBITRATOR / PEACEMAKER

jason@onackimmediation.com / 850-384-9273 / www.onackimmediation.com

RÉSUMÉ

BAR ADMISSIONS / CERTIFICATIONS / QUALIFICATIONS

FLORIDA SUPREME COURT CERTIFIED CIRCUIT CIVIL AND COUNTY COURT MEDIATOR
MEMBER OF FLORIDA CHAPTER OF NATIONAL ACADEMY OF DISTINGUISHED NEUTRALS
FLORIDA BAR / ADMITTED 2004
STATE BAR OF GEORGIA / ADMITTED 2002
ADMITTED TO VARIOUS FEDERAL TRIAL AND APPELLATE COURTS

EMPLOYMENT EXPERIENCE

ONACKI ENTERPRISES, PLLC DBA JASON ONACKI *APRIL 2024 – PRESENT*
BASED IN PENSACOLA, FLORIDA; BUT SERVING ALL OF FLORIDA
MEDIATOR / ARBITRATOR / PEACEMAKER

Providing full range of alternative dispute resolution services to help parties conclude disputes.

ONACKI ENTERPRISES, PLLC / O'STEEN & O'STEEN, P.L. *2019 - 2024*
BASED IN PENSACOLA, FLORIDA; BUT SERVING ALL OF FLORIDA
MEDIATOR / ARBITRATOR / FACILITATOR

Provided mediation and arbitration processes to help parties conclude a wide range of disputes.

COLE, SCOTT & KISSANE, P.A. *2012 - 2020*
PENSACOLA, FLORIDA
PARTNER / LAW FIRM

Advised and represented businesses, individuals, and governmental entities as to claims involving general liability, contracts, personal injuries, employment relations, land use, product liability, insurance coverage, construction, and civil rights; as well as office managerial duties.

QUINTAIROS, PRIETO, WOOD & BOYER, P.A. *2012*
PENSACOLA, FLORIDA
ASSOCIATE ATTORNEY / LAW FIRM



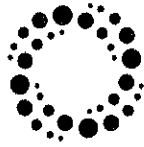
Jason@onackimmediation.com / 850-384-9273 / www.onackimmediation.com

EMPLOYMENT EXPERIENCE CONTINUED

BOZEMAN, JENKINS & MATTHEWS, P.A. <i>PENSACOLA, FLORIDA</i> <i>ASSOCIATE ATTORNEY / LAW FIRM</i>	<i>2005 - 2011</i>
UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF FLORIDA <i>PENSACOLA, FLORIDA</i> <i>JUDICIAL LAW CLERK</i>	<i>2004 - 2005</i>
HICKS, CASEY & FOSTER, P.C. <i>ATLANTA, GEORGIA</i> <i>ASSOCIATE ATTORNEY / LAW FIRM</i>	<i>2003 - 2004</i>
UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF GEORGIA <i>ALBANY, GEORGIA</i> <i>JUDICIAL LAW CLERK</i>	<i>2002 - 2003</i>
WAYCROSS JUDICIAL CIRCUIT, GEORGIA <i>WAYCROSS, GEORGIA</i> <i>JUDICIAL LAW CLERK</i>	<i>2001 - 2002</i>

EDUCATION

NUMEROUS MEDIATOR AND ARBITRATOR EDUCATION COURSES	<i>2018 – PRESENT</i>
UNIVERSITY OF MAINE SCHOOL OF LAW, JURIS DOCTOR	<i>2000</i>
UNIVERSITY OF NEW HAMPSHIRE, BACHELOR OF ARTS	<i>1997</i>



JASON ONACKI

MEDIATOR / ARBITRATOR / PEACEMAKER

Jason@onackimmediation.com / 850-384-9273 / www.onackimmediation.com

EMPLOYMENT EXPERIENCE CONTINUED

BOZEMAN, JENKINS & MATTHEWS, P.A. <i>PENSACOLA, FLORIDA</i> <i>ASSOCIATE ATTORNEY / LAW FIRM</i>	<i>2005 - 2011</i>
UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF FLORIDA <i>PENSACOLA, FLORIDA</i> <i>JUDICIAL LAW CLERK</i>	<i>2004 - 2005</i>
HICKS, CASEY & FOSTER, P.C. <i>ATLANTA, GEORGIA</i> <i>ASSOCIATE ATTORNEY / LAW FIRM</i>	<i>2003 - 2004</i>
UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF GEORGIA <i>ALBANY, GEORGIA</i> <i>JUDICIAL LAW CLERK</i>	<i>2002 - 2003</i>
WAYCROSS JUDICIAL CIRCUIT, GEORGIA <i>WAYCROSS, GEORGIA</i> <i>JUDICIAL LAW CLERK</i>	<i>2001 - 2002</i>

EDUCATION

NUMEROUS MEDIATOR AND ARBITRATOR EDUCATION COURSES	<i>2018 – PRESENT</i>
UNIVERSITY OF MAINE SCHOOL OF LAW, JURIS DOCTOR	<i>2000</i>
UNIVERSITY OF NEW HAMPSHIRE, BACHELOR OF ARTS	<i>1997</i>



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-619

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council President Casey Jones

SUBJECT:

APPOINTMENT OF CHERYL JACKSON TO THE GENERAL PENSION BOARD

RECOMMENDATION:

That City Council approve the Council President's appointment of Cheryl Jackson, as his appointed representative, to the General Pension Board in accordance with City Code Sec. 9-4-103(2).

HEARING REQUIRED: No Hearing Required

SUMMARY:

This board is responsible for overseeing the administration of the General Pension Plan and the investment of pension funds. It is composed of six members; three are appointed by the City Council. The remaining members consist of the current presiding council president or his or her appointed representative, who shall serve at the pleasure of the council president, and two current employee members of the General Pension and Retirement Fund elected by a plurality vote of the current employee members.

This item will appoint Ms. Jackson to the Board as the appointed representative of the Council President.

PRIOR ACTION:

October 21, 2009 - Mayor Michael C. Wiggins appointed Larry Porto to the General Pension Board as his appointee.

May 28, 2024 -- Larry Porto submitted his letter of resignation from the Board.

FUNDING:

N/A

FINANCIAL IMPACT:

N/A

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

1. Larry Porto Letter of Resignation

PRESENTATION: No

TO: Michelle Madril

Date: 5/17/24

Michelle, as I assume you are aware I have been asked to resign my position on the General Employees Pension Board. And I will comply with that request and tender this correspondence to that affect effective July 1st 2024. This is also notice that I plan to attend the FPPTA conference June 23rd – 26th.

It has been my honor and pleasure to serve the Employees and the City of Pensacola these last 30+ years as a trustee first with The Firefighter Board and the General Employees Board.

Sincerely,

Lawrence E. Porto

A handwritten signature in blue ink that reads "Lawrence E. Porto". The signature is stylized, with the first name "Lawrence" written in a cursive script, followed by "E." and a large, bold "P" that has a horizontal line extending to the right.



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-631

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council President Casey Jones

SUBJECT:

APPOINTMENT - PRIMARY ARCHITECT ADVISOR - COMMUNITY REDEVELOPMENT
AREA URBAN DESIGN OVERLAY STANDARDS ABBREVIATED REVIEW PROCESS

RECOMMENDATION:

That City Council appoint William Brantley, an architect, who is licensed by the State of Florida and licensed to conduct business within the City of Pensacola, to serve as primary architect advisor to the Community Redevelopment Area Urban Design Overlay Standards Abbreviated Review Process for a term of two years, expiring May 31, 2026.

HEARING REQUIRED: No Hearing Required

SUMMARY:

As established by Ordinance 07-22, the architect advisors have power and duty to review modifications in design and development within the Community Redevelopment Area Urban Design Overlay District. As such, they are authorized to provide recommendations which achieve the intent of the Community Redevelopment Area Urban Design Overlay District (CRAUDOD).

The following has been nominated:

Nominated:
William Brantley

Nominated by:
Brahier

PRIOR ACTION:

City Council appoints a primary and alternate advisor every two years.

FUNDING:

N/A

FINANCIAL IMPACT:

N/A

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Ericka L. Burnett, City Clerk

ATTACHMENTS:

1. Member List
2. Nomination Form - William Brantley
3. Application of Interest - William Brantley
4. Resume - William Brantley
5. Ballot - Primary

PRESENTATION: No

Architect Advisors-CRA UDO Abbreviated Review Process

Name	Profession	Appointed By	No. of Terms	Year	Exp Date	First Appointed	Term Length	Comments
Sisson, Sarah	Licensed Architect	City Council	0	2024	5/31/2024	5/26/2022	2	PRIMARY ARCHITECT ADVISOR
von Senden, John C.	Licensed Architect	City Council	0	2024	5/31/2026	5/26/2022	2	ALTERNATE ARCHITECT ADVISOR

Term Length: Two Years

Two (2) architect advisors, a primary and an alternate. The alternate architect advisor shall serve when the primary architect advisor has a conflict of interest. The architect advisors shall be appointed by City Council. Appointed architect advisor(s), in primary or alternate roles, shall serve for terms of two years or thereafter until their successors are appointed. Any advisor may be removed from their duties in accordance with F.S. § 112.501 or upon determination by the City Council that its policies and procedures have been violated by the advisor. Any vacancy occurring during the unexpired term of office of any member shall be filled by the city council for the remainder of the term. Such vacancy shall be filled as soon as is practical.

CITY OF PENSACOLA, FLORIDA

NOMINATION FORM

I, Jennifer Brahier, do nominate William Brantley
(Nominee)
1825 Whaley Avenue, Pensacola, FL 850-982-9042
(Home Address) (Phone)
205 E Intendencia St, Pensacola, FL 850-739-3973
(Business Address) (Phone)
william@smp-arch.com
(Email Address) City Resident: ☒ YES NO
Property Owner within the City: ☒ YES NO

for appointment by the City Council for the position of:

***PRIMARY ARCHITECT ADVISOR
COMMUNITY REDEVELOPMENT AREA URBAN DESIGN OVERLAY STANDARDS
ABBREVIATED REVIEW PROCESS
(Two-year term expiring 5/31/2026)***

Provide a brief description of nominee's qualifications:

As an architect practicing in downtown Pensacola, William is intimately familiar with the Urban Design Overlay District standards. He is eager to help improve these standards so that they better accomplish the goal of the district. William is a partner at SMP Architecture, a firm founded by Brian Spencer and recognized for it's design, planning and policy contributions to downtown Pensacola. With a background in urban design, land planning, and architecture William has worked on a wide range of project types both domestic and international. A Pensacola native, he returned to SMP Architecture in 2019 to spend the rest of his career focused on the betterment of Pensacola.



City Council Member or Mayor

I hereby certify that the above nomination was submitted to my office within the time limitations prescribed by the Rules and Procedures of Council.

Ericka L. Burnett

Ericka L. Burnett, City Clerk

Ericka Burnett

From: noreply@civicplus.com
Sent: Thursday, June 20, 2024 4:15 PM
To: Ericka Burnett; Robyn Tice
Subject: [EXTERNAL] Online Form Submittal: Application for Boards, Authorities, and Commissions - City Council Appointment

⚠ THIS EMAIL IS FROM AN EXTERNAL EMAIL ACCOUNT ⚠

Application for Boards, Authorities, and Commissions - City Council Appointment

This application will be utilized in considering you for appointment to a City Council board, authority, or commission. Pursuant to Florida Statutes, Chapter 119, all information provided on or with this form becomes a public record and is subject to disclosure, unless otherwise exempted by law.

Completed applications will be kept on file for a period of one (1) year from the date received in the Office of the City Clerk.

It is necessary to contact a member of Council to obtain a nomination in order to be placed on the ballot for consideration. Please go to cityofpensacola.com/council for Council Member contact information. If you have any questions, contact the City Clerk's Office.

(Section Break)

Personal Information

Name	William Brantley
Home Address	1825 Whaley Avenue Pensacola, FL 32503
Business Address	SMP Architecture 205 E Intendencia Street Pensacola, FL 32502
To which address do you prefer we send correspondence regarding this application?	Business
Preferred Contact Phone Number(s)	850-982-9042
Email Address	william@smp-arch.com

Upload Resume (optional) [Resume_WilliamBrantley.pdf](#)

(Section Break)

Details

Are you a City resident? Yes

If yes, which district? 6

If yes, how long have you been a City resident? 6 years

Do you own property within the City limits? Yes

Are you a registered voter in the city? Yes

Board(s) of interest: ARCHITECT ADVISOR
COMMUNITY REDEVELOPMENT AREA URBAN DESIGN
OVERLAY STANDARDS
ABBREVIATED REVIEW PROCESS

Please list the reasons for your interest in this position: As an architect practicing in downtown Pensacola, I'm intimately familiar with the Urban Design Overlay District (UDOD) standards. I'm eager to help improve these design standards so that they better fulfill the intent of the UDOD to ensure a human-scaled, walkable streetscape with well-defined street edges and architectural features that create an attractive pedestrian environment.

The Urban Design Overlay District design standards should create value for property owners located in the district by facilitating attractive, compatible future growth. If executed appropriately property owners should take pride in being located in the UDOD and developers, architects, and builders should be excited to work in the district. If successfully implemented, I'm optimistic that the UDOD will lead to the adoption of form base code in other areas of the City of Pensacola.

Do you currently serve on a board? No

If yes, which board(s)? *Field not completed.*

Do you currently hold a public office? No

If so, what office? *Field not completed.*

Would you be willing to
resign your current office
for the appointment you
now seek?

N/A

(Section Break)

Diversity

In order to encourage diversity in selections of members of government committees, the following information is required by Florida Statute 760.80 for some committees.

Gender	Male
--------	------

Race	Caucasian
------	-----------

Physically Disabled	No
---------------------	----

(Section Break)

Acknowledgement of Terms I accept these terms.

Email not displaying correctly? [View it in your browser.](#)



WILLIAM BRANTLEY AIA NCARB

Principal, SMP Architecture

A Pensacola native, William's interest in architecture originated building tree forts as a child. An avid traveler, William was increasingly drawn to the profession as he recognized how much impact the built environment influences the lifestyle and reflects the culture of the places one experiences. William began his professional career with TVS, one of the nation's top design firms based in Atlanta, and has worked on a wide range of project types both domestic and international. With a diverse background in urban design, architecture, and interiors, William approaches each project holistically. Over his career, William gravitated towards urban infill projects. He thrives on the complexities of these projects and appreciates the "redevelopment" opportunity to improve the existing urban fabric of our cities. After seven years working with TVS, William returned to SMP Architecture in 2019 with the goal to spend the rest of his career focused on the betterment of Pensacola.

EDUCATION

Clemson University
BA Architecture

University of Tennessee Knoxville
Master of Architecture

PROFESSIONAL REGISTRATION

Architectural Licensure

- **Florida AR98472**
 - Alabama 8636
- NCARB - Certified

SELECTED EXPERIENCE

CoastAL Orange Beach, AL

New construction, 40,900 SF restaurant and retail space, 2 stories.
Construction cost \$22M, Completed 2023.

Maritime Place Pensacola, FL

New construction, 75,000 SF office building, 4 stories. Construction Cost \$9.3M, Completed 2014

Hawkshaw Pensacola, FL

New construction, 156,884 SF mixed-use development. 55 residences and 23,000 SF of restaurant, retail, and fitness space. Construction Cost \$30M, In Progress

Bodacious Olive Pensacola, FL

Adaptive Reuse, 5,000 SF specialty retail. Completed 2012

Charlotte Convention Center Charlotte, NC

Expansion/renovation, 100,000 SF expansion providing 15 new meeting rooms atop the existing exhibit hall roof and a landscaped pedestrian bridge connecting to an adjacent light rail stop. Construction Cost \$110M, Completed 2020 (while working at tvsdesign)

North Avenue Presbyterian Church Atlanta, GA

Expansion/renovation connecting three existing structures built in 1900, 1927, and 1960. Project provides a new hospitality hall and event space. 60,000 SF, Construction Cost \$16M, Completed 2018 (while working at tvsdesign)

West China International Expo City Chengdu, Sichuan

New construction, 4,844,000 SF exhibition center. \$1.4B, Completed 2018 (while working at tvsdesign)

Reflection St. Petersburg, FL

New construction, 356,990 SF mixed-use tower, 88 residences with ground level retail. Construction Cost \$52M, Under Construction

501 & 503 N Tarragona Residences Pensacola, FL

New construction, 2 single family residences (spec houses) within the Urban Design Overlay District, Under construction



**Ballot – Architect Advisors-Community Redevelopment Area Urban Design Overlay Standards
Abbreviated Review Process**

July 18, 2024

Two (2) year term expiring May 31, 2026

**Primary
Architect Advisor**

_____ William Brantley

Vote for One

Signed: _____
Council Member



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-633

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council President Casey Jones

SUBJECT:

APPOINTMENTS - ZONING BOARD OF ADJUSTMENT

RECOMMENDATION:

That City Council reappoint Steven Sebold, Troy Stepherson, and William Weeks who are residents or property owners of the City, to the Zoning Board of Adjustment, for a term of three (3) years, expiring July 14, 2027.

HEARING REQUIRED: No Hearing Required

SUMMARY:

This board reviews and grants or denies application for variances, waivers, and special exceptions to the Land Development Code. The board also hears and decides appeals when it is alleged that there is error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the Land Development Code.

The following are incumbents who wish to be considered for reappointment:

Nominee:

Steven Sebold
Troy Stepherson
William Weeks

Nominated by:

Incumbent
Incumbent
Incumbent

PRIOR ACTION:

City Council makes appointments to this board annually.

FUNDING:

N/A

FINANCIAL IMPACT:

N/A

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Ericka L. Burnett, City Clerk

ATTACHMENTS:

1. Member List
2. Application of Interest - Steven Sebold
3. Application of Interest - Troy Stepherson
4. Application of Interest - William Weeks
5. Ballot

PRESENTATION: No

Zoning Board of Adjustment

Name	Profession	Appointed By	No. of Terms	Year	Exp Date	First Appointed	Term Length	Comments
Dittmar, John "Drew" A.	Educator Const Trades	Council	0	2024	7/14/2025	8/18/2022	3	
Jacquay, Jarah	Registered Nurse	Council	0	2024	7/14/2026	3/10/2022	3	
Price, Kirwan B.		Council	0	2024	7/14/2026	7/20/2023	3	
Sebold, Steven	Real Estate	Council	1	2024	7/14/2024	7/19/2018	3	
Shelley, Steven M.	Business owner	Council	3	2024	7/14/2025	11/17/2016	3	
Stepherson, Troy	Office & Mkting Mgr	Council	1	2024	7/14/2024	7/13/2017	3	
Weeks, William	Retired Bldg Official	Council	0	2024	7/14/2024	6/14/2021	3	
White, Boyce T.	Business	Council	3	2024	7/14/2026	7/17/2014	3	
Williams, Robby	Project Manager/Constr	Council	4	2024	7/14/2025	7/17/2014	3	

Term Length: THREE YEAR TERMS

NINE (9) MEMBERS APPOINTED BY THE CITY COUNCIL. NO MEMBER SHALL BE AN ELECTED OFFICIAL OR EMPLOYEE OF THE CITY. MEMBERS MUST BE RESIDENTS OR PROPERTY OWNERS OF THE CITY OF PENSACOLA.

Ericka Burnett

From: noreply@civicplus.com
Sent: Wednesday, June 5, 2024 1:35 PM
To: Ericka Burnett; Robyn Tice
Subject: [EXTERNAL] Online Form Submittal: Application for Boards, Authorities, and Commissions - City Council Appointment

⚠ THIS EMAIL IS FROM AN EXTERNAL EMAIL ACCOUNT ⚠

Application for Boards, Authorities, and Commissions - City Council Appointment

This application will be utilized in considering you for appointment to a City Council board, authority, or commission. Pursuant to Florida Statutes, Chapter 119, all information provided on or with this form becomes a public record and is subject to disclosure, unless otherwise exempted by law.

Completed applications will be kept on file for a period of one (1) year from the date received in the Office of the City Clerk.

It is necessary to contact a member of Council to obtain a nomination in order to be placed on the ballot for consideration. Please go to cityofpensacola.com/council for Council Member contact information. If you have any questions, contact the City Clerk's Office.

(Section Break)

Personal Information

Name	Steven Sebold
Home Address	2020 N 14th Ave Pensacola, FL. 32502
Business Address	Field not completed.
To which address do you prefer we send correspondence regarding this application?	Home
Preferred Contact Phone Number(s)	850-529-5175
Email Address	steven.sebold@adoorproperties.com
Upload Resume (optional)	Field not completed.

(Section Break)

Details

Are you a City resident? Yes

If yes, which district? 3

If yes, how long have you been a City resident? 22 Years

Do you own property within the City limits? Yes

Are you a registered voter in the city? Yes

Board(s) of interest: Zoning Board of Adjustments

Please list the reasons for your interest in this position: Currently in the position would love to continue.

Do you currently serve on a board? Yes

If yes, which board(s)? ZBA

Do you currently hold a public office? No

If so, what office? *Field not completed.*

Would you be willing to resign your current office for the appointment you now seek? N/A

(Section Break)

Diversity

In order to encourage diversity in selections of members of government committees, the following information is required by Florida Statute 760.80 for some committees.

Gender Male

Race Caucasian

Physically Disabled No

(Section Break)

Acknowledgement of Terms I accept these terms.

Email not displaying correctly? [View it in your browser.](#)

Ericka Burnett

From: noreply@civicplus.com
Sent: Wednesday, June 5, 2024 1:03 PM
To: Ericka Burnett; Robyn Tice
Subject: [EXTERNAL] Online Form Submittal: Application for Boards, Authorities, and Commissions - City Council Appointment

⚠ THIS EMAIL IS FROM AN EXTERNAL EMAIL ACCOUNT ⚠

Application for Boards, Authorities, and Commissions - City Council Appointment

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Completed applications will be kept on file for a period of one (1) year from the date received in the Office of the City Clerk.

It is necessary to contact a member of Council to obtain a nomination in order to be placed on the ballot for consideration. Please go to cityofpensacola.com/council for Council Member contact information. If you have any questions, contact the City Clerk's Office.

(Section Break)

Personal Information

Name	TROY STEPHERSON
------	-----------------

Home Address	1909 W GARDEN ST
--------------	------------------

Business Address	Field not completed.
------------------	----------------------

To which address do you prefer we send correspondence regarding this application?	Home
---	------

Preferred Contact Phone Number(s)	8507484152
-----------------------------------	------------

Email Address	troyCCIM@gmail.com
---------------	--

Upload Resume (optional)	Field not completed.
--------------------------	----------------------

(Section Break)

Details

Are you a City resident?	Yes
If yes, which district?	<i>Field not completed.</i>
If yes, how long have you been a City resident?	Pensacola
Do you own property within the City limits?	Yes
Are you a registered voter in the city?	Yes
Board(s) of interest:	ZBA
Please list the reasons for your interest in this position:	I love serving the City in this role as I have done for many years.
Do you currently serve on a board?	Yes
If yes, which board(s)?	ZBA
Do you currently hold a public office?	No
If so, what office?	<i>Field not completed.</i>
Would you be willing to resign your current office for the appointment you now seek?	N/A

(Section Break)

Diversity

In order to encourage diversity in selections of members of government committees, the following information is required by Florida Statute 760.80 for some committees.

Gender	<i>Field not completed.</i>
Race	<i>Field not completed.</i>
Physically Disabled	<i>Field not completed.</i>

(Section Break)

Acknowledgement of Terms	I accept these terms.
--------------------------	-----------------------

Email not displaying correctly? [View it in your browser.](#)

Ericka Burnett

From: noreply@civicplus.com
Sent: Wednesday, June 26, 2024 11:50 AM
To: Ericka Burnett; Robyn Tice
Subject: [EXTERNAL] Online Form Submittal: Application for Boards, Authorities, and Commissions - City Council Appointment

⚠ THIS EMAIL IS FROM AN EXTERNAL EMAIL ACCOUNT ⚠

Application for Boards, Authorities, and Commissions - City Council Appointment

This application will be utilized in considering you for appointment to a City Council board, authority, or commission. Pursuant to Florida Statutes, Chapter 119, all information provided on or with this form becomes a public record and is subject to disclosure, unless otherwise exempted by law.

Completed applications will be kept on file for a period of one (1) year from the date received in the Office of the City Clerk.

It is necessary to contact a member of Council to obtain a nomination in order to be placed on the ballot for consideration. Please go to cityofpensacola.com/council for Council Member contact information. If you have any questions, contact the City Clerk's Office.

(Section Break)

Personal Information

Name	William Weeks
Home Address	1302 East La Rua Street Pensacola, FL 32501
Business Address	Field not completed.
To which address do you prefer we send correspondence regarding this application?	Home
Preferred Contact Phone Number(s)	(850) 982-1056
Email Address	yellow68b@gmail.com
Upload Resume (optional)	Field not completed.

(Section Break)

Details

Are you a City resident?	Yes
If yes, which district?	6
If yes, how long have you been a City resident?	43 years
Do you own property within the City limits?	Yes
Are you a registered voter in the city?	Yes
Board(s) of interest:	Zoning Board of Adjustment
Please list the reasons for your interest in this position:	As a city employee for 21 years and the Building Official for 12 of those years, I have comprehensive knowledge of city zoning regulations. As a city resident, I feel the need to continue serving the citizens of the City
Do you currently serve on a board?	Yes
If yes, which board(s)?	Zoning Board of Adjustments
Do you currently hold a public office?	No
If so, what office?	<i>Field not completed.</i>
Would you be willing to resign your current office for the appointment you now seek?	N/A

(Section Break)

Diversity

In order to encourage diversity in selections of members of government committees, the following information is required by Florida Statute 760.80 for some committees.

Gender	Male
Race	Caucasian
Physically Disabled	No

(Section Break)

Acknowledgement of Terms I accept these terms.

Email not displaying correctly? [View it in your browser.](#)

Ballot – **Zoning Board of Adjustment**
July 18, 2024
Three-year term expiring July 14, 2027

Member

_____ Steven Sebold
_____ Troy Stepherson
_____ William Weeks

Vote for Three

Signed: _____
Council Member



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-617

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

SIXTH ADDENDUM TO THE PARTIAL ASSIGNMENT TO VALENCIA DEVELOPMENT CORPORATION OF THE OPTION AGREEMENT BETWEEN THE CITY OF PENSACOLA AND STUDER PROPERTIES, LLP - PARCEL 7 AT THE COMMUNITY MARITIME PARK

RECOMMENDATION:

That City Council approve and authorize the Mayor to execute the Sixth Addendum to the Partial Assignment to Valencia Development Corporation of the Option Agreement between the City of Pensacola and Studer Properties, LLP for the development of Parcel 7 of the Vince J. Whibbs Sr. Community Maritime Park, extending the agreement through September 30, 2024. Also, that City Council authorize the Mayor to take the actions necessary to execute and administer this agreement consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In October 2018, the City entered into an option agreement with Studer Properties for the exclusive right to develop and lease all of the vacant parcels at the Community Maritime Park, specifically parcels 3 through 9. In March 2020, the option agreement was extended through March 31, 2021.

In October 2020, prior to the expiration of the option agreement with Studer Properties, both parties entered into a partial assignment of the agreement with Valencia Development Corporation for parcel 7. Corresponding partial assignments were also entered into with two other development groups for the remainder of the parcels – Inspired Communities of Florida for parcels 3, 6, 8, and 9, and Silver Hills Development for parcels 4 and 5 – with the former still in effect (with the transfer of parcel 9 to North Florida Professional Baseball in 2022) and the latter being no longer valid.

In March 2021, the City approved the first addendum to Valencia's partial assignment, extending the agreement through September 30, 2021. In September 2021, the City approved the second addendum to Valencia's partial assignment, extending the agreement through

September 30, 2022. In September 2022, the City also approved the third addendum, extending the agreement through September 30, 2023. In October 2023, the City approved the fourth addendum, extending the agreement through March 30, 2024. In February 2024, the City also approved the fifth addendum, extending the agreement through June 30, 2024. The City and Valencia now seek to extend the term of their partial assignment for another three months through September 30, 2024 via this sixth addendum.

PRIOR ACTION:

October 1, 2018 – City entered into an Option Agreement with Studer Properties for all vacant lots in Community Maritime Park

March 26, 2020 – City approved an Addendum to the Option Agreement with Studer Properties, extending the term through March 31, 2021

October 9, 2020 – City entered into a Partial Assignment of the Option Agreement with Studer Properties and Valencia Development Corporation

March 25, 2021 – City approved the First Addendum to the Partial Assignment of the Option Agreement with Valencia, extending the term through September 30, 2021

September 9, 2021 – City approved the Second Addendum to the Partial Assignment of the Option Agreement with Valencia, extending the term through September 30, 2022

September 29, 2022 – City approved the Third Addendum to the Partial Assignment of the Option Agreement with Valencia, extending the term through September 30, 2023

October 26, 2023 - City approved the Fourth Addendum to the Partial Assignment of the Option Agreement with Valencia, extending the term through March 30, 2024

February 22, 2024 – City approved the Fifth Addendum to the Partial Assignment of the Option Agreement with Valencia, extending the term through June 30, 2024

FUNDING:

N/A

FINANCIAL IMPACT:

Valencia Development Group will continue their monthly option payment per the terms of the agreement.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

6/20/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
Amy Lovoy, Finance Director
Deana Stallworth, Property Lease Manager

ATTACHMENTS:

1. Draft - Sixth Addendum to the Partial Assignment of Valencia Option Agreement Parcel 7

PRESENTATION: No

**SIXTH ADDENDUM TO THE
PARTIAL ASSIGNMENT TO VALENCIA DEVELOPMENT CORPORATION OF THE
OPTION AGREEMENT
BETWEEN THE CITY OF PENSACOLA AND STUDER PROPERTIES, LLP**

This **SIXTH ADDENDUM TO THE PARTIAL ASSIGNMENT AND ASSUMPTION OF THE OPTION AGREEMENT** (this “**Sixth Addendum**”), dated effective as of June 30, 2024 (the “**Effective Date**”), is entered into between the **CITY OF PENSACOLA, a Florida municipal corporation**, 222 West Main Street, Pensacola, Florida 32502 (“**City**”), and **VALENCIA DEVELOPMENT CORPORATION, a Texas corporation**, 4400 Post Oak Parkway, Suite 2800, Houston, Texas 77027 (“**Valencia**”). City, Valencia, and their successors are each a “**Party**,” and collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, City and Studer Properties, LLP (“**Studer Properties**”) entered into an Option Agreement dated October 1, 2018, with an Addendum dated April 1, 2020, (collectively, the “**Studer Option Agreement**”), whereby City granted to Studer Properties the exclusive right to develop and lease vacant parcels at the Community Maritime Park more particularly described in Exhibit A to the Studer Option Agreement (referred to hereinafter individually as a “**Parcel**” and collectively as the “**Parcels**”) subject to terms and conditions set forth in the Studer Option Agreement; and

WHEREAS, City, Studer Properties, and Valencia entered into a Partial Assignment of the Studer Option Agreement on October 9, 2020, expiring on March 31, 2021 (the “**Valencia Option Agreement**”); and

WHEREAS, the purpose of the Valencia Option Agreement is to provide for the development of one of the Parcels in a manner consistent with the 2010 City of Pensacola Community Redevelopment Agency Plan and all applicable statutes, ordinances, and regulations, and to provide for the development of the western side of downtown in a cohesive way; and

WHEREAS, City and Valencia desired to extend the term of the Valencia Option Agreement for Parcel 7 and entered into a First Addendum to the Valencia Option Agreement, with an effective date of April 1, 2021, and expiring on September 30, 2021; and

WHEREAS, City and Valencia desired to extend the term of the Valencia Option Agreement and entered into a Second Addendum to the Valencia Option Agreement, with an effective date of October 1, 2021, and expiring on September 30, 2022; and

WHEREAS, City and Valencia desired to extend the term of the Valencia Option Agreement and entered into a Third Addendum to the Valencia Option Agreement, with an effective date of October 1, 2022, and expiring on September 30, 2023; and

WHEREAS, City and Valencia desired to extend the term of the Valencia Option Agreement and entered into a Fourth Addendum to the Valencia Option Agreement, with an effective date of October 1, 2023, and expiring on March 30, 2024; and

WHEREAS, City and Valencia desired to extend the term of the Valencia Option Agreement and entered into a Fifth Addendum to the Valencia Option Agreement, with an effective date of April 1, 2024, and expiring on June 30, 2024; and

WHEREAS, the Parties desire to extend the term of the Option Agreement another three months.

WHEREAS, the Parties understand and agree that the City and Valencia will negotiate in good faith to reach the outcome of an executable ground lease agreement at the conclusion of a new option term, if approved; and

WHEREAS, Valencia understands and agrees that approval of any renegotiated option agreement, ground lease, and development of Parcel 7 is contingent upon the approval of the City Council in its sole and complete discretion; and

NOW, THEREFORE, in consideration of the forgoing, the other mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Recitals. The recitals set forth above are true and correct and are hereby incorporated by reference.
2. Term. The Option Term is extended and will automatically expire at midnight on September 30, 2024, unless duly extended, exercised, or sooner terminated as provided in the Valencia Option Agreement.
3. Option Payment. Simultaneously herewith Valencia shall deliver payment in the amount of \$1,327.89, representing the “Option Payment” for the month of July, 2024 as contemplated in the Valencia Option Agreement.
4. No Other Revisions to the Valencia Option Agreement. Except as expressly set forth above, none of the terms and conditions of this Sixth Addendum shall be deemed to modify or amend any of the terms and conditions of the Valencia Option Agreement and its addendum(s), and the Valencia Option Agreement, as amended, shall remain in full force and effect during the term of this Sixth Addendum.

[Signature pages follow.]

IN WITNESS WHEREOF, the Parties hereto have executed this Sixth Addendum as of the Effective Date.

CITY OF PENSACOLA
a Florida municipal corporation

By: _____
Mayor D.C. Reeves

Date signed: _____, 2024

(AFFIX CITY SEAL)

Attest:

Ericka L. Burnett, City Clerk

Signed, sealed and delivered in the presence of:

Print Name: _____

Print Name: _____

Legal in form and valid as drawn:

Adam Cobb, City Attorney

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by D.C. Reeves, the Mayor of City of Pensacola, a Florida municipal corporation, on behalf of said municipal corporation, who () is personally known to me or () has produced a driver's license as identification.

NOTARY PUBLIC

[SEAL]

[Signature page to Sixth Addendum between City of Pensacola and Valencia Development Corp.]

**VALENCIA DEVELOPMENT
CORPORATION**

WITNESSES:

Print: _____

Print: _____

By: _____

Print name: _____

Its: _____

Date signed: _____, 2024

STATE OF TEXAS

COUNTY OF HARRIS

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by _____, the _____ of VALENCIA DEVELOPMENT CORPORATION, a Texas corporation, who () is personally known to me or () has produced a driver's license as identification.

NOTARY PUBLIC

[SEAL]

[Signature page to Sixth Addendum between City of Pensacola and Valencia Development Corp.]



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-551

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

AWARD OF BID NO. 24-027 - SUMMIT BOULEVARD DRAINAGE IMPROVEMENTS, 12TH AVENUE TO FIRESTONE DRIVE

RECOMMENDATION:

That City Council award Bid # 24-027, Summit Boulevard Drainage Improvements, 12th Avenue to Firestone Drive to Chavers Construction, Inc., of Cantonment, Florida, the lowest and most responsible bidder with a base bid of \$124,518.20, plus a 10% contingency of \$12,451.82 for a total of \$136,970.02. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this contract and complete the work, consistent with the bid, contracting documents, and the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

This project is intended to improve stormwater drainage along Summit Boulevard at its intersection with Piedmont Road. Work will include the excavation of a new stormwater retention pond on the north side of Summit Boulevard. This pond will serve to intercept and detain water running off the Roger Scott campus. Additionally, four stormwater inlets will be installed at the Summit-Piedmont intersection. These inlets will serve to take water off the road that has historically collected at the intersection of Summit Blvd and Piedmont Road.

PRIOR ACTION:

September 14, 2022 - City Council appropriated funds within the Stormwater Capital Projects Fund with the adoption of the FY 2023 Budget.

February 8, 2024 - City Council adopted Supplemental Budget Resolution No. 2024-5 carrying over the balance of the funds within the project.

FUNDING:

Budget:	\$425,000.00	Stormwater Capital Projects Fund
Actual:	\$124,518.20	Contract Base Bid
	\$12,451.82	Required 10% Contingency
	\$53,012.74	Engineering Design (Already Spent)
	\$11,625.00	Management & Inspections
	\$1,500.00	Testing - Miscellaneous
	\$203,108.76	Total Needed to Award Project

FINANCIAL IMPACT:

City Council appropriated \$425,000.00 within the Fiscal Year 2023 Budget. To date, \$53,012.74 has been spent on this project, leaving an available balance of \$371,987.18 which is sufficient to award this bid.

Upon final completion of this project, the remaining funds will be placed within the Stormwater Vaults City Wide account.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

6/24/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
David Forte, Deputy City Administrator
Amy Tootle, Director - Public Works & Engineering

ATTACHMENTS:

1. 24-027 NOI and Bid Tabulation

PRESENTATION: No



FINANCIAL SERVICES
PURCHASING

TO: Respondents to Bid No. 24-027, Summit Blvd Drainage Improvements, 12th Avenue to Firestone Drive

FROM: Dedria Lunderman, Purchasing Manager

DATE: May 21, 2024

SUBJ: Notice of Intent to Award

The City of Pensacola intends to award the contract to Chavers Construction, Inc., as indicated in the attached tabulation. Thank you for your interest in the City's project. This notice serves as the City's notice of intent to award.

Protest of the intent to award must be in writing and received in the Purchasing Office within five business days, no later than 10:00 A.M. on May 28, 2024. Protest must be delivered to:

Dedria Lunderman
Purchasing Manager
City Hall, 6th floor
222 West Main Street
Pensacola, FL 32502
purchasing@cityofpensacola.com

A detailed explanation of the protest must specify each and every one of the grounds asserted for the protest. It must be signed by an individual authorized to represent the bidder, and must cite the law, rule, local ordinance, procedure or ITB provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

We hope that you will be able to participate in future opportunities with the City.

cc: Amy Tootle, Director of Public Works & Facilities, City of Pensacola
Brad Hinote - City Engineer, City of Pensacola

TABULATION OF BIDS

BID NO: 24-027
TITLE: SUMMIT BOULEVARD DRAINAGE IMPROVEMENTS
12TH AVENUE TO FIRESTONE DRIVE

Submittals Due: 05/09/24, 2:30 P.M.	CHIVERS CONSTRUCTION, INC. Cantonment, FL	C.W. ROBERTS CONTRACTING, INC. Pensacola, FL	SITE & UTILITY, LLC Pensacola, FL	BEAR GENERAL CONTRACTORS, LLC Pensacola, FL
Engineering				
Base Bid	\$124,518.20	\$201,499.00	\$249,445.00	\$330,208.08



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-607

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

AIRPORT - AWARD OF BID NO. 24-032 - AIRPORT AIRCRAFT PARKING APRON PROJECT

RECOMMENDATION:

That City Council award Bid No. 24-032 for Airport Aircraft Parking Apron project to Independence Excavating, Inc. of Independence, Ohio, the lowest and most responsible bidder with a base bid of \$4,491,175.00 plus a 10% contingency of \$449,117.50 for a total of \$4,940,292.50. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this contract and complete the work, consistent with the bid, contracting documents, and the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The Pensacola International Airport has seen significant growth in General Aviation (GA) and Transient Military operations over the past few years. In addition, the aircraft fleet has also evolved to include larger, long-range private jet aircraft, due to the Airport being a U.S. Port of Entry airport. The current general aviation ramps at the airport no longer have the necessary capacity for parking and servicing all these aircraft, presenting a reoccurring challenge to the Airport.

In response to the growing need for aircraft parking and service space, the Airport submitted an application to the Office of Local Defense Community Cooperation (OLDCC) to provide funding for construction of an Aircraft Parking Apron under their Defense Community Infrastructure Pilot Program (DCIP). On August 8, 2023, the Airport received notification that the pre-award application in the amount of \$4,952,000 was selected for funding and on September 9, 2023, funds were awarded.

On May 10, 2024, City Purchasing issued Invitation to Bid No. 24-032 for aircraft parking apron construction. The new apron will be located in front of the recently completed Customs and Border Protection (CBP) facility, south of the Fixed Base Operations ramp, and will serve as the main customs clearing ramp, parking for larger Group III GA jet aircraft, as well as overflow

parking for other transient aircraft during times of peak aircraft operations. The proposed project includes constructing a 250' x 425' Aircraft Apron which will include tie-down spaces, pavement markings, taxiway edge lights, and taxiway signage. The Airport utilized Atkins North America, Inc. for the apron's National Environment Policy Act (NEPA) documentation and RS&H, Inc. for design and bidding phase services, both under the Airport's Master Contract for Architectural and Engineering Services. The Airport will utilize one of the firms awarded under the Airport's Master Contract for Architectural and Engineering Services for construction administration services.

Bids were due June 10, 2024, and two (2) responses were received. Independence Excavating, Inc. of Independence, Ohio, was the lowest and most responsible bidder with a base bid of \$4,491,175.00.

PRIOR ACTION:

August 18, 2022 - City Council adopted Resolution 2022-079 authorizing the Mayor to coordinate with FDOT to reallocate funding from grant 420300-4 Taxiway D Upgrade - Design to grant 420300-6 Corporate Apron Expansion - NEPA.

October 13, 2023 - City Council approved Resolution 2022-097 authorizing the Mayor to execute the Public Transportation Grant Agreement No. 420300-6-94-01 with FDOT for the Corporate Apron Area Expansion National Environment Policy Act (NEPA) documentation.

October 13, 2023 - City Council approved the acceptance of the Public Transportation Grant Agreement No. 420300-6-94-01 in the amount of \$95,000 to provide partial funding for the Corporate Apron Area Expansion National Environment Policy Act (NEPA) documentation.

September 14, 2023 - City Council approved the acceptance of the DCIP Program Grant in the amount of \$4,952,000 to provide funding for construction of an Aircraft Parking Apron.

September 14, 2023 - City Council adopted Supplemental Budget Resolution No. 2023-057 appropriating funding in the amount of \$4,952,000 for construction of an Aircraft Parking Apron in connection with the DCIP Program Grant.

FUNDING:

Budget:	\$ 4,952,000.00	DCIP Grant
	<u>528,000.00</u>	Airport Capital Funds
	<u>\$ 5,480,000.00</u>	
Actual:	\$ 4,491,175.00	Aircraft Parking Apron Construction
	449,117.50	10% Contingency
	<u>538,798.00</u>	Construction Administration Services (Estimate)
	<u>\$ 5,479,090.50</u>	

FINANCIAL IMPACT:

The total project cost is being funded by a combination of federal grant funds and airport capital funds. Federal grant funds were appropriated in the Airport Fund on Supplemental Budget Resolution No. 2023-057 at the September 14, 2023 City Council Meeting. Airport capital funds are currently appropriated in the Airport's capital improvement account.

Grant funds will be provided from the DCIP on a reimbursable basis.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

7/1/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
Matthew F. Coughlin, Airport Director

ATTACHMENTS:

1. ITB No. 24-032 Tabulation of Bids
2. ITB No. 24-032 Final Vendor Reference List

PRESENTATION: No

TABULATION OF BIDS

BID NO: 24-032

TITLE: AIRCRAFT PARKING APRON AT PENSACOLA INTERNATIONAL AIRPORT

Submittals Due: 06/10/24, 2:30 P.M.	INDEPENDENCE EXCAVATING, INC.	BROWN INDUSTRIAL CONSTRUCTION, LLC
Airport	Independence, OHIO	Baton Rouge, LA

Base Bid

\$4,491,175.00

\$5,723,743.33

Bid Alternate 1

\$166,875.00

\$209,694.00

Bid Alternate 2

\$236,000.00

\$400,895.66

Submittals Due: 06/10/24

Bid No.: 24-032

**FINAL VENDOR REFERENCE LIST
AIRCRAFT PARKING APRON AT PENSACOLA INTERNATIONAL AIRPORT
PENSACOLA INTERNATIONAL AIRPORT/ENGINEERING**

Vendor	Name	Address	City	St	Zip Code	SMWBE
004632	A E NEW JR INC	460 VAN PELT LANE	PENSACOLA	FL	32505	
067544	AFFORDABLE CONCRETE & CONSTRUCTION LLC	4089 E JOHNSON AVE	PENSACOLA	FL	32515	Y
077498	ALL PHASE CONSTRUCTION OF NW FL LLC	5340 BRIGHT MEADOW RD	MILTON	FL	32570	Y
088282	AMERICAN EAGLE FENCE	768 JOHN SIMS PARKWAY E	NICEVILLE	FL	32578	
071765	ATLAS BUILDERS GROUP	4366 AVALON BLVD	MILTON	FL	32583	
081043	BCK SPECIALTIES INC	1709 ANTIBES CIR	GULF BREEZE	FL	32563	
069786	BEAR GENERAL CONTRACTORS LLC	2803 E CERVANTES ST STE C	PENSACOLA	FL	32503	
036997	BELLVIEW SITE CONTRACTORS INC	3300 GODWIN LANE	PENSACOLA	FL	32526	Y
038068	BIGGS GREEN CONSTRUCTION SERVICES INC	PO BOX 1552	PENSACOLA	FL	32591	Y
051492	BILL SMITH ELECTRIC INC	P O BOX 1057	GONZALEZ	FL	32560	Y
053457	BIRKSHIRE JOHNSTONE LLC	507 E FAIRFIELD DR	PENSACOLA	FL	32503	Y
065013	BKW INC	8132 PITTMAN AVE	PENSACOLA	FL	32534	Y
070527	BLOWERS, BENJAMIN DBA INNOVIS USA LLC	5540 LEESWAY BLVD	PENSACOLA	FL	32504	
024249	BOH BROS CONSTRUCTION CO LLC	9517 JEFFERSON HWY	BATON ROUGE	LA	70809	
022856	BROWN CONSTRUCTN OF NW FL INC	10200 COVE AVE	PENSACOLA	FL	32534	Y
088372	BROWN INDUSTRIAL	17170 PERKINS RD	BATON ROUGE	LA	70810	
078639	C W ROBERTS CONTRACTING INC	3372 CAPITAL CIR NE	TALLAHASSEE	FL	32308	
042045	CHAUVERS CONSTRUCTION INC	801 VIRECENT ROAD	CANTONMENT	FL	32533	Y
049653	CHRISTOPHER C BARGAINEER CONCRETE CONSTRUCTION INC	6550 BUD JOHNSON ROAD	PENSACOLA	FL	32505	Y
070475	CRUZ, SHAWN C DBA COASTAL PROPERTY PREPARATION LLC	5700 ALMAX COURT	PENSACOLA	FL	32506	
033554	D K E MARINE SERVICES	P O BOX 2395	PENSACOLA	FL	32513	Y
070603	D+B BUILDERS	670 MOLINO ROAD	MOLINO	FL	32577	
007055	DAVIS MARINE CONSTRUCTION INC	8160 ASHLAND AVENUE	PENSACOLA	FL	32534	Y
065871	ECSC LLC	8400 LITLE JOHN JUNCTION	NAVARRE	FL	32566	Y
072705	EVAN CHASE CONSTRUCTION INC	2991 SOUTH HIGHWAY 29	CANTONMENT	FL	32533	Y
032038	EVANS CONTRACTING INC	400 NEAL ROAD	CANTONMENT	FL	32533	
055177	FLORIDA CONCRETE CONCEPTS INC	4432 ALANTHUS STREET	MILTON	FL	32583	
087144	GANNETT MEDIA CORP DBA GANNETT FLORIDA LOCALIQ	P O BOX 631244	CINCINNATI	OH	45263	
050495	GB GREEN CONSTRUCTION MGMT & CONSULTING INC	303 MAN'O'WAR CIRCLE	CANTONMENT	FL	32533	Y
058714	GREG ALLEN CONSTRUCTION INC	5006 PERSIMMON HOLLOW ROAD	MILTON	FL	32583	Y
000591	GULF ATLANTIC CONSTRUCTORS INC	650 WEST OAKFIELD RD	PENSACOLA	FL	32503	Y
044100	GULF BEACH CONSTRUCTION	1308 UPLAND CREST COURT	GULF BREEZE	FL	32563	Y
069565	GULF COAST INDUSTRIAL CONSTRUCTION LLC	12196 HWY 89	JAY	FL	32565	Y

Submittals Due: 06/10/24

Bid No.: 24-032

**FINAL VENDOR REFERENCE LIST
AIRCRAFT PARKING APRON AT PENSACOLA INTERNATIONAL AIRPORT
PENSACOLA INTERNATIONAL AIRPORT/ENGINEERING**

Vendor	Name	Address	City	St	Zip Code	SMWBE
074827	GULF COAST MINORITY CHAMBER OF COMMERCE INC	321 N DEVILLERS ST STE 104	PENSACOLA	FL	32501	
017352	GULF COAST TRAFFIC ENGINEERS	8203 KIPLING STREET	PENSACOLA	FL	32514	
036662	H H H CONSTRUCTION OF NWF INC	8190 BELLE PINES LANE	PENSACOLA	FL	32526	
070385	HANTO & CLARKE GENERAL CONTRACTORS LLC	1401 EAST BELMONT STREET	PENSACOLA	FL	32501	
080650	HARRIS INMAN CONSTRUCTN CO INC	3583 LAGUNA COURT	GULF BREEZE	FL	32563	
044713	HENRY HAIRE BUILDING & DEVELOPMENT INC	6341 HIGHWAY 90 STE B	MILTON	FL	32570	
052866	HEWES & COMPANY LLC	251 AMBER STREET	PENSACOLA	FL	32503	Y
022978	INGRAM SIGNALIZATION INC	4522 N DAVIS HWY	PENSACOLA	FL	32503	Y
049240	J MILLER CONSTRUCTION INC	8900 WARING RD	PENSACOLA	FL	32534	Y
071564	JOSEPH BRIDGES DBA JOE'S LINE UP	222 EHRMANN ST	PENSACOLA	FL	32507	
068161	LEA, DOUGLAS C DBA L&L CONSTRUCTION SERVICES LLC	9655 SOUTH TRACE ROAD	MILTON	FL	32583	Y
016210	NORD, STEVE DBA SEA HORSE GENERAL CONTRACTORS INC	4238 GULF BREEZE PKWY	GULF BREEZE	FL	32563	Y
001823	NWF CONTRACTORS INC	P O BOX 1718	FORT WALTON BEACH	FL	32549	
002720	PANHANDLE GRADING & PAVING INC	P O BOX 3717	PENSACOLA	FL	32516	
060344	PENSACOLA BAY AREA CHAMBER OF COMMERCE DBA GREATER PENSACOLA CHAMBER	117 W GARDEN ST	PENSACOLA	FL	32502	
055028	PERDIDO GRADING & PAVING	PO BOX 3333	PENSACOLA	FL	32516	Y
073174	PERRITT, CHRIS LLC	5340 BRIGHT MEADOWS ROAD	MILTON	FL	32570	Y
018305	R D WARD CONSTRUCTION CO INC	15 EAST HERMAN STREET	PENSACOLA	FL	32505	
049671	RADFORD & NIX CONSTRUCTION LLC	7014 PINE FOREST ROAD	PENSACOLA	FL	32526	Y
001681	RANDALL, HENRY DBA RANDALL CONSTRUCTION	1045 S FAIRFIELD DRIVE	PENSACOLA	FL	32506	
031881	ROADS INC OF NWF	106 STONE BLVD	CANTONMENT	FL	32533	
065450	SITE AND UTILITY LLC	PO BOX 30136	PENSACOLA	FL	32503	Y
011457	SOUTHERN UTILITY CO INC	P O BOX 2055	PENSACOLA	FL	32513	Y
028060	THE GREEN SIMMONS COMPANY INC	3407 NORTH W STREET	PENSACOLA	FL	32505	Y
045430	THE WALSH GROUP	929 W ADAMS	CHICAGO	IL	60607	
002482	UTILITY SERVICE COMPANY INC	4326 GULF BREEZE PARKWAY	GULF BREEZE	FL	32563	
030317	W P R INC	4175 BRIARGLEN RD	MILTON	FL	32583	Y
030448	WARRINGTON UTILITY & EXCAVATING INC	8401 UNTREINER AVE	PENSACOLA	FL	32534	Y
042739	WESTON SOLUTIONS	PO BOX 538253	ATLANTA	GA	30353	
021725	WHITESSELL-GREEN INC	P O BOX 2849	PENSACOLA	FL	32513	
069212	YERKES SOUTH INC	634 LAKEWOOD RD	PENSACOLA	FL	32507	Y

Vendors: 64



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-609

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

AIRPORT - AMENDMENT NO. 1 TO DESIGN-BUILDER CONTRACT WITH ROY ANDERSON CORPORATION FOR PROJECT TITAN - ELEMENT 2 AT PENSACOLA INTERNATIONAL AIRPORT

RECOMMENDATION:

That City Council approve Amendment No. 1 to the Design-Builder contract between the City and Roy Anderson Corporation which provides for the construction of Project Titan, Element 2. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this contract and contract amendment, including but not limited to the approval of amendments, modifications, budgets, plans and specifications, cost estimates and breakdowns, and schedules provided that the total cost of Project Titan shall not exceed the amount of committed funds, and complete the work, consistent with the bid, contracting documents, and the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Project Titan at Pensacola International Airport is the continuation of the development of a commercial aircraft maintenance, repair, and overhaul ("MRO") campus at Pensacola International Airport that began with the occupancy of MRO Hangar 1 by VT MAE in the summer of 2018. Project Titan consists of the construction of three (3) additional MRO Hangars, including warehouses/support services centers and administrative offices, all of which will be leased to VT MAE under the Master Lease Agreement previously approved by City Council.

On December 28, 2023, City Purchasing issued Request for Proposal ("RFP") No. 23-039 for Design-Builder for Hanger 3 with an additive alternate for Hanger 4. A selection committee was formed to review the written responses, short list firms for oral presentations, rank the firms, and provide a recommendation for the award of contract to the top ranked firm. The two firms reviewed by the selection committee were Roy Anderson Corporation and Wharton-Smith, Inc. Following oral presentations, the committee ranked the firms and designated Roy Anderson as the top ranked and most qualified firm responding to the RFP. While cost was only one factor in the ranking process, Roy Anderson Base Bid for Hanger 3 was \$6,836,000 less than Wharton-Smith and a total of \$24,441,000 less when taking into consideration the base bid plus all additive alternatives.

On February 22, 2024, City Council approved the award of RFP 23-039 to Roy Anderson Corporation in the amount of \$75,909,000.00 plus a 10% contingency in the amount of \$7,590,900.00 for a total authorization

of \$83,499,900.00. Pursuant to the City Council's approval, the City has entered into an agreement with Roy Anderson for Hanger 3. As part of their proposal, Roy Anderson excluded sales tax from its bid price. To recognize the sales tax savings as contemplated in the Design-Builder's bid price proposals, the City desires to direct purchase materials, tools or items of equipment. The proposed draft amendment 1, adds the owner direct purchase language which would allow for the City to directly purchase materials, tools or items of equipment related to this project. Since the sales tax savings were already contemplated in the Design-Builder's bid proposal, this amendment will not have an effect on the contract amount or project budget. In addition, this action provides the Mayor with the authority and flexibility to accommodate changes to MRO Hanger 3 and 4 contract so long as the total cost of Project Titan remains within the amount of the committed funds.

PRIOR ACTION:

February 27, 2014 - City Council approved the Interlocal Agreement with Escambia County and the City of Pensacola for Funding of Economic Development Project - ST Aerospace of Mobile, Inc.

March 8, 2018 - City Council authorized the Mayor to execute acceptance of the State of Florida Department of Economic Opportunity Grant Agreement G0009 in the amount of \$4,000,000 for construction of infrastructure related to MRO expansion.

September 13, 2018 - City Council authorized the Mayor to accept and execute the State of Florida Department of Transportation Public Transportation Grant Agreement Financial Project 441494-2-94-01 in the amount of \$3,000,000 for Pensacola International Airport Facilities Development related to MRO expansion.

September 13, 2018 - City Council committed funding in the amount of \$10 million from Local Option Sales Tax Series IV in support of the aerospace maintenance repair and overhaul (MRO) campus expansion.

November 8, 2018 - City Council approved the amended Interlocal Agreement between the Escambia County Board of County Commissioners and the City of Pensacola related to the funding of the aerospace maintenance, repair, and overhaul (MRO) campus expansion at the Pensacola International Airport. Included in the agreement was the understanding that the City would contribute \$10,000,000 and the County would contribute \$10,000,000 towards the project.

February 6, 2019 - City Council approved the amended Interlocal Agreement between the Escambia County Board of County Commissioners and the City of Pensacola related to an additional \$5,000,000 in County and \$5,000,000 in City funding requirements for the aerospace maintenance, repair, and overhaul (MRO) campus expansion at the Pensacola International Airport. The City Council re-allocated Local Option Sales Tax IV funding for the additional City share.

March 28, 2019 - City Council authorized the Mayor to accept and execute the Project Development Agreement in the amount of \$35,000,000, the Master Lease of Real Property, the Triumph Grant Award Agreement in the amount of \$66,000,000, and a State of Florida Dept. of Economic Opportunity Grant in the amount of \$10,000,000.

August 8, 2019 - City Council authorized the Mayor to accept and execute Financial Award No. 04-79-07378 from the U.S. Department of Commerce, Economic Development Administration in the amount of \$12,250,000 for the MRO expansion, and authorized the Mayor to accept and execute State of Florida Dept. of Transportation Amendment to the grant agreement for Financial Project 441494-2-94-01 in the amount of \$8,000,000 for the MRO expansion.

March 26, 2020 - City Council authorized the Mayor to execute acceptance of the State of Florida Department of Economic Opportunity Florida Job Growth Infrastructure Grant Agreement in the amount of

\$4,875,000 related to the MRO aviation campus expansion project.

July 16, 2020 - City Council authorized the Mayor to accept and execute the State of Florida Department of Transportation Amendment to the grant agreement for Financial Project 441494-2-94-01 in the amount of \$34,000,000 for the MRO expansion.

August 10, 2020 - City Council approved Resolution 2020-18 related to the State of Florida Department of Transportation Amendment to the grant agreement for Financial Project 441494-2-94-01 in the amount of \$34,000,000 for the MRO expansion.

August 12, 2021 - City Council authorized the Mayor to accept and execute the State of Florida Department of Transportation Amendment to the grant agreement for Financial Project 441494-2-94-01 in the amount of \$1,000,000 for the MRO expansion.

November 18, 2021 – City Council approved the award of design criteria professional and program management services related to Element 2 of Project Titan and authorized the Mayor to execute and administer the contract.

August 18, 2022 - City Council authorized the Mayor to accept and execute the State of Florida Department of Transportation Amendment to the grant agreement for Financial Project 441494-2-94-01 in the amount of \$2,000,000 for the MRO expansion.

May 25, 2023 – City Council approved the award of Project Titan Hangar 2 Parking Lot Modifications to Gulf Beach Construction and authorized the Mayor to execute and administer the contract.

August 17, 2023 – City Council approved the award of Project Titan Element 2 site preparations to HG Construction Development & Investment, Inc. and authorized the Mayor to execute and administer the contract.

September 28, 2023 – City Council approved the award of professional engineering and architectural services related to runway and taxiway pavements and authorized the Mayor to execute and administer the contract.

February 22, 2024 - City Council approved the award of Project Titan Element 2 Design-Builder to Roy Anderson Corporation and authorized the Mayor to execute and administer the contract.

May 23, 2024 - City Council approved the award of Project Titan Hangar 2 Loading Dock Repairs to Chavers Construction, Inc. of Cantonment, FL and authorized the Mayor to execute and administer the contract.

FUNDING:

Budget:	\$	35,000,000	VT MAE
		14,000,000	Governor's Job Growth
		48,000,000	FDOT Grant
		15,000,000	Escambia County
		15,000,000	City Local Option Sales Tax Series IV
		12,250,000	Federal - U.S. Economic Development Administration
		66,000,000	Triumph Gulf Coast
		4,875,000	Florida DEO Grant
		<u>\$ 210,125,000</u>	

	<u>Element 1</u>	
Actual:	\$ 2,371,801	Design
	277,645	Design Development Services
	1,812,640	Contract Administration Services
	120,560	Cost Estimating Services
	3,340,999	FAA Project Funding
	2,675,350	Professional Services
	15,421,264	Owner Direct Purchases
	<u>36,269,710</u>	Construction Manager at Risk
	<u>\$ 62,289,969</u>	Sub-Total Element 1
	<u>Element 2</u>	
	\$ 4,156,300	Design
	5,434,400	Construction Administration Services
	423,300	Contract Management Services
	606,591	Geotech and Environmental Assessment
	286,000	Hangar 2 Loading Dock Reconstruction
	300,000	Facility Commissioning
	1,000,000	Professional Services
	1,731,825	Site Work
	13,200,000	Apron/Taxiway Work
	109,724,195	Construction
	<u>10,972,420</u>	Owners Contingency
	<u>\$147,835,031</u>	Sub-Total Element 2
	<u>\$210,125,000</u>	TOTAL FUND

FINANCIAL IMPACT:

Approval of Amendment No. 1 will not have an effect on the contract amount or project budget. The funds for the project were appropriated in the Airport Fund on Supplemental Budget Resolution No. 2019-13 at the March 28, 2019, City Council Meeting. The total project cost is being funded by a combination of VT MAE investment, state grants, federal grants, and local funds, as detailed above under "Funding". Funding for the design-builder work is available in the construction line item under Element 2.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

5/7/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
Matthew F. Coughlin, Airport Director

ATTACHMENTS:

1. Design-Build Contract between the City and Roy Anderson Corp - Amendment No. 1
2. Design-Build Contract between the City and Roy Anderson Corp

PRESENTATION: No

**AMENDMENT NO. 1
ROY ANDERSON CORP.
CONTRACT UNDER INVITATION TO BID #23-039**

THIS FIRST AMENDMENT TO THE STANDARD FORM OF AGREEMENT BETWEEN OWNER AND DESIGN-BUILDER – LUMP SUM for Hanger 3 of Project Titan at Pensacola International Airport between City of Pensacola and Roy Anderson Corp. (this “Amendment No. 1”) is made this ____ day of _____, 2024, by and between CITY OF PENSACOLA (“Owner”), a Florida municipal corporation created and existing under the laws of the State of Florida, and ROY ANDERSON CORP. (“Design-Builder”), a Mississippi corporation authorized to do business in Florida, (the Owner and Design-Builder being sometimes hereinafter referred individually as a “Party” and collectively as the “Parties”).

WITNESSETH:

WHEREAS, the Owner and Design-Builder entered into a contract for Hanger 3 of Project Titan at Pensacola International Airport dated May 21, 2024 (“Original Agreement”); and

WHEREAS, the Design-Builder excluded sales tax from its bid price proposals; and

WHEREAS, to recognize the sales tax savings as contemplated in the Design-Builder’s bid price proposals, the Owner desires to direct purchase materials, tools or items of equipment; and

WHEREAS, Owner and Design-Builder desire to amend the Original Agreement as hereinafter provided; and

WHEREAS, the Owner finds that it is in the best interests of the citizens of the City of Pensacola that the Original Agreement be amended as provided herein.

NOW, THEREFORE, in consideration of the work to be performed and the payment for the performance of the work, of the mutual covenants and benefits contained herein, and for other good and valuable consideration, the Parties agree as follows:

(1) **Recitals**. The recitals contained above are true and correct and are incorporated into this Contract.

(2) **Owner Direct Purchases**. The following new Section (60) is hereby added to the Supplement to Contract Documents that is part of the Contract: (60) The Owner reserves the right to purchase and/or supply materials, tools or items of equipment to the Design-Builder which the Owner desires to direct purchase so as not to pay sales tax, inasmuch as the Owner is exempt from the payment of sales tax. Owner certifies and represents

that it is properly certified as an entity exempt from the payment of sales and use taxes in the State of Florida. Prior to Owner's purchase of any materials pursuant to the provisions of this section, Owner shall provide Design-Builder, upon request, with documentation confirming such exemption, including Owner's Certificate of Entitlement. Owner acknowledges that Design-Builder may rely upon this certification and representation by Owner. Owner may purchase materials to be incorporated into the Work directly pursuant to the terms and conditions of this Section. In the event Owner elects to purchase materials directly, Owner and Design-Builder shall follow the following procedures:

- (a) Prior to Owner's issuance of the Notice to Proceed with Construction, Design-Builder shall provide to Owner a list of the materials and equipment potentially available for direct purchase by Owner. Such list shall include (i) an estimate of the value of each such item, (ii) an estimate of the sales/use tax savings on each such item, and (iii) the deadline for ordering each such item, such that the materials can be timely ordered, fabricated, and delivered so as not to delay the prosecution of the Work. Design-Builder shall not order any such items until, not less than thirty (30) days after such list has been provided to Owner. Owner shall notify Design-Builder in writing of the materials and equipment to be used or incorporated into the Work that Owner has determined that it will purchase directly. This notice must be provided to Design-Builder before the Design-Builder has ordered the materials, and such materials shall be ordered by Owner on or before the ordering deadline specified in such list.
- (b) Design-Builder shall prepare, on Owner's form, a purchase order directed to the vendor of the materials sufficient to describe and order the materials which Owner has elected to purchase directly and shall provide such purchase order to Owner. Such purchase order shall provide that the purchased item shall be FOB job site. Design-Builder's submission of a completed purchase order form is a representation by Design-Builder to Owner that the materials described therein comply with the Contract Documents. Owner may not prepare or issue a purchase order not prepared by Design-Builder.
- (c) Owner shall execute the purchase order and shall issue the purchase order directly to the vendor supplying the materials, including, as an attachment to such purchase order, a copy of the Owner's Certificate of Exemption in accordance with the provisions of Florida Administrative Code, Paragraph 1 2A-1 .094, Public Works Contracts.
- (d) The vendor shall then issue its invoice directly to Owner, and Owner shall pay the invoice after contractor approval and according to its terms directly to vendor from public funds.
- (e) Owner shall provide Design-Builder with a copy of each invoice and proof of payment.

- (f) Owner shall take title to the materials at the time of delivery by the vendor to the job site, and all warranties with respect to such materials shall run directly from the vendor to Owner; however, Design-Builder shall be deemed a third-party beneficiary of such warranties. Owner's direct purchase of materials shall not, however, alter any of Design-Builder's obligations under the Contract Documents, including but not limited to Design-Builder's warranty obligations under the Contract Documents.
- (g) As provided above, direct purchases by Owner shall be FOB the jobsite, so the vendor assumes the risk of loss or damage to the materials from the date of submission of the order until the materials are delivered to the job site and properly unloaded and stored at the job site, upon which Owner shall assume the risk of loss or damage to the materials.

The provisions of this Section do not relieve Design-Builder of its obligations to install any directly purchased materials in compliance with the Contract Documents.

If Owner fails to order any direct-purchase materials on or before the date specified by the Design-Builder pursuant this Section and such failure delays the critical path of the Work, Design-Builder shall be entitled an equitable adjustment of the Contract time, unless Design-Builder is at fault for such delay.

It is understood and agreed that the Contract Price shall not be reduced by reason of any tax savings resulting from Owner direct purchases hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed and sealed the day and year first above written.

ROY ANDERSON CORP.

CITY OF PENSACOLA, FLORIDA

Robert Fullington, President

Mayor, D.C. Reeves

Attest:_____
Corporate Secretary

Attest:_____
City Clerk, Ericka L. Burnett

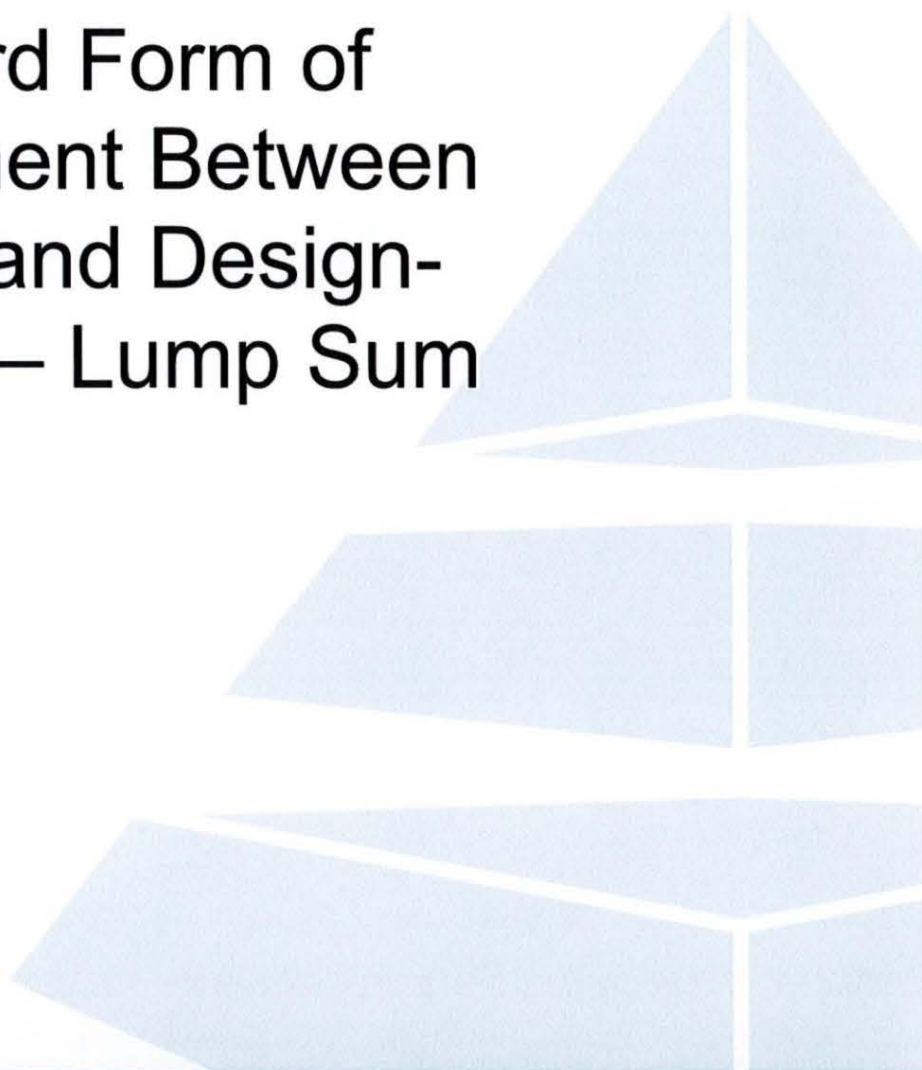
Approved as to Substance:

Airport Director, Matthew F. Coughlin

Legal in form and execution:

City Attorney, Adam C. Cobb

Standard Form of Agreement Between Owner and Design- Builder – Lump Sum



Document No. 525

Second Edition, 2010

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Washington, D.C.



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Standard Form of Agreement Between Owner and Design-BUILDER - Lump Sum

*This document has important legal consequences. Consultation with
an attorney is recommended with respect to its completion or modification.*

This **AGREEMENT** is made as of the 21st day of May in
the year of 20 24, by and between the following parties, for services in connection with the Project
identified below.

OWNER: CITY OF PENSACOLA, a Florida municipal corporation
222 W. Main Street
Pensacola, Florida 32502

(Name and address)

DESIGN-BUILDER: ROY ANDERSON CORP.
11400 Reichold Road
P. O. Box 2
Gulfport, Mississippi 39502

(Name and address)

PROJECT: HANGAR 3 OF PROJECT TITAN AT PENSACOLA INTERNATIONAL AIRPORT
(Include Project name and location as it will appear in the Contract Documents)

In consideration of the mutual covenants and obligations contained herein, Owner and Design-BUILDER agree
as set forth herein.

3.3 Terms, words and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract.

3.4 If Owner's Project Criteria contain design specifications: (a) Design-Builder shall be entitled to reasonably rely on the accuracy of the information represented in such design specifications and their compatibility with other information set forth in Owner's Project Criteria, including any performance specifications; and (b) Design-Builder shall be entitled to an adjustment in the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by such inaccurate design specification.

3.5 The Contract Documents form the entire agreement between Owner and Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

Article 4

Ownership of Work Product

4.1 Work Product. All drawings, specifications and other documents and electronic data, including such documents identified in the General Conditions of Contract, furnished by Design-Builder to Owner under this Agreement ("Work Product") are deemed to be instruments of service and Design-Builder shall retain the ownership and property interests therein, including but not limited to any intellectual property rights, copyrights and/or patents, subject to the provisions set forth in Sections 4.2 through 4.5 below.

4.2 Owner's Limited License Upon Project Completion and Payment in Full to Design-Builder. Upon Owner's payment in full for all Work performed under the Contract Documents, Design-Builder shall grant Owner a limited license to use the Work Product in connection with Owner's occupancy of the Project, conditioned on Owner's express understanding that its alteration of the Work Product without the involvement of Design-Builder is at Owner's sole risk and without liability or legal exposure to Design-Builder or anyone working by or through Design-Builder, including Design Consultants of any tier (collectively the "Indemnified Parties"), and on the Owner's obligation to provide the indemnity set forth in Section 4.5 below.

[At the parties' option, one of the following may be used in lieu of Section 4.2]:

☐ Upon Owner's payment in full for all Work performed under the Contract Documents, Design-Builder: (a) grants Owner a limited license to use the Work Product in connection with Owner's occupancy of the Project; and (b) transfers all ownership and property interests, including but not limited to any intellectual property rights, copyrights and/or patents, in that portion of the Work Product that consists of architectural and other design elements and specifications that are unique to the Project. The parties shall specifically designate those portions of the Work Product for which ownership in the Work Product shall be transferred. Such grant and transfer are conditioned on Owner's express understanding that its alteration of the Work Product without the involvement of Design-Builder is at Owner's sole risk and without liability or legal exposure to Design-Builder or anyone working by or through Design-Builder, including Design Consultants of any tier (collectively the "Indemnified Parties"), and on the Owner's obligation to provide the indemnity set forth in Section 4.5 below.

or

☒ Upon Owner's payment in full for all Work performed under the Contract Documents, Design-Builder transfers to Owner all ownership and property interests, including but not limited to any intellectual property rights, copyrights and/or patents, in the Work Product. Such transfer is conditioned on Owner's express understanding that its alteration of the Work Product without the involvement of Design-Builder is at Owner's sole risk and without liability or legal exposure to Design-Builder or anyone working by or through Design-Builder, including Design Consultants of any tier (collectively the "Indemnified Parties"), and on the Owner's

obligations to provide the indemnity set forth in Section 4.5 below.

4.3 Owner's Limited License upon Owner's Termination for Convenience or Design-Builder's Election to Terminate. If Owner terminates this Agreement for its convenience as set forth in Article 8 hereof, or if Design-Builder elects to terminate this Agreement in accordance with Section 11.4 of the General Conditions of Contract, Design-Builder shall, upon Owner's payment in full of the amounts due Design-Builder under the Contract Documents, grant Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights as set forth in Section 4.2 above, conditioned on the following:

4.3.1 Use of the Work Product is at Owner's sole risk without liability or legal exposure to any Indemnified Party and on the Owner's obligation to provide the indemnity set forth in Section 4.5 below; and

4.3.2 Owner agrees to pay Design-Builder the additional sum of n/a Dollars (\$ n/a) as compensation for the right to use the Work Product to complete the Project and subsequently use the work Product in accordance with Section 4.2 if Owner resumes the Project through its employees, agents, or third parties.

4.4 Owner's Limited License upon Design-Builder's Default. If this Agreement is terminated due to Design-Builder's default pursuant to Section 11.2 of the General Conditions of Contract, then Design-Builder grants Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights and obligations as set forth in Section 4.2 above. Notwithstanding the preceding sentence, if it is ultimately determined that Design-Builder was not in default, Owner shall be deemed to have terminated the Agreement for convenience, and Design-Builder shall be entitled to the rights and remedies set forth in Section 4.3 above.

4.5 Owner's Indemnification for Use of Work Product. If Owner is required to indemnify any Indemnified Parties based on the use or alteration of the Work Product under any of the circumstances identified in this Article 4, Owner shall defend, indemnify and hold harmless such Indemnified Parties from and against any and all claims, damages, liabilities, losses and expenses, including attorneys' fees, arising out of or resulting from the use or alteration of the Work Product.

Article 5

Contract Time

5.1 Date of Commencement. The Work shall commence within five (5) days of Design-Builder's receipt of Owner's Notice to Proceed ("Date of Commencement") unless the parties mutually agree otherwise in writing.

5.2 Substantial Completion and Final Completion.

5.2.1 Substantial Completion of the entire Work shall be achieved no later than SEVEN HUNDRED NINE (709) calendar days after the Date of Commencement ("Scheduled Substantial Completion Date").

[At the parties' option, the following supplemental language may be inserted at the end of Section 5.2.1. if the Project is subject to a Temporary Certificate of Occupancy]

☐ The parties agree that the definition for Substantial Completion set forth in Section 1.2.18 of the General Conditions of Contract is hereby modified to read as follows:

"*Substantial Completion* is the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project or a portion thereof for its intended purposes, provided, however, that Substantial Completion shall be deemed to have been achieved no later than the date of issuance of a Temporary Certificate of Occupancy issued by the local building official."

5.2.2 Interim milestones and/or Substantial Completion of identified portions of the Work ("Scheduled Interim Milestone Dates") shall be achieved as follows: *(Insert any interim milestones for portions of the Work with different scheduled dates for Substantial Completion)*

5.2.3 Final Completion of the Work or identified portions of the Work shall be achieved as expeditiously as reasonably practicable. Final Completion is the date when all Work is complete pursuant to the definition of Final Completion set forth in Section 1.2.7 of the General Conditions of Contract.

5.2.4 All of the dates set forth in this Article 5 (collectively the "Contract Time(s)") shall be subject to adjustment in accordance with the General Conditions of Contract.

5.3 Time is of the Essence. Owner and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

5.4 Liquidated Damages. Design-Builder understands that if Substantial Completion is not attained by the Scheduled Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Substantial Completion is not attained by five (5) days after the Scheduled Substantial Completion Date (the "LD Date"), Designer-Builder shall pay Owner Ten Thousand and no/100 Dollars (\$ 10,000.00) as liquidated damages for each day that Substantial Completion extends beyond the LD Date.

[The parties may want to consider the following supplemental language within Section 5.4 if they want to assess liquidated damages for failing to meet Final Completion. In this case, the first sentence in Section 5.2.3 should be deleted and replaced with the following language.]

☒ Design-Builder understands that if Final Completion is not achieved within sixty (60) days of the Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Final Completion is not achieved within sixty (60) days of Substantial Completion, Design-Builder shall pay to Owner Five Thousand and no/100 Dollars (\$5,000.00), as liquidated damages for each calendar day that Final Completion is delayed beyond the above-referenced number of days.

[In lieu of the liquidated damages specified in Section 5.4 or the alternate provided herein, the Parties may decide that the Agreement will provide for actual damages in the event of Project delay, with Owner being cautioned that there is a waiver of consequential damages under Section 10.5.1 of the General Conditions of Contract. In this case, delete Sections 5.4 and 5.5 and insert the following]

☐ **5.4** Design-Builder and Owner have agreed not to provide for liquidated damages in this Agreement for failure of Design-Builder to achieve the Contract Time(s) set forth in this Article 5. Design-Builder understands, however, that Owner may suffer actual damages in the event the Contract Time(s) set forth herein are not timely achieved. Owner shall be able to recover such actual damages from Design-Builder to the extent it can demonstrate that actual damages have been incurred, are directly related and caused by Design-Builder's failure to meet the Contract Time(s) set forth herein, and are not waived by Section 10.5.1 of the General Conditions of Contract. Notwithstanding the foregoing, in no event shall Design-Builder's liability for actual damages for delays exceed n/a Dollars (\$ n/a).

5.5 Any liquidated damages assessed pursuant to this Agreement shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties and any other damages, whether special or consequential, and of whatsoever nature incurred by Owner which are occasioned by any delay in achieving the Contract Time(s).

[The Parties may also desire to cap the liquidated damages payable under this Agreement, in which case the following language should be included at the end of Section 5.5.]

☐ Owner and Design-Builder agree that the maximum aggregate liability Design-Builder has for any liquidated damages that may be assessed under this Agreement for failure to achieve the Contract Time(s) shall be _____ n/a _____ Dollars (\$ _____ n/a _____).

5.6 Early Completion Bonus. If Substantial Completion is attained on or before _____ n/a _____ (_____ n/a _____) days before the Scheduled Substantial Completion Date (the "Bonus Date"), Owner shall pay Design-Builder at the time of Final Payment under Section 7.3 hereof an early completion bonus of _____ n/a _____ Dollars (\$ _____ n/a _____) for each day that Substantial Completion is attained earlier than the Bonus Date. *(If an early completion bonus is applicable to any dates set forth in Section 5.2.2 or 5.2.3 hereof, this Section 5.6 will need to be modified accordingly)*

[The Parties may also desire to cap the early completion bonus payable under Section 5.6, in which case the following language should be included.]

☐ Owner and Design-Builder agree that the maximum aggregate amount that Design-Builder shall receive as the early Completion Bonus is _____ n/a _____ Dollars (\$ _____ n/a _____).

5.7 ***[The Parties may also desire to modify Article 8.2.2 of the General Conditions of Contract relative to compensability of delays that would cause the Contract Time(s) to be extended. In such case, the following option can be used.]***

☐ In addition to Design-Builder's right to a time extension for those events set forth in Section 8.2.1 of the General Conditions of Contract, Design-Builder shall also be entitled to an appropriate adjustment of the Contract Price for those events set forth in Section 8.2.1 of the General Conditions of Contract, provided, however, for Force Majeure Events, Design-Builder shall only be entitled to an increase in the Contract Price if said events exceed _____ n/a _____ cumulative days. Said additional compensation shall be limited to:

[Check one box only]

☐ \$ _____ n/a _____ dollars a day for each day work is delayed beyond the Scheduled Substantial Completion Date.

or

☐ the direct costs and expenses Design-Builder can demonstrate it has reasonably and actually incurred as a result of such event.

Article 6

Contract Price

6.1 Contract Price. Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions of Contract the sum of SEVENTY-TWO MILLION SEVEN HUNDRED TWENTY THOUSAND AND 00/100DOLLARS (\$ 72,720,000.00) ("Contract Price"), subject to adjustments made in accordance with the General Conditions of Contract. Unless otherwise provided in the Contract Documents, the Contract Price is

deemed to include all sales, use, consumer and other taxes mandated by applicable Legal Requirements.

6.2 Markups for Changes. If the Contract Price requires an adjustment due to changes in the Work, and the cost of such changes is determined under Sections 9.4.1.3 or 9.4.1.4 of the General Conditions of Contract, the following markups shall be allowed on such changes:

6.2.1 For additive Change Orders, including additive Change Orders arising from both additive and deductive items, it is agreed that Design-Builder shall receive a Fee of ten percent (10.0%) of the additional costs incurred for that Change Order, plus any other markups set forth at Exhibit n/a hereto.

6.2.2 For deductive Change Orders, including deductive Change Orders arising from both additive and deductive items, the deductive amounts shall include:

[Check one box only]

☐ No additional reduction to account for Design-Builder's Fee or any other markup.

or

☒ An amount equal to the sum of: (a) ten percent (10.0%) applied to the direct costs of the net reduction (which amount will account for a reduction associated with Design-Builder's Fee); plus (b) any other markups set forth at Exhibit n/a hereto applied to the direct costs of the net reduction.

6.3 Allowance Items and Allowance Values.

6.3.1 Any and all Allowance Items, as well as their corresponding Allowance Values, are set forth in an Exhibit hereto.

6.3.2 Design-Builder and Owner have worked together to review the Allowance Items and Allowance Values based on design information then available to determine that the Allowance Values constitute reasonable estimates for the Allowance Items. Design-Builder and Owner will continue working closely together during the preparation of the design to develop Construction Documents consistent with the Allowance Values. Nothing herein is intended in any way to constitute a guarantee by Design-Builder that the Allowance Item in question can be performed for the Allowance Value.

6.3.3 No work shall be performed on any Allowance Item without Design-Builder first obtaining in writing advanced authorization to proceed from Owner. Owner agrees that if Design-Builder is not provided written authorization to proceed on an Allowance Item by the date set forth in the Project schedule, due to no fault of Design-Builder, Design-Builder may be entitled to an adjustment of the Contract Time(s) and Contract Price.

6.3.4 The Allowance Value for an Allowance Item includes the direct cost of labor, materials, equipment, transportation, taxes and insurance associated with the applicable Allowance Item. All other costs, including design fees, Design-Builder's overall project management and general conditions costs, overhead and fee, are deemed to be included in the original Contract Price, and are not subject to adjustment, regardless of the actual amount of the Allowance Item.

[In the alternative, the parties may want to delete Section 6.3.4 and add the following provision.]

☐ In the event the actual direct cost of labor, materials, equipment, transportation, taxes and insurance associated with an Allowance Item is _____ percent (____%) greater than or less than the Allowance Value for such Allowance Item, Design-Builder and Owner agree that Design-Builder's right to Fee and markup shall be adjusted in accordance with Section 6.2.

6.3.5 Whenever the actual costs for an Allowance Item is more than or less than the stated Allowance Value, the Contract Price shall be adjusted accordingly by Change Order, subject to Section 6.3.4. The amount of the Change Order shall reflect the difference between actual costs incurred by Design-Builder for the particular Allowance Item and the Allowance Value.

6.4 Performance Incentives.

6.4.1 Owner and Design-Builder have agreed to the performance incentive arrangements set forth in Exhibit n/a .

[The parties are encouraged to discuss and agree upon performance incentives that will influence project success. These incentives may consist of Award Fees, incentives for safety, personnel retention, client satisfaction and similar items.]

Article 7

Procedure for Payment

7.1 Progress Payments.

7.1.1 Design-Builder shall submit to Owner on the fifteenth (15th) day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment in accordance with Article 6 of the General Conditions of Contract.

7.1.2 Owner shall make payment within ten (10) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 of the General Conditions of Contract, but in each case less the total of payments previously made, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract.

7.2 Retainage on Progress Payments.

7.2.1 Owner will retain _____ percent (_____%) of each Application for Payment provided, however, that when fifty percent (50%) of the Work has been satisfactorily completed by Design-Builder and Design-Builder is otherwise in compliance with its contractual obligations, Owner will not retain any additional retention amounts from Design-Builder's subsequent Applications for Payment. Owner will also reasonably consider reducing retainage for Subcontractors completing their work early in the Project.

[Design-Builder and Owner may want to consider substituting the following retainage provision.]

☐ Owner will retain _____ percent (_____%) from Design-Builder's Applications for Payment, exclusive of general conditions costs, and any amounts paid to Design-Builder's Design Consultant, from each Application for Payment provided, however, that when fifty percent (50%) of the Work has been satisfactorily completed by Design-Builder and Design-Builder is otherwise in compliance with its contractual obligations, Owner will not retain any additional amounts from Design-Builder's subsequent Applications for Payment. Owner will also reasonably consider reducing retainage for Subcontractors completing their work early in the Project.

7.2.2 Within fifteen (15) days after Substantial Completion of the entire Work or, if applicable, any portion of the Work, pursuant to Section 6.6 of the General Conditions of Contract, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to (a) the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion and (b) all other amounts Owner is entitled to withhold pursuant to Section 6.3 of the General Conditions of Contract.

7.3 Final Payment. Design-Builder shall submit its Final Application for Payment to Owner in accordance with Section 6.7 of the General Conditions of Contract. Owner shall make payment on Design-Builder's properly submitted and accurate Final Application for Payment within thirty (30) days after Owner's receipt of the Final Application for Payment, provided that Design-Builder has satisfied the requirements for final payment set forth in Section 6.7.2 of the General Conditions of Contract.

7.4 Interest. Payments due and unpaid by Owner to Design-Builder, whether progress payments or final payment, shall bear interest commencing five (5) days after payment is due at the rate of zero percent (0.0 %) per month until paid.

7.5 Record Keeping and Finance Controls. With respect to changes in the Work performed on a cost basis by Design-Builder pursuant to the Contract Documents, Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of three (3) years after Final Payment, Owner and Owner's accountants shall be afforded access to, and the right to audit from time-to-time, upon reasonable notice, Design-Builder's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to changes in the Work performed on a cost basis in accordance with the Contract Documents, all of which Design-Builder shall preserve for a period of three (3) years after Final Payment. Such inspection shall take place at Design-Builder's offices during normal business hours unless another location and time is agreed to by the parties. Any multipliers or markups agreed to by the Owner and Design-Builder as part of this Agreement are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Agreement, with the composition of such multiplier or markup not being subject to audit.

Article 8

Termination for Convenience

8.1 Upon ten (10) days' written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall pay Design-Builder for the following:

8.1.1 All Work executed and for proven loss, cost or expense in connection with the Work;

8.1.2 The reasonable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors and Design Consultants; and

8.1.3 *(Choose one of the following:)*

☒ The fair and reasonable sums for overhead and profit on the sum of items 8.1.1 and 8.1.2 above.

or

☐ Overhead and profit in the amount of _____ percent (_____%) on the sum of items 8.1.1 and 8.1.2 above.

8.2 In addition to the amounts set forth in Section 8.1 above, Design-Builder shall be entitled to receive one of the following as applicable:

8.2.1 If Owner terminates this Agreement prior to commencement of construction, Design-Builder shall be paid n/a percent (n/a %) of the remaining balance of the Contract Price.

8.2.2 If Owner terminates this Agreement after commencement of construction, Design-Builder shall be paid _____ n/a _____ percent (_____ n/a _____ %) of the remaining balance of the Contract Price.

8.3 If Owner terminates this Agreement pursuant to Section 8.1 above and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work Product shall be as set forth in Section 4.3 hereof. Such rights may not be transferred or assigned to others without Design-Builder's express written consent and such third parties' agreement to the terms of Article 4.

[The following Article 9 should be used only if the Owner and Design-Builder agree to establish their respective representatives at the time the Agreement is executed rather than during the performance of the Project.]

Article 9

Representatives of the Parties

9.1 Owner's Representatives.

9.1.1 Owner designates the individual listed below as its Senior Representative ("Owner's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

Thomas E. Roda, P.E.
Division Manager
Atkins North America, Inc.
4030 W. Boy Scout Blvd., Suite 700
Tampa, Florida 33607
Email: Thomas.Roda@atkinsglobal.com
Telephone: (813) 817-3777

9.1.2 Owner designates the individual listed below as its Owner's Representative, which individual has the authority and responsibility set forth in Section 3.4 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

Ken Ibold, CM, AICP
Deputy Airport Director
2430 Airport Blvd
Pensacola, FL 32504
Office: 850-436-5131
Cell: 850-375-2468
kibold@cityofpensacola.com

and

Thomas E. Roda, P.E.
Division Manager
Atkins North America, Inc.
4030 W. Boy Scout Blvd., Suite 700
Tampa, Florida 33607
Telephone: (813) 817-3777
Email: Thomas.Roda@atkinsglobal.com

NOTWITHSTANDING ANY CONTRARY PROVISION IN THE AGREEMENT OR ANY OF THE OTHER CONTRACT DOCUMENTS, THOMAS E. RODA SHALL NOT HAVE OR BE VESTED WITH ANY AUTHORITY TO ACT FOR OR ON BEHALF OF, OR TO BIND, OWNER.

9.2 Design-Builder's Representatives.

9.2.1 Design-Builder designates the individual listed below as its Senior Representative ("Design-Builder's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

Robert Fullington
11400 Reichold Road
P. O. Box 2
Gulfport, Mississippi 39502
Office: 228-896-4000
bob.fullington@rac.com

9.2.2 Design-Builder designates the individual listed below as its Design-Builder's Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

Chris Gray, Project Executive
11400 Reichold Road
P. O. Box 2
Gulfport, Mississippi 39502
Office: 228-896-4000
Cell: 228-861-6102
chris.gray@rac.com

Article 10

Bonds and Insurance

10.1 Insurance. Design-Builder and Owner shall procure the insurance coverages set forth in the Insurance Exhibit attached hereto and in accordance with Article 5 of the General Conditions of Contract.

10.2 Bonds and Other Performance Security. Design-Builder shall provide the following performance bond and labor and material payment bond or other performance security:

Performance Bond.

[Check one box only. If no box is checked, then no bond is required.]

☒ Required

☐ Not Required

Payment Bond.

[Check one box only. If no box is checked, then no bond is required.]

☒ Required

☐ Not Required

Other Performance Security.

[Check one box only. If no box is checked, then no other performance security is required. If the "Required" box is checked, identify below the specific performance security that is being required and all salient commercial terms associated with that security.]

☐ Required

☒ Not Required

Article 11

Other Provisions

11.1 Other provisions, if any, are as follows: *(Insert any additional provisions)*

SEE SUPPLEMENT ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

[Section 2.3.1 of the General Conditions of Contract sets forth a traditional negligence standard as it relates to the Design-Builder's performance of design professional services. If the Basis of Design Documents identify specific performance standards that can be objectively measured, the parties, by including the following language, agree that the Design-Builder is obligated to achieve such standards.]

☒ Notwithstanding Section 2.3.1 of the General Conditions of Contract, if the parties agree upon specific performance standards in the Basis of Design Documents, the design professional services shall be performed to achieve such standards.

[In lieu of Sections 10.3.1 through 10.3.3 of the General Conditions of Contract, the parties may want to delete such sections and include the following alternative dispute resolution clause.]

☒ Any claims, disputes, or controversies between the parties arising out of or related to the Agreement, or the breach thereof, which have not been resolved in accordance with the procedures set forth in Section 10.2 of the General Conditions of Contract shall be resolved in a court of competent jurisdiction in the state in which the Project is located.

In executing this Agreement, Owner and Design-BUILDER each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

OWNER:

CITY OF PENSACOLA

(Name of Owner)



(Signature)

Amy Miller for DCR

(Printed Name)

MAYOR

(Title)

Date:

DESIGN-BUILDER:

ROY ANDERSON CORP.

(Name of Design-Build)



(Signature)

ROBERT ANDERSON

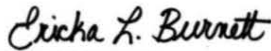
(Printed Name)

PRESIDENT

(Title)

Date: 4-15-2024

ATTEST:



5/21/2024 9:51:46 AM

Ericka L. Burnett, City Clerk



[AFFIX CITY SEAL]

Approved as to Content:



Matthew F. Coughlin, Airport Director

Approved as to Form:



Adam C. Cobb, City Attorney

Caution: You should sign an original DBIA document which has this caution printed in blue. An original assures that changes will not be obscured as may occur when documents are reproduced.

SUPPLEMENT TO CONTRACT DOCUMENTS

BETWEEN

CITY OF PENSACOLA, OWNER

AND

ROY ANDERSON CORP., DESIGN-BUILDER

 FOR HANGAR 3 OF PROJECT TITAN AT PENSACOLA INTERNATIONAL AIRPORT

Amy Miller for DCR

This Supplement is attached to and is a material and integral part of that certain *Standard Form of Agreement between Owner and Design-Builder – Lump Sum* (DBIA Document No. 525) entered into between the City of Pensacola (“Owner”) and Roy Anderson Corp. (“Design-Builder”) dated _____, 202__, for the design and construction of Hangar 3 of Project Titan at Pensacola International Airport (the “Agreement”). Pursuant to Section 2.1.3 of the Agreement, the Agreement includes this Supplement. The provisions of this Supplement modify, amend, and supplement the Agreement and the other “Contract Documents” (as such term is defined in Section 2.1 of the Agreement).

(1) The parties intend that the Contract Documents shall be construed and interpreted so as to give effect to all provisions of the Contract Documents except if and to the extent that two or more provisions are irreconcilably inconsistent, in conflict, or ambiguous. In the event of an irreconcilable inconsistency, conflict, or ambiguity between or among two or more provisions of the Contract Documents, the provision that is most favorable to Owner shall control. Further, in the event of an irreconcilable inconsistency, conflict, or ambiguity between any provision in this Supplement and any provision in the Agreement or in the General Conditions of Contract, the provision that is most favorable to Owner shall control. In the event of an irreconcilable inconsistency, conflict, or ambiguity between any provision in this Supplement and any provision in the *Design Criteria Package for the Project Titan – Element 2 Hangars 3&4 Prepared for Pensacola International Airport* dated August 16, 2023, as identified in Section (4) of this Supplement, the provision that is most favorable to Owner shall control. For the avoidance of doubt, this Section (1) of this Supplement shall control over any contrary provision in Section 2.1 or Section 3.2 of the Agreement.

(2) Capitalized terms in this Supplement shall have the respective meanings assigned to such terms in the Agreement and other Contract Documents unless a different meaning is assigned by the express terms of this Supplement. The term “Program Manager” shall mean Atkins North America, Inc., which is the professional organization with which Owner has contracted to provide design criteria professional (as defined in Section 287.055(2)(k), Florida Statutes) and program management services with respect to the Project.

(3) Section 1.2.2 of the General Conditions of Contract is hereby deleted in its entirety and the following is hereby inserted in lieu thereof:

Owner Initials:  Design-Builder Initials: 

"1.2.2 *Basis of Design Documents* shall mean Owner's Project Criteria (as defined below in amended Section 1.2.14). Notwithstanding any contrary provision in the Contract Documents, *Basis of Design Documents* shall not mean or include any other provision of Design-Builder's Proposal or any Deviation List included in Design-Builder's Proposal. All references to Design-Builder's Proposal and all references to any Deviation List, other than references thereto in this Supplement, are hereby stricken and deleted from the Contract Documents."

(4) Section 1.2.14 of the General Conditions of Contract is hereby deleted in its entirety and the following is hereby inserted in lieu thereof:

"1.2.14 *Owner's Project Criteria* shall mean the *Design Criteria Package for the Project Titan – Element 2 Hangars 3&4 Prepared for Pensacola International Airport* dated August 16, 2023, including without limitation all Appendices thereto and modifications thereof, together with all other drawings, plans, specifications, design criteria, and documents identified in Exhibit "D" attached hereto and incorporated herein by reference, but only to the extent pertaining or relevant to base Hangar 3 (excluding Hangar 4 and all other additive alternates referenced therein). The Procurement Department of the City of Pensacola is the official repository of such Design Criteria Package and other documents identified in Exhibit "D", and such Design Criteria Package and other documents identified in Exhibit "D" can be found at <https://cityofpensacola.com/bids.aspx?bidID=462>."

(5) Design-Builder shall perform and comply with each and every term, provision, covenant, and condition contained in the Owner's Project Criteria as fully and to the same extent as if set forth in the Agreement.

(6) Section 3.4 of the Agreement is hereby deleted.

(7) Section 4.3.2 of the Agreement is hereby deleted in its entirety.

(8) The following provisions are hereby added at the end of Article 3 of the Agreement:

"3.6 Notwithstanding any contrary provision in this Article 3 or in any of the Contract Documents, Design-Builder represents and warrants to Owner that prior to the execution of the Agreement Design-Builder has carefully reviewed Owner's Project Criteria, including without limitation all design and performance specifications therein; has had adequate opportunity to seek clarifications and additional information regarding Owner's Project Criteria from Owner and the Program Manager; and has received all clarifications and additional information concerning Owner's Project Criteria requested by Design-Builder. In the event that any inconsistency or inaccuracy is hereafter discovered in Owner's Project Criteria or any part(s) or provision(s) thereof, including without limitation any inaccuracy in any design or performance specification, Design-Builder shall not be entitled to any adjustment in the Contract Price or the Contract Time, whether

Owner Initials: 

Design-Builder Initials: 

or not Design-BUILDER's cost and/or time of performance have been adversely affected by such inconsistency or inaccuracy.

3.7 Notwithstanding any contrary provision in this Article 3 or in any of the Contract Documents, the Construction Documents prepared by Design-BUILDER as well as the Work itself shall conform to Owner's Project Criteria in all respects, and nothing contained in this Article 3, Section 2.4 of the General Conditions of Contract, or elsewhere in any of the Contract Documents shall relieve Design-BUILDER of its obligation to ensure that the Construction Documents and the Work conform to Owner's Project Criteria in all respects. Further, Owner and Design-BUILDER expressly agree that the Owner's Project Criteria shall be modified, if at all, only by a written agreement duly executed by Owner and Design-BUILDER that makes specific reference to the particular provision or provisions of the Owner's Project Criteria to be modified, and that any attempted modification of any provision of the Owner's Project Criteria that is not the subject of such a written agreement shall be null, void, and of no force or effect. "

(9) Section 1.2.18 of the General Conditions of Contract is hereby deleted in its entirety and the following is hereby inserted in lieu thereof:

"1.2.18 *Substantial Completion or Substantially Complete* is the date upon which the Work is sufficiently complete in accordance with the Contract Documents so that the VT Mobile Aerospace Engineering, Inc. ("Tenant"), as lessee from Owner, can occupy or utilize the Work for its intended use. A final or temporary certificate of occupancy must be issued in order for Substantial Completion to be achieved, the issuance of which shall not be unreasonably withheld; however, the issuance of a final or temporary certificate of occupancy or the date thereof is not determinative of the achievement of Substantial Completion."

(10) Section 1.2.7 of the General Conditions of Contract is hereby deleted in its entirety and the following is hereby inserted in lieu thereof:

"1.2.7 *Final Completion* is the date upon which all conditions and requirements of any permits and regulatory agencies have been satisfied; the documents required by the Contract Documents have been received by Owner; and the Work has been fully completed in accordance with the requirements, terms and conditions of the Contract Documents, including but not limited to the final completion of all items identified in the punch list prepared under Section 6.6.1 and the submission of all documents set forth in Section 6.7.2."

(11) The first sentence of Section 5.2.3 of the Agreement is hereby deleted in its entirety.

(12) Section 5.7 of the Agreement is hereby deleted in its entirety.

(13) Notwithstanding any contrary provision in Section 8.2 of the General Conditions of Contractor in any of the Contract Documents, Design-BUILDER's sole and exclusive remedy for delays in its performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control, including but not limited to acts or omissions of Owner or anyone under Owner's control, shall be an equitable extension of the Contract Time, unless such delay shall

Owner Initials: ASU

Design-BUILDER Initials: KE

have been caused by acts constituting fraud, bad faith, or active interference by Owner with Design-Builder's performance of the Work and where and to the extent that such acts continue after Design-Builder's delivery of written notice to Owner of such interference. Owner's exercise of any of its rights as it relates to changes in Work regardless of the extent or number of such changes, or Owner's exercise of any of its remedies of suspension of the Work, or requirement of correction or re-execution of any defective Work, shall not under any circumstances be construed as active interference with Design-Builder's performance of the Work. To exercise Design-Builder's right to extension of time due to Owner's active interference, Design-Builder shall, within three calendar days after the commencement of such active interference, or the following business day if the third day falls on a Saturday, Sunday, or federal holiday (the "notification period"), notify Owner in writing of Owner's active interference. If Design-Builder fails to notify Owner of Owner's active interference within the notification period, then Design-Builder waives any rights under the Contract Documents to claim Owner's active interference from the end of the notification period until Owner receives written notification of active interference from Design-Builder.

(14) Section 6.3 of the Agreement is hereby deleted in its entirety.

(15) Section 6.4 of the Agreement is hereby deleted in its entirety.

(16) Section 7.1.2 of the Agreement is hereby deleted in its entirety and the following is hereby substituted in lieu thereof:

"7.1.2 Owner shall make payment on or before the fifteenth (15th) day of the month following Owner's receipt of each properly and timely submitted and accurate Application for Payment in accordance with the Contract Documents, but in each case less the total of payments previously made, and less Retainage and other amounts properly withheld under the Contract Documents."

(17) Section 7.2 of the Agreement is hereby deleted in its entirety and the following is hereby substituted in lieu thereof:

"7.2 Five percent (5.0 %) of all monies earned by Design-Builder shall be retained by Owner until Final Completion and acceptance by Owner of the Work. Any reduction in retainage shall be in the sole discretion of Owner and shall be recommended by Program Manager, and Design-Builder shall have no entitlement to a reduction. Without limiting the generality of the foregoing, any reduction in retainage shall be subject to (1) the written consents of the various grant funders providing funding for the Work, if required by the grant agreements, (2) the written consent of the surety under the required payment and performance bonds, and (3) reasonable evidence that there exists no actual or potential material claim against Design-Builder or any of its subcontractors related to the Work. Any interest earned on retainage shall accrue to the benefit of Owner.

(18) Wherever in the Contract Documents reference is made to *Owner's* use and/or occupancy of the Work or any portion thereof, such reference shall be deemed to mean *Tenant's* use and/or occupancy of the Work or such portion thereof. However, for the avoidance of doubt, Tenant shall have no right or authority to approve or disapprove of the Work or any portion

Owner Initials: AS

Design-Builder Initials: W

thereof, to give any direction to Design-Builder, or to act for or on behalf of, or to bind, Owner in any regard whatsoever.

(19) Section 6.6.2 of the General Conditions of Contract is hereby deleted in its entirety.

(20) Section 8.2 of the Agreement is hereby deleted in its entirety.

(21) The last sentence of Section 8.3 of the Agreement is hereby deleted in its entirety.

(22) Payment and Performance Bonds and Qualifications for Sureties

(a) Concurrently with the execution of the Agreement, Design-Builder shall furnish to Owner three (3) fully executed original counterparts of a performance bond and a payment bond, each complying with the requirements of this Section (22).

(b) The bonds shall be in the amount of one hundred percent (100%) of the Contract Price guaranteeing to City the timely completion and performance of the Work as well as full payment of all suppliers, material providers, laborers, and subcontractors performing the Work. Each bond shall be issued by a surety company which is qualified under paragraph (d) below.

(c) The bonds shall comply in all respects with Section 255.05, Florida Statutes, and Design-Builder shall cause the bonds to be recorded in the public records of Escambia County and shall provide Owner with a certified copy of the recorded bonds no later than five (5) days after the Effective Date of the Agreement or commencement of the Work, whichever first occurs.

(d) Required Qualifications for Surety:

(1) Each bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida as surety, having a resident agent in the State of Florida, and having been in business with a record of successful continuous operation for at least five years.

(2) The surety company shall hold a current certificate of authority as acceptable surety on federal bonds in accordance with United States Department of Treasury Circular 570, Current Revisions. If the amount of the bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, revised September 1, 1978 (31 DFR Section 223.10, Section 223.111). Further, the surety company shall provide Owner with evidence satisfactory to Owner that such excess risk has been protected in an acceptable manner.

Owner Initials: ASU

Design-Builder Initials: KL

(3) The surety company must hold a rating of A or better; provided, however, that if the surety company appears on the watch list that is published quarterly by Intercom of the Florida Department of Financial Services, Owner, in its sole discretion, may either accept or reject the surety company. Design-Builder may substitute another surety company that meets the requirements of this paragraph (d) for a surety company that is rejected by Owner, but the Contract Price shall not be increased by reason of any such substitution.

(23) The status reports required by Section 2.1.2 of the General Conditions of Contract shall be provided by Design-Builder weekly instead of monthly.

(24) Owner and Design-Builder acknowledge and agree that there is no "Owner's Permit List" as such term is used in Section 2.6.1 of the General conditions.

(25) In addition to all other design and development services required by the Contract Documents, Design-Builder shall prepare and submit to Owner plans and specifications for the Work at 60%, 95%, and 100% (Issued for Construction) stages of completion of such plans and specifications. The times for commencing and completing each such stage shall be included in the schedule prepared and submitted by Design-Builder pursuant to Section 2.1.3 of the General Conditions of Contract. Such schedule shall also provide for a reasonable time for Owner to review, provide comments, and discuss with Design-Builder the plans and specifications after each such stage. Owner's review or failure to review such plans and specifications shall not relieve Design-Builder of any of its obligations under the Agreement and the General Conditions of Contract.

(26) All Owner turnaround time periods, time periods for Owner review, comment, and/or approval, and other time periods provided in the schedule prepared and submitted by Design-Builder pursuant to Section 2.1.3 of the General Conditions of Contract shall be reasonable.

(27) Notwithstanding any contrary provision in Section 3.2 or Section 3.2.1.5 of the General Conditions of Contract or elsewhere in any of the Contract Documents, Design-Builder shall not be entitled to rely upon record drawings or information provided by Owner pertaining to the existence or non-existence of any surface or subsurface improvements, structures, conduit, cables, wiring, or other items, nor shall Design-Builder be entitled to rely upon any information or documents furnished by Owner except those items identified in Sections 3.2.1.2, 3.2.1.2, 3.2.1.3, 3.2.1.4, and 3.1.2.6 of the General Conditions of Contract.

(28) The provisions of Article 4 of the General Conditions of Contract shall not apply with respect to any Hazardous Conditions, environmental conditions, Site conditions, subsurface conditions, or physical conditions at the Site, whether surface or subsurface, the existence or potential existence of which were disclosed by or reasonably inferable from the Contract Documents, including without limitation the Owner's Project Criteria, or which were otherwise known to, or with reasonable diligence or investigation should have been known to, Design-Builder prior to the execution of the Agreement. Design-Builder shall be deemed to have actual knowledge of all matters that a diligent inspection of Owner's Project Criteria, the other Contract Documents, and the Site prior to execution of the

Owner Initials: ASU

Design-Builder Initials: H

Agreement would have disclosed, and any such matter shall not be deemed to constitute a "Hazardous Condition" under Article 4 of the General Conditions of Contract or under any of the other Contract Documents nor entitle Design-Builder to additional time or compensation, notwithstanding any contrary provision in this Agreement. Design-Builder's failure to perform a diligent inspection of Owner's Project Criteria, the other Contract Documents, and/or the Site prior to execution of the Agreement shall not relieve Design-Builder from any of its responsibilities under the Contract Documents, nor shall it be considered the basis for any claim for additional time or compensation.

(29) The first sentence of Section 4.2.2 of the General Conditions of Contract is hereby amended by changing fourteen (14) days to three (3) days.

(30) The second sentence of Section 4.2.2 of the General Conditions of Contract is hereby deleted in its entirety and the following is hereby substituted in lieu thereof:

"Unless and to the extent immediate action is required for health or safety reasons, Design-Builder shall provide such notice before the Differing Site Condition is disturbed or altered. Design-Builder shall not be entitled to additional compensation or time by reason of a Differing Site Condition unless Design-Builder has timely complied with the requirements of this Section 4.2.2."

(31) The Insurance Exhibit to the Agreement is attached hereto as Exhibit "B" and incorporated herein by reference.

(32) Sections 5.2 and 5.3 of the General Conditions of Contract are hereby deleted in their entirety.

(33) Section 6.7.3 of the General Conditions of Contract is hereby deleted in its entirety.

(34) Section 6.7.4 of the General Conditions of Contract is hereby deleted in its entirety.

(35) The next to the last (penultimate) sentence in Section 7.3.1 of the General Conditions of Contract is hereby deleted in its entirety and the following is hereby inserted in lieu thereof:

"Design-Builder shall cause said claim or lien to be discharged or bonded off within fifteen (15) days after Design-Builder obtains actual knowledge that said claim or lien has been filed."

(36) Section 7.4.1 and 7.4.2 of the General Conditions of Contract are hereby deleted in their entirety and the following is hereby inserted in lieu thereof:

"7.4.1 Design-Builder shall indemnify and hold harmless Owner, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or

Owner Initials: ASD

Design-Builder Initials: 14

intentional wrongful misconduct of Design-Builder and persons employed or utilized by Design-Builder in the performance of the Agreement. This indemnification survives the termination of the Agreement.

7.4.2 Design-Builder shall indemnify and hold harmless the Tenant and the Program Manager and their respective officers and employees from liabilities, damages, losses and costs, including but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Design-Builder and persons employed or utilized by Design-Builder in the performance of the Agreement. This indemnification survives the termination of the Agreement.

7.4.3 In any and all claims against Owner or any other indemnified person or entity or any of their agents or employees brought by any employee of Design-Builder or any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Article 7 shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Design-Builder or any subcontractor under worker's or workman's compensation acts, disability benefit acts or other employee benefit acts."

(37) Article 7.5 and Section 7.5.1 of the General Conditions of Contract are hereby deleted in their entirety.

(38) Section 8.2.2 of the General Conditions of Contract is hereby deleted in its entirety.

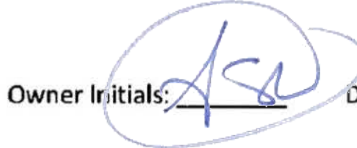
(39) The following Section 9.3.2 is hereby added to Article 9 of the General Conditions of Contract:

"9.3.2 In no event shall a minor change in the Work under Section 9.3.1 above deviate in any respect whatsoever from the Owner's Project Criteria, it being understood that any such deviation may be effected only by a Change Order or a Work Change Directive."

(40) Section 10.2.4 of the General Conditions of Contract is hereby deleted in its entirety and the following is hereby inserted in lieu thereof:

"10.2.4 If after meeting the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the parties hereto agree that Program Manager shall decide the dispute or disagreement, and Program Manager's decision shall be final and binding to the extent provided in this Section 10.2.4. Program Manager shall provide Owner and Design-Builder with a written basis for the decision. During the pendency of any dispute or disagreement and after a determination thereof by Program Manager, Design-Builder and Owner shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate means of construction.

Owner Initials:



Design-Builder Initials:



In the event the determination of a dispute by Program Manager is unacceptable to any of the parties hereto, the party objecting to the determination must notify the other party in writing within ten (10) days of receipt of the written determination of Program Manager. The notice must state the basis of the objection and must be accompanied by a statement that any Contract Price or Contract Time adjustment claimed is the entire adjustment to which the objecting party has reason to believe it is entitled to as a result of the determination. The parties shall participate in mediation before a mediator mutually agreed upon by the parties to address such objection, and all other objections properly and timely made and preserved under this Section 10.2.4, within sixty (60) days after Final Completion. Any mediation under this paragraph shall be conducted by a mediator certified by the Florida Supreme Court with substantial experience in mediating construction disputes. If the parties cannot agree on a mediator, then they shall request the American Arbitration Association to select a mediator from its list of construction mediators. Mediation shall be a condition precedent to filing a legal action; however, a party may file an action to meet the statute of limitations if it requests the proceedings be stayed pending the outcome of mediation. Each party shall pay its pro rata share of fees associated with the use of a mediator. Mediation shall be done in accordance with the standards of the Florida Rules of Civil Procedure. Should any objection not be resolved in mediation, the parties retain all their legal rights and remedies provided under State law. If a party objecting to a determination fails to comply in strict accordance with the requirements of this Article 10, said party specifically waives all of its rights provided under this Article 10 and all of its rights and remedies under local, state, and federal laws.

(41) Section 10.3 of the General Conditions of Contract is hereby deleted in its entirety.

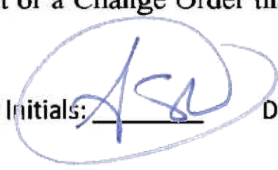
(42) The second and third sentence of Section 11.2.2 of the General Conditions of Contract are hereby deleted in their entirety and the following is hereby inserted in lieu thereof:

"If Design-Builder fails to cure such problem within such seven-day period or fails to reasonably commence to cure such problem within such seven-day period or thereafter fails to continuously and diligently prosecute such cure to completion within a reasonable time, then Owner may declare the Agreement terminated for default by providing written notice to Design-Builder of such declaration."

(43) Exhibit "C" contains additional provisions required by governmental agencies. All such provisions are incorporated herein by this reference.

(44) Notwithstanding any contrary provision in any of the Contract Documents, in no event shall Design-Builder be entitled to additional time or compensation with respect to any work that is performed prior to the execution by both Owner and Design-Builder of a Change Order authorizing such work and additional time and/or compensation.

(45) Design-Builder acknowledges, understands, and agrees that Owner will not enter into a modification of a Contract Document or a Change Order that results in a cost savings to

Owner Initials: 

Design-Builder Initials: H

Design-Builder unless Design-Builder agrees to add additional scope to the Work satisfactory to Owner of a value that offsets some or all of such cost savings.

(46) Notwithstanding any contrary provision in Section 8.2.1 of the General Conditions of Contract or in any of the other Contract Documents, the Contract Time(s) under Article 5 of the Agreement as well as all phase durations set forth in the Contract Documents are deemed to include inclement weather days normally encountered at the Site, as well as Saturdays, Sundays, Observed Holidays (defined below), and other non-workdays. Design-Builder shall be charged for each calendar day during the term of construction including Saturdays, Sundays, Observed Holidays, and other non-workdays, plus inclement weather days normally encountered at the Site. Normal inclement weather days shall be established by the Design-Builder obtaining the previous ten (10) years of inclement weather data from the National Oceanographic and Atmospheric Administration (NOAA) and averaging the previous ten (10) years of each type of inclement weather for each month and comparing it to each month of construction activities to determine if the number of inclement weather days occurring in any given month exceeds the average for that month over the past ten (10) years for that type of inclement weather, i.e. rain, snow, etc. If Design-Builder is unable to work at least fifty percent (50%) of the normal workday on pre-determined controlling work items due to abnormal inclement weather conditions, Design-Builder may not be charged a calendar day provided the Design-Builder submits data and records to justify not charging a calendar day for that specific day. Contract Time(s) shall be based upon calendar days counting from the effective date of the Notice to Proceed and including Saturdays, Sundays, Observed Holidays, and any other non-workdays. The term "Observed Holidays" means New Year's Day, Martin Luther King, Jr. Day, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day and the day after, Christmas Eve, Christmas Day, and the day after Christmas Day, and New Year's Eve. If any of the foregoing holidays occurs on a Saturday or Sunday, the immediately adjacent weekday will be observed as the holiday. Design-Builder may perform work under the Contract Documents only from 6:00 a.m. until 7:00 p.m., Mondays through Saturdays, but excluding Observed Holidays. No work shall be performed during any other hours, days, or evenings except with the prior written consent of Owner in its sole discretion and in accordance with applicable City of Pensacola ordinances.

(47) Design-Builder warrants that Design-Builder has not employed or retained any company or person, other than a bona fide employee working solely for Design-Builder, to solicit or secure this Contract and that Design-Builder has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Design-Builder, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

(48) All Contract Documents shall be interpreted and construed in accordance with and governed by the laws of the State of Florida and the applicable laws of the United States of America. Venue for any litigation concerning any of the Contract Documents or the Work shall be exclusively in the appropriate Florida state court located in Escambia County, Florida. Design-Builder hereby consents and agrees that the state courts of the State of Florida shall have personal jurisdiction over Design-Builder in any litigation concerning any of the Contract Documents or the Work. Further, both Owner and Design-Builder waive their respective rights, if any, to institute, prosecute, or remove in or to any federal court any complaint, counterclaim, crossclaim,

Owner Initials: ASU

Design-Builder Initials: RV

or other claim of any nature whatsoever arising out of, based upon, or in any way related to any of the Contract Documents or the Work, whether any claim of federal jurisdiction is based upon a federal question, diversity of citizenship, or otherwise, it being the parties' intention that the state courts of the State of Florida shall have exclusive subject matter jurisdiction and exclusive personal jurisdiction of Owner and Design-Builder with respect to any and all complaints, counterclaims, crossclaims, and other claims of any nature whatsoever arising out of, based upon, or in any way related to any of the Contract Documents or the Work.

(49) Design-Builder represents that the execution of this Contract will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes). In addition to the foregoing, Design-Builder further represents that it has not been placed on the convicted vendors list as described in Florida Statute 287.133(2) (a); that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime"; and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Design-Builder has been placed on the convicted vendor list.

(50) Design-Builder agrees that it will not discriminate against any employee or applicant for employment for work under this Contract because of race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability. This provision shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. Design-Builder agrees promptly upon Owner's request to furnish Owner with a copy of its Affirmative Action Policy.

(51) It is a requirement of Owner that it enter into contracts only with firms that certify the establishment of a drug free workplace in accordance with Florida Statutes. Execution of this Contract by Design-Builder shall also serve as Design-Builder's required certification that it either has or that it will establish a drug free workplace in accordance with Florida Statute 287.087.

(52) Design-Builder shall comply with the Florida Public Records Act to the full extent that it is applicable to Design-Builder and this Contract. To that end, Design-Builder shall:

- i. Keep and maintain public records required by Owner to perform the services required by this Contract.
- ii. Upon request from Owner's custodian of public records, provide Owner 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 in Chapter 119, Florida Statutes, or as otherwise provided by law.

Owner Initials: ASU

Design-Builder Initials: AF

- iii. Ensure that 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 Contract term and following the completion of the Contract if Design-Builder does not transfer the records to Owner.
- iv. Upon completion of the Contract, transfer, at no cost, to Owner all public records in possession of Design-Builder or keep and maintain public records required by Owner to perform the services required by this Contract. If Design-Builder transfers all public records to Owner upon completion of this Contract, Design-Builder shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Design-Builder keeps and maintains public records upon completion of this Contract, Design-Builder shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Owner, upon request of Owner's custodian of public records, in a format that is compatible with the information technology systems of Owner.

In the event that Design-Builder fails to comply with the foregoing provisions of this Section, Owner may, without prejudice to any other right or remedy and after having given Design-Builder five (5) days' prior written notice, during which period Design-Builder still fails to comply with the foregoing provisions of this Section, terminate this Contract for cause.

IF DESIGN-BUILDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO DESIGN-BUILDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: THE OFFICE OF THE CITY ATTORNEY, (850) 435-1715, PUBLICRECORDS@CITYOFPENSACOLA.COM, 222 WEST MAIN STREET, PENSACOLA, FL 32502.

(53) Because of the nature of the relationship between Owner and Design-Builder, none of the Contract Documents or any other documents of Design-Builder which in any way relate to the Project shall be deemed confidential or trade secrets between Owner and Design-Builder.

(54) A portion of the Work will require access to the secure or security areas of Pensacola International Airport (the "Airport"). Design-Builder shall comply with all rules, regulations, statutes, orders, directives, and other mandates of the United States, the State of Florida, Escambia County, and the City of Pensacola as they relate to Airport security requirements. Design-Builder understands that the Airport is required to maintain an Airport Security Plan in compliance with Title 49 CFR Part 1542. Design-Builder shall comply with applicable provisions of the Airport's security plan as it now exists or as it may be amended in the future and as it applies to Design-Builder, the Site, or Design-Builder's operations or activities on the Airport and shall take such steps as may be necessary or as directed by Owner to require that Design-Builder's subcontractors, employees, invitees, agents and guests observe

Owner Initials: ASU

Design-Builder Initials: HL

these requirements. Design-Builder specifically agrees and recognizes that such laws and regulations may impede the efficiency of those working in secure areas and accepts all risk associated with such potential inefficiency.

(55) Design-Builder shall fully indemnify, defend, and hold harmless Owner, its elected representatives, officers, agents, volunteers, and employees from and against all penalties, fines, or demands of any kind (including, but not limited to, costs of investigation, attorney fees, court costs, and expert fees) arising out of Design-Builder's acts or omissions resulting in the violations or alleged violation of any rule, regulation, statute, order, directive, or other mandate of the United States, the State of Florida, Escambia County, or the City of Pensacola, including but not limited to Title 49 CFR Part 1542, "Airport Security," or any successor regulations related to Airport security.

(56) Neither Design-Builder nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic to or incompatible with Design-Builder's loyal and conscientious exercise of judgment related to its performance under this Contract. Design-Builder agrees to prohibit its subcontractors, by written contract, from having any conflicts within the meaning of this Section.

(57) All references to "Cost Plus Fee with an Option for a Guaranteed Maximum Price" in the Agreement or in the General Conditions are hereby deleted.

(58) Notwithstanding any contrary provision in any of the Contract Documents, Section 9.10.1 ("Gopher Turtles") of the Design Criteria Packaged identified in Exhibit "A" hereto is hereby excluded from the Work and is to be performed by others.

(59) The following sentence is hereby added at the end of Section 5.1 of the Agreement: "Owner agrees that Owner's Notice to Proceed shall not be issued until completion of the demolition work to be performed by others, however design and general requirement work can proceed and shall be billable upon Contract execution."

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Owner Initials:



Design-Builder Initials:





City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-629

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

AMENDMENT TO 2017 HUD ANNUAL ACTION PLAN - COMMUNITY DEVELOPMENT
BLOCK GRANT (CDBG) PROGRAM FUNDS REALLOCATION

RECOMMENDATION:

That City Council approve an Amendment to the 2017 HUD Annual Action Plan for the Community Development Block Grant program reallocating \$2,925.57 in funds. Further, that City Council authorize the Mayor to take the actions necessary to effect the Amendment, consistent with the terms of the grant and the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In order to address timely spendout of Community Development Block Grant (CDBG) funds, staff is recommending an Amendment to the 2017 HUD Annual Action Plan to reallocate unencumbered funding from the Code Enforcement activity to the Housing Rehabilitation activity. In 2017, City Council originally approved \$5,000.00 for a Code Enforcement activity, which currently has a \$2,957.57 balance. According to the City's approved Citizen Participation Plan for HUD programs, since this modification decreases the original activity by more than twenty-five percent, it is considered a substantial amendment to the Annual Action Plan. Per HUD regulations and current City policy, amendments to a local government's Annual Action Plan must be advertised to provide for a minimum 30 day public review and comment period prior to implementation of the amended activities or projects. The proposed amendment was advertised in the Pensacola News Journal on June 3, 2024 with comments accepted through July 5, 2024. No comments were received. This amendment will go into effect after approval by City Council and will allow for full spendout of the 2017 CDBG program grant by required HUD deadlines so funds will not be returned to HUD.

PRIOR ACTION:

August 10, 2017-City Council approved the 2017 HUD Annual Action Plan

August 13, 2020-City Council approved the revised Escambia Consortium Citizen Participation Plan for HUD programs, to include the City's CDBG program

FUNDING:

Budget: \$2,925.57

Actual: \$2,957.57

FINANCIAL IMPACT:

No City general funds are required. This action will move funds between eligible activities in order to spend out the 2017 CDBG grant in a timely manner.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Amy Miller, Interim City Administrator
David Forte, Deputy City Administrator
Meredith Reeves, Housing Administrator

ATTACHMENTS:

1. Public Notice 2017 HUD Annual Plan Amendment

PRESENTATION: No



PO Box 631244 Cincinnati, OH 45263-1244

AFFIDAVIT OF PUBLICATION

Dept Of Housing/Legal Ads
Po Box 12910
Pensacola FL 32521-0001

STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned authority personally appeared, who on oath says that he or she is the Legal Advertising Representative of the Pensacola News Journal, a newspaper published in Escambia County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of Govt Public Notices, was published on the publicly accessible website of Escambia County, Florida, or in a newspaper by print in the issues of, on:

06/03/2024

Affiant further says that the website or newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes.

Subscribed and sworn to before me, by the legal clerk, who is personally known to me, on 06/03/2024

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$105.73

Tax Amount: \$0.00

Payment Cost: \$105.73

Order No: 10226400

of Copies:

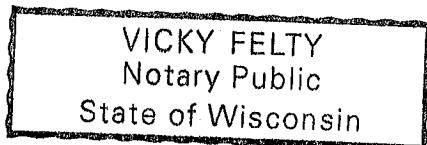
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PO #: LSAR0109353

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Please do not use this form for payment remittance.



AMENDMENT TO
2017 ANNUAL ACTION PLAN
REGARDING THE
CITY OF PENSACOLA COMMU-
NITY DEVELOPMENT BLOCK
GRANT PROGRAM

The City of Pensacola is propos-
ing amending the 2017 Community
Development Block Grant Annual
Action Plan including Grant #B-17-
MC-12-0016 in order to reallocate
funds between project categories as
follows:

FROM:

Code Enforcement \$2925.57

TO:

Housing Rehabilitation \$2957.57

Comments or questions concern-
ing this amendment are invited
through 4:00 p.m. (CST), JULY
5, 2024. Interested parties may
submit written comments to: City
of Pensacola Housing Department,
P.O. Box 12910, Pensacola, Florida
32502. Questions may be directed to
Meredith Reeves at (850) 858-0311 or
mreeves@cityofpensacola.com.

The above stated HUD Amendment
has been subjected to a minimum
30-day public comment period in
compliance with the Local Citizen
Participation Plan. Revisions will
be effective JULY 18, 2024 and will
be immediately implemented in
accordance with governing HUD
Regulations.

June 3 2024

LSAR0109353



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-630

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

AMENDMENT #2 TO COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)-CV LEGAL SERVICES PROGRAM AGREEMENT

RECOMMENDATION:

That City Council approve Amendment #2 to the CDBG-CV Legal Services Program Agreement with Legal Services of North Florida, Inc. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer Amendment #2 to the Agreement, consistent with the terms of Amendment #2 and the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

As part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act passed by Congress, the City received an initial allocation of \$452,160 in CDBG-CV1 program funding in order to prevent, prepare, or respond to COVID-19. On September 24, 2020, City Council accepted the funding and allocated \$100,000 to public service activities, including legal services. The City entered into an Agreement with Legal Services of North Florida, Inc. (LSNF) for \$50,000 in 2021 to provide legal services to income eligible City residents impacted by COVID-19. In January 2024, the City amended the Agreement to extend the contract term through December 2024 to provide additional time to expend funding. In coordination with Housing staff, LSNF has requested a modification in the Agreement to reduce the total contract funding amount by \$12,000 for a new funding amount of \$38,000 to provide for a realistic expenditure of the balance of the contract funding through the end of the calendar year. Amendment #2 also updates current income limits. This modification will give Housing staff appropriate time to reallocate this funding to another eligible grant use.

Through the end of last fiscal year, LSNF has served 33 households under this Agreement with various legal issues for income eligible citizens impacted by COVID-19, to include landlord-tenant issues, foreclosure mitigation and counseling, bankruptcy filings, and other legal issues.

PRIOR ACTION:

September 24, 2020-City Council amended the 2019 CDBG Annual Action plan to accept CDBG-CV funding and approve activities.

January 18, 2024-City Council approved Amendment #1 to the Agreement to extend the contract term and update income limits.

FUNDING:

Budget: \$38,000

Actual: \$38,000

FINANCIAL IMPACT:

No City general funds are impacted. This Agreement Amendment will permit CDBG-CV funding to be re-programmed for timely spendout.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

6/27/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
David Forte, Deputy City Administrator
Meredith Reeves, Housing Administrator

ATTACHMENTS:

1. Amendment 2 to CDBG-CV Legal Services Program Agreement

PRESENTATION: No

AMENDMENT #2 TO CDBG-CV LEGAL SERVICES PROGRAM AGREEMENT

THIS AMENDMENT TO THE AGREEMENT is made and entered into by and between **THE CITY OF PENSACOLA**, a municipality chartered in the State of Florida, ("City"), and the **LEGAL SERVICES OF NORTH FLORIDA, INC.**, a not for profit corporation organized under the laws of the State of Florida (hereinafter referred to as the "Recipient").

WITNESSETH:

WHEREAS, on January 22, 2021, the parties entered into that certain CDBG-CV Legal Services Program Agreement (hereinafter referred to as the "Agreement") for the purpose of administering legal services to income eligible households in the City of Pensacola in response to Coronavirus;

WHEREAS, on February 27, 2024, the parties executed an Amendment to the Agreement to extend the contract term and update the income limits;

WHEREAS, the City and Recipient now wish to further amend the Agreement as provided herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and of the mutual benefits and for other good and valuable consideration, the City and Recipient hereby agree to amend the Agreement as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. **ATTACHMENT I, Section IV. BUDGET INFORMATION** is amended as follows:

The Recipient shall have a budget of ~~\$50,000.00~~ **\$38,000.00** to cover the term of January 22, 2021 – December 31, 2024. Per hour attorney billing of \$125.80/hr. and paralegal rate of \$35.42/hr. includes title searches for clients, costs of publication, court reporters, process servers, credit reports, printing, postage, and other operating costs associated with implementation of this activity.

3. **ATTACHMENT I, Section VII. PROJECT DELIVERABLES.** The Income Limits are amended as follows:

2024 INCOME GUIDELINES (CDBG Effective Date: May 1, 2024)

# PERSONS IN FAMILY	30% OF AREA MEDIAN INCOME (AMI)	50% OF MEDIAN	80% OF MEDIAN
1	\$18,900	\$31,500	\$50,350
2	21,600	36,000	57,550

3	24,300	40,500	64,750
4	26,950	44,950	71,900
5	29,150	48,550	77,700
6	31,300	52,150	83,450
7	33,450	55,750	89,200
8	35,600	59,350	94,950

4. Except as herein expressly amended, all other provisions of the Agreement, shall remain unchanged and shall remain in full force and effect without modification, and the parties ratify the same. In the event of a conflict between the provisions of this Amendment and the other provisions of the Agreement, the provisions of this Amendment shall control.

5. The effective date of this Amendment shall be on the date last executed by the parties.

6. The Agreement and any amendments thereto shall be governed by and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue for any state or federal court action or other proceeding relating to any matter which is the subject of this Agreement shall be in Escambia County, Florida.

SIGNATURE PAGE TO FOLLOW

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the parties hereto have made and executed this Amendment to the Agreement on the respective dates under each signature:

FOR THE CITY OF PENSACOLA:

CITY OF PENSACOLA, a municipal corporation chartered in the State of Florida

ATTEST:

By: _____
D.C. Reeves, Mayor

Date: _____

Ericka L. Burnett, City Clerk

(SEAL)

APPROVED AS TO CONTENT:

**LEGAL IN FORM AND VALID AS
DRAWN:**

Housing Administrator

City Attorney

FOR LEGAL SERVICES OF NORTH FLORIDA, INC.:

**LEGAL SERVICES OF NORTH FLORIDA,
INC.**

ATTEST:

By: _____
**Leslie N. Powell-Boudreaux
Executive Director**

Corporate Secretary

(SEAL)

Date: _____

State of Florida
Affidavit Regarding the Use of Coercion for Labor and Services
Pursuant to Florida Statute 787.06(13)

Vendor Name: _____

Vendor FEIN: _____

Vendor's Authorized Representative Name and Title: _____

Address: _____

City: _____ State: _____ ZIP: _____

Phone Number: _____

Email Address: _____

Section 787.06(13) Florida Statutes requires all nongovernmental entities executing, renewing, or extending a contract with a governmental entity to provide an affidavit signed by an officer or representative of the nongovernmental entity under penalty of perjury that the nongovernmental entity does not use coercion for labor or services.

The undersigned hereby certifies that he/she is an officer or authorized representative of the vendor identified above and that said vendor does not use coercion for labor or services as defined in Section 787.06 Florida Statutes.

Florida Statute 787.06

(2)(a) "Coercion" means:

1. *Using or threatening to use physical force against any person;*
2. *Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;*
3. *Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;*
4. *Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;*
5. *Causing or threatening to cause financial harm to any person;*
6. *Enticing or luring any person by fraud or deceit; or*
7. *Providing a controlled substance as outlined in Schedule I or Schedule II of s. 893.03 to any person for the purpose of exploitation of that person.*

(2)(e) "Labor" means work of economic or financial value.

(2)(h) "Services" means any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

By: _____
AUTHORIZED SIGNATURE

Print Name and Title: _____

Date: _____



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-605

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council Member Delarian Wiggins

SUBJECT:

DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL MEMBER DELARIAN WIGGINS - DISTRICT 7

RECOMMENDATION:

That City Council approve funding of \$500 for the Westside Garden District Neighborhood Association and \$368 to the Real Women's Radio Foundation from the City Council Discretionary Funds for District 7.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In accordance with Section 3.28-3.33 of the Policies of the City Council, prior to any distribution of grant or sponsorship funds from the City Council Discretionary Funds, approval by City Council is required.

The purpose of the Westside Garden District Neighborhood Association is to provide an organized framework to promote, preserve and enhance the quality of life and values in the neighborhood by elevating and marketing the image of the neighborhood, promoting a sense of pride and identity among the residents and creating a unified voice to address issues that impact the neighborhood. The boundaries of the Westside Garden District Neighborhood Association are North "A" Street south to West Garden Street; West Garden Street west to Pace Boulevard; Pace Boulevard North to West Cervantes Street. Funding will be used to offset costs associated with various meetings and activities sponsored by the Neighborhood Association.

The Real Women Radio Foundation is a leading organization in Northwest Florida whose mission is to build economically vibrant and sustainable communities through strategic partnerships with businesses and organizations throughout Northwest Florida. Their programs focus on underserved communities and vulnerable populations. The Real Women Radio Foundation is one of the sponsors of the Second Annual Black King Crowned Awards Banquet where they honor and salute black kings of Pensacola who have and are integral parts in the success of our city. The event was held on Sunday, July 14, 2024, at the Brownsville

Community Center. Funds will be used to offset the costs associated with this event.

PRIOR ACTION:

July 21, 2022 - City Council adopted Resolution No. 2022-065 establishing the City Council Discretionary Fund Policy

FUNDING:

Budget:	\$ 868	FY 2024 District 7 Discretionary Funds
Actual:	\$ 500	Westside Garden District Neighborhood Association
	<u>368</u>	Real Women Radio Foundation
	<u>\$ 868</u>	

FINANCIAL IMPACT:

A balance of \$868 is currently within the District 7 Discretionary Fund Account. Upon approval by City Council, a balance of \$-0- will remain in the District 7 Discretionary Fund Account.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Don Kraher, Council Executive
Yvette McLellan, Special Assistant to the Council Executive

ATTACHMENTS:

None

PRESENTATION: No



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-649

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council Member Teniadè Broughton

SUBJECT:

DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL MEMBER TENIADE
BROUGHTON - DISTRICT 5

RECOMMENDATION:

That City Council approve funding of \$300 to the Real Women Radio Foundation, \$500 to the Woodland Heights Neighborhood Association and \$500 to the Northeast Neighborhood Association the City Council Discretionary Funds for District 5.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In accordance with Section 3.28-3.33 of the Policies of the City Council, prior to any distribution of grant or sponsorship funds from the City Council Discretionary funds, approval by City Council is required.

The Real Women Radio Foundation is a leading organization in Northwest Florida whose mission is to build economically vibrant and sustainable communities through strategic partnerships with businesses and organizations throughout Northwest Florida. Their programs focus on underserved communities and vulnerable populations. Funds will be used to offset costs associated with various Juneteenth events.

Woodland Heights is located in the north central section of the City of Pensacola. The Woodland Heights area consists of 358.4 acres annexed into the City of Pensacola in two segments, the first in 1956 with the remainder in 1957. The neighborhood was platted as a traditional post-war subdivision in 1957 and became one of Pensacola's first-ring suburbs. In 1996, the Woodland Heights Neighborhood Association was organized and has been actively involved in bringing residents together and working to improve the neighborhood. The Woodland Heights Neighborhood Association's mission is to nurture connections for a fun and vibrant Woodland Heights where everyone belongs. Funding will be used to further their mission.

Established in November 2001, the Northeast Neighborhood Association was created to

provide beautification, awareness and safety of the neighborhood, particularly for children as well as maintaining property values within the neighborhood. Funding will be used towards various improvements and activities within the neighborhood.

PRIOR ACTION:

July 21, 2022 - City Council adopted Resolution No. 2022-065 establishing the City Council Discretionary Fund Policy.

FUNDING:

Budget:	\$ 2,907	FY 2024 District 5 Discretionary Funds Balance
Actual:	\$ 300	Real Women Radio Foundation
	500	Woodland Heights Neighborhood Association
	<u>500</u>	Northeast Neighborhood Association
	<u>\$ 1,300</u>	Total

FINANCIAL IMPACT:

A balance of \$2,907 is currently available within the District 5 Discretionary Fund Account for FY 2024. Upon approval by City Council, a balance of \$1,607 will remain in the District 5 Discretionary Fund Account.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Don Kraher, Council Executive
Yvette McLellan, Special Assistant to the Council Executive

ATTACHMENTS:

None

PRESENTATION: No



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-653

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council President Casey Jones

SUBJECT:

DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL PRESIDENT CASEY JONES - DISTRICT 3

RECOMMENDATION:

That City Council approve funding of \$1,000 to HYPE Pensacola from the City Council Discretionary Funds for District 3.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In accordance with the Section 3.28-3.33 of the Policies of the City Council, prior to any distribution of grant or sponsorship funds from the City Council Discretionary Funds, approval by City Council is required.

Helping Youth in Pensacola Endure (HYPE) provides comprehensive and innovative programs to serve our youth that foster youth to envision and navigate life for a future characterized by achievement, independent thought, and social responsibility through education, mentoring and youth sports. HYPE Pensacola organizes various youth events throughout the year, serving thousands of children. One of those events is the Back to School Drive & Health Fair, where they provide backpacks for children. The 8th annual Back To School Drive & Health Fair will be held August 10, 2024, at the Cobb Resource Center and their goal is to give away 1,000 backpacks to our youth. Funds will be used towards this event.

PRIOR ACTION:

July 21, 2022 - City Council adopted Resolution No. 2022-065 establishing the City Council Discretionary Fund Policy.

FUNDING:

Budget: \$ 11,617 FY 2024 District 3 Discretionary Funds
Actual: \$ 1,000 HYPE Pensacola

FINANCIAL IMPACT:

A balance of \$11,617 is currently within the District 3 Discretionary Fund Account. Upon approval by City Council, a balance of \$10,617 will remain in the District 3 Discretionary Fund Account.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Don Kraher, Council Executive

Yvette McLellan, Special Assistant to the Council Executive

ATTACHMENTS:

None

PRESENTATION: No



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-618

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

THIRD ADDENDUM TO OPTION AGREEMENT WITH INSPIRED COMMUNITIES OF FLORIDA LLC FOR LOTS 4 AND 5 AT THE COMMUNITY MARITIME PARK

RECOMMENDATION:

That City Council approve and authorize the Mayor to execute the Third Addendum to the Option Agreement with Inspired Communities of Florida LLC for the development of Lots 4 and 5 of Vince J. Whibbs Sr. Community Maritime Park, extending the agreement through August 31, 2024. Also, that City Council authorize the Mayor to take actions necessary to execute and administer this agreement, consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter

HEARING REQUIRED: No Hearing Required

SUMMARY:

In October 2018, the City entered into an option agreement with Studer Properties LLC for the exclusive right to develop and lease all of the vacant parcels at the Community Maritime Park, specifically parcels 3, 4, 5, 6, 7, 8, and 9. In March 2020, the option agreement was extended through March 31, 2021. In October 2020, prior to the expiration of the option agreement with Studer Properties, both parties entered into a partial assignment of the option agreement with Inspired Communities of Florida for parcels 3, 6, 8, and 9. Corresponding partial assignments were also entered into with two other development groups for the remainder of the parcels - Valencia Development Group for parcel 7 and Silver Hills Development for parcels 4 and 5, with the former still in effect and the latter parcels now under this option agreement to Inspired Communities of Florida.

After issuing a public notice requesting proposals in April 2021, City Council received presentations and ranked submittals in July 2021. After rejecting a Memorandum of Understanding with the highest ranked group at the time, Carson Lovell, in October 2021, the City then proceeded to negotiate with the next highest ranked group, Inspired Communities of Florida. In March 2022, the City and Inspired entered into an Option Agreement that gave Inspired exclusive rights to develop Parcels 4 and 5 until August 31, 2023 with the ability to extend the option for one 6-month period. Inspired exercised their extension through February

28, 2024 by making a lump sum payment of \$60,000. In February 2024, the City approved the first addendum to the Option Agreement, extending the agreement through June 30, 2024. In June 2024, the City approved the second addendum to the Option Agreement, extending the agreement through July 31, 2024. The City and Inspired now seek to extend the term of their Option Agreement for another month via this Third Addendum, as negotiations proceed in good faith to the outcome of an executable ground lease.

PRIOR ACTION:

April 22, 2021 - City Council approved the issuance of public notice requesting proposals for the redevelopment of Lots 4 and 5 at the Community Maritime Park

July 12, 2021 - City Council approved the scheduling of a special meeting regarding the proposals and ranking

July 28, 2021 - City Council selected Carson Lovell as the highest ranked submitter, and allowed for negotiations to proceed with the next highest ranked submitter, Inspired Communities of Florida, if negotiations failed with Carson Lovell

October 14, 2021 - City Council rejected a Memorandum of Understanding from Carson Lovell

February 10, 2022 - City Council approved an Option Agreement with Inspired Communities of Florida

February 22, 2024 – City Council approved an Addendum to Option Agreement with Inspired Communities of Florida.

June 13, 2024 – City Council approved a Second Addendum to Option Agreement with Inspired Communities of Florida.

FUNDING:

N/A

FINANCIAL IMPACT:

N/A

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

6/21/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
Amy Lovoy, Finance Director

Deana Stallworth, Property Lease Manager

ATTACHMENTS:

1. Third Addendum to Inspired Option Agreement for Lots 4 and 5

PRESENTATION: No

**THIRD ADDENDUM TO OPTION AGREEMENT
BETWEEN CITY OF PENSACOLA AND INSPIRED COMMUNITIES OF FLORIDA,
LLC FOR COMMUNITY MARITIME PARK
PARCELS 4 AND 5**

THIS THIRD ADDENDUM TO OPTION AGREEMENT (this “**Third Addendum**”), dated as of July __, 2024 (the “**Effective Date**”), is entered into between **CITY OF PENSACOLA**, a Florida municipal corporation (“**Optionor**”), and **INSPIRED COMMUNITIES OF FLORIDA, LLC**, a Florida limited liability corporation (“**Optionee**”). Optionor, and Optionee, their successors, and assigns, are each a “**Party**,” and collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, Optionor is the owner of those certain vacant parcels of land more particularly described on the attached **Exhibit “A”** (the “**Lots**” described in the description on Exhibit “A” are referred to hereinafter individually as a “**Parcel**”, and collectively as the “**Parcels**” or the “**Property**”); and

WHEREAS, the City Council approved that certain Option Agreement between the Parties contemplating Optionee’s possible ground lease and development of Property on or about February 10, 2022, with said agreement dated March 1, 2022 and expiring on February 28, 2024 (the “**Option Agreement**”); and

WHEREAS, the Parties desired to extend the term of the Option Agreement and entered into a First Addendum to Option Agreement, with an effective date of March 1, 2024, and expiring on June 30, 2024; and

WHEREAS, the Parties desired to extend the term of the Option Agreement and entered into a Second Addendum to the Option Agreement, with an effective date of June 18, 2024, and expiring on July 31, 2024; and

WHEREAS, the Parties desire to extend the term of the Option Agreement another month to facilitate their attempt to finalize the terms of a ground lease as to parcel 5 of the Property; and

WHEREAS, the Parties understand and agree that Optionor and Optionee will negotiate in good faith to reach the outcome of an executable ground lease agreement at the conclusion of the new option term, if approved; and

WHEREAS, Optionee understands and agrees that approval of any renegotiated option agreement, renegotiated ground lease, and development of the Property is contingent upon the approval of the City Council in its sole and complete discretion; and

NOW, THEREFORE, in consideration of the forgoing, the other mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Recitals. The recitals set forth above are true and correct and are hereby incorporated by reference.

2. Option Term. The Option Term is extended and will automatically expire at midnight on August 31, 2024, unless duly extended, exercised, or sooner terminated as provided in the Option Agreement.

3. No Other Revisions to the Inspired Option Agreement. Except as expressly set forth above, none of the terms and conditions of this Third Addendum shall be deemed to modify or amend any of the terms and conditions of the Option Agreement, and the Option Agreement shall, as amended by this Third Addendum, remain in full force and effect during its term.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have executed this Third Addendum to Option Agreement as of the Effective Date.

OPTIONOR:

CITY OF PENSACOLA
a Florida municipal corporation

By:

D.C. Reeves, Mayor

(AFFIX CITY SEAL)

Date signed: _____, 2024

Attest: _____
Ericka L. Burnett, City Clerk

Legal in form and valid as drawn:

Adam Cobb, City Attorney

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me by means of physical presence this __ day of _____, 2024, by D.C. Reeves, the Mayor of City of Pensacola, a Florida municipal corporation, on behalf of said municipal corporation, who () is personally known to me or () has produced a driver's license as identification.

NOTARY PUBLIC

[SEAL]

OPTIONEE:

INSPIRED COMMUNITIES OF FLORIDA

By: _____

Print name: _____

Its: _____

Date signed: _____, 2024

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence this ____ day of _____, 2024, by _____, the managing member of INSPIRED COMMUNITIES OF FLORIDA, LLC., a Florida limited liability company, on behalf of said limited liability company, who () is personally known to me or () has produced a driver's license as identification.

NOTARY PUBLIC

[SEAL]

EXHIBIT “A”
to
THIRD ADDENDDUM TO OPTION
AGREEMENT BETWEEN
CITY OF PENSACOLA AND INSPIRED COMMUNITIES OF FLORIDA, LLC

PROPERTY

The land referred to herein below is situated in the County of Escambia, State of Florida, and is described as follows:

Lots 4 and 5 of VINCE WHIBBS SR. COMMUNITY MARITIME PARK, according to the Plat thereof as recorded in Plat Book 19, Page(s) 23 and 23A, of the Public Records of Escambia County, Florida.



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-639

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

FISCAL YEAR 2024-2025 SCHOOL RESOURCE OFFICER PROGRAM MEMORANDUM OF UNDERSTANDING (MOU) - BETWEEN THE SCHOOL BOARD OF ESCAMBIA, COUNTY, FLORIDA, AND THE CITY OF PENSACOLA POLICE DEPARTMENT

RECOMMENDATION:

That City Council approve a Memorandum of Understanding between the Pensacola Police Department and The School Board of Escambia County for the purpose of providing School Resources Officers at Pensacola High School, Washington High School and Workman Middle School in the City of Pensacola, Escambia County, Florida for the Fiscal Year 2024-2025 in an amount not to exceed \$477,072.17. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this memorandum of understanding, consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Florida Statute §1006.12 governs School Resource Officer (SRO) Programs, which are a cooperative agreement between the district school board and any law enforcement agency. In part, the law states that SROs shall be certified law enforcement officers, as defined in §943.10(1), who are employed by a law enforcement agency. The powers and duties of the law enforcement officer shall continue throughout the employee's tenure as an SRO. SROs shall abide by district school board policies and shall consult with and coordinate activities through the school principal, but shall be responsible to the law enforcement agency in all matters relating to employment, subject to agreements between the district school board and the law enforcement agency. Activities conducted by the SRO which are part of the regular instructional program of the school shall be under the direction of the school principal.

Goals of the SRO program include, but are not limited to:

1. Helping reduce crime in the school system and the community by educating students to better understand the benefits of a fair and impartial judicial system;
2. Fostering a better understanding of law enforcement and creating a more positive concept

of the legal system through interaction with law enforcement officers;
3. Developing a better appreciation of citizen rights, obligations and responsibilities;
4. Promoting student behavior in accordance with the law, which is mutually beneficial to the student and society

The parties desire to enter into a memorandum of understanding setting forth the terms, conditions, and responsibilities of a coordinated and collective effort to continue the School Resource Officer Program and have determined that such an agreement to accomplish the purposes, as set forth herein, involves appropriate public expenditures to achieve important public purposes.

PRIOR ACTION:

July 1, 2023, the City of Penasacola Police Department and the School Board of Escambia County, Florida entered into a Fiscal Year 2023-2024 School Resource Officer Program Memorandum of Understanding.

FUNDING:

Budget:	\$477,072.17	
Actual:	\$477,072.17	
	\$477,072.17	TOTAL

FINANCIAL IMPACT:

Funding for the School Resource Officer Program with the School District of Escambia County has been included in the Fiscal Year 2024, within the Police Departments' Fiscal Year 2024 Budget.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

6/26/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
Eric Randall, Chief of Police

ATTACHMENTS:

1. School Resource Officer Program Memorandum of Understanding (MOU) 2024-2025

PRESENTATION: No

**AGREEMENT BETWEEN
THE SCHOOL BOARD OF ESCAMBIA COUNTY, FLORIDA
AND
THE CITY OF PENSACOLA POLICE DEPARTMENT
FOR
THE SCHOOL RESOURCE OFFICER PROGRAM**

THIS AGREEMENT, by and between **THE SCHOOL BOARD OF ESCAMBIA COUNTY, FLORIDA**, (hereinafter referred to as the **ECSB**), and **THE CITY OF PENSACOLA POLICE DEPARTMENT**, (hereinafter referred to as the **PPD**) is entered into upon the date the agreement is executed by both parties, and is effective from July 1, 2024 through June 30, 2025.

WITNESSETH:

- A. The ECSB and the PPD desire to provide law enforcement and related services to the public schools within the city limits of the City of Pensacola; and
- B. A School Resource Officer Program ("SRO Program") has been proposed for the public school system of Escambia County, Florida, as hereinafter described; and
- C. The ECSB and the PPD recognize the potential outstanding benefits of the SRO Program to the citizens of the City of Pensacola, Florida, and particularly to the students of the public school system of Escambia County, Florida; and
- D. It is in the best interest of the ECSB, the PPD, and the citizens of the City of Pensacola to establish this SRO program.

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained, the ECSB and the PPD hereby agree as follows:

ARTICLE I

A School Resource Officer Program is hereby established in the public schools located in the jurisdictional boundaries of the City of Pensacola, Florida.

ARTICLE II

RIGHTS AND DUTIES OF THE PPD

The PPD shall provide Supervisors and School Resource Officers (hereinafter referred to as SROs) as follows:

- A. The PPD shall assign Supervisors for the SRO Program as follows:
 One (1) Lieutenant
 One (1) Sergeant

The ECSB and the PPD agree to share equally (50% each) in the costs associated with the lieutenant and sergeant as provided herein.

- B. The PPD shall assign regularly employed police officer(s) to each of the following schools as indicated:

Pensacola High School – two (2) SROs
 Washington High School – two (2) SROs
 Workman Middle School – one (1) SRO

The ECSB and the PPD agree to share equally (50% each) in the costs associated with these five (5) officers as provided herein.

- C. Regular Duty Hours of School Resource Officers

Each SRO shall be assigned to a school on a full-time basis of eight (8) hours on the days that the school is in regular session. When required by the principal for attendance to parent/faculty meetings, school functions, PTA meetings or any sporting events beyond the eight (8) hour regular duty assignment, the ECSB will compensate the SRO at an hourly rate as established by the Chief of Police of forty (40) dollars per hour or give the SRO compensatory time that will be taken off during his/her normal eight (8) hour school workday. The SRO may be temporarily reassigned by the Chief of Police during school holidays and vacations or during the period of a police emergency. PPD shall notify the ECSB in writing of any change in the hourly rate established by the Chief of Police sixty (60) days prior to the implementation of a rate increase.

The ECSB, through the office of the Deputy Superintendent, will coordinate any requests for security at a meeting or workshop with PPD upon five (5) school/business days' notice during the months of June, July, and August, so long as the meeting or workshop is located within the city limits. Such security will be facilitated through off-duty details.

D. Duties of School Resource Officers

1. Every SRO, or any officer filling in for an SRO, must clock into the school's system to confirm that an SRO was on campus each day as required. Emergency circumstances causing tardiness or absence may arise. In the event that such a circumstance arises, PPD will immediately notify the ECSB POC as to the unexpected event or emergency resulting in tardiness or absence and will provide written documentation as to such incident.
2. The SRO shall coordinate all of his/her activities with the principal and staff members and seek their permission, advice, and guidance prior to enacting any program within the school.
3. The SRO shall develop expertise in presenting various subjects to the students. Such subjects shall include a basic understanding of the laws, the role of the police officer, and the police mission.
4. The SRO shall encourage individual and small group discussions in class to further establish rapport with the students.
5. In compliance with section C, the SRO shall make himself/herself available for conferences with students, parents, and faculty members in order to assist with problems of law enforcement or crime prevention. Confidential information obtained pursuant to Chapter 39, Florida Statutes (Proceedings Relating to Juveniles), shall not be disclosed except as provided by law or court order.
6. The SRO shall become familiar with all community agencies that offer assistance to youth and their families such as mental health clinics, drug treatment centers, etc. The SRO shall make referrals to such agencies when necessary, thereby acting as a resource person to the students, faculty, and staff of the school.
7. The SRO shall assist the principal in developing plans and strategies to prevent and/or minimize dangerous situations which may result from student unrest.
8. Should it become necessary to conduct formal police interviews with the students, the SRO shall adhere to the ECSB policy and legal requirements. The SRO shall inform school personnel any time he or she learns of another law enforcement officer conducting student interviews on school campuses.
9. The SRO shall take law enforcement action as required. As soon as practicable, the SRO shall make the principal of the school

aware of such action. The SRO shall take appropriate law enforcement action against intruders and unwanted guests who may appear at the school and related school functions to the extent that the SRO may do so under the authority of the law. Whenever practicable, the SRO shall advise the principal before requesting additional police assistance on campus.

10. The SRO shall give assistance to other police officers and deputy sheriffs in matters regarding the SRO's school assignment, whenever necessary. The SRO shall, whenever possible, participate in and/or attend school functions during those hours that school is in regular session.
11. The SRO may be assigned investigations provided such investigations relate to the students attending the school to which the SRO is assigned.
12. The SRO shall maintain detailed and accurate records of the operation of the SRO Program and submit other reports of an instructional nature as required by the principal or school staff.
13. The SRO shall not act as a school disciplinarian. If the principal believes an incident is a violation of the law, the principal may contact the SRO, and the SRO shall then determine whether law enforcement action is appropriate. SROs are not to be used for regularly assigned lunchroom duties, hall monitors, or other monitoring duties. If there is a problem area, the SRO may assist the school until the problem is solved. SROs will not assume nor conduct any duties involving the collection of funds on behalf of the school, the ECSB, or related to any school activities or student groups or programs.

E. Points of Contact (POC) for PPD shall be:

Lieutenant Chad Willhite
CWillhite@cityofpensacola.com
 850-435-1900

Sergeant Jeff Brown
JCBrown@cityofpensacola.com
 850-436-5415
 711 N Hayne Street
 Pensacola, Fl. 32501

ARTICLE III

RIGHTS AND DUTIES OF THE ECSB

- A. The ECSB shall provide to the full-time SRO of each high school and middle school the following materials and facilities that are deemed necessary to the performance of the SRO's duties:
1. Access to an air conditioned and properly lighted private office that can be locked and prevents access by any person other than PPD law enforcement personnel with a telephone that may be used for general business purposes. Except in a case of emergency, no entry shall occur to SRO locked designated offices, including non-school hours, without SRO knowledge and the opportunity to remove any information that may be confidential as held by law enforcement.
 2. A location for files and records in office as described in (1) above that can be properly locked and secured.
 3. A desk with drawers, a chair, worktable, filing cabinet, and office supplies in office as described in (1) above.
 4. A computer with access to school network and records i.e. (FOCUS)
 5. Printers with connectivity to SRO office computers.
 6. An administrator key provided to each SRO on each campus.
- B. Pursuant to section 39.201, Florida Statutes, regarding mandatory reporting:
1. Whenever any schoolteacher or other school official or other member of a school staff knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, the matter will be reported to the Department of Children and Families and to the SRO, or, in his/her absence, to the PPD Dispatch.
 2. Whenever any schoolteacher or other school official or other member of a school staff knows, or who has reasonable cause to suspect, that a child is abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare, the matter will be reported to the Department of Children and Families and to the SRO, or, in his/her absence, to

the PPD Dispatch.

3. Whenever any schoolteacher or other school official or other member of a school staff knows, or has reasonable cause to suspect, that a child is the victim of childhood sexual abuse, or the victim of a known or suspected juvenile sexual offender, the matter will be reported to the Department of Children and Families and to the SRO, or, in his/her absence, to the PPD Dispatch.
- C. In the interest of student safety, the person designated by the principal of the school shall report to the SRO assigned to any public school of the Escambia County School District, or in his/her absence, to the PPD Dispatch, whenever any school teacher or other school official or other member of a school staff has reason to believe that any one (1) or more of the following acts or omissions have occurred on school property, during school-sponsored transportation, or during school-sponsored activities:
1. A known or suspected felony offense, or if the perpetrator is a juvenile, any offense that would be a felony if committed by an adult, including, but not limited to, any sexual battery offense as defined in Section 794.011, Florida Statutes, and any lewd and lascivious conduct offense as defined in Section 800.04, Florida Statutes.
 2. A known or suspected misdemeanor offense, or, if the perpetrator is a juvenile, any offense that would be a misdemeanor if committed by an adult, involving violence or threat to commit an offense of violence, including, but not limited to, disorderly conduct, simple assault or battery, and affray.
 3. Any possession or transfer of any controlled substance or other contraband item.
 4. Known or suspected child abuse by someone other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare.
 5. Known or suspected juvenile sexual abuse, that is, any sexual behavior which occurs without consent, without equality, or as a result of coercion, as those terms are defined in Section 39.01(7), Florida Statutes.
 6. Any act of high school hazing as defined in Section 1006.135, Florida Statutes.

7. Any known or suspected student bullying or harassment, as those terms are defined in Section 1006.147, Florida Statutes.
8. A fatality or serious injury of any person.
9. A missing or abducted student.
10. Possession of a weapon and/or discharge or display of a weapon.
11. Any suicide attempt or information regarding a student's suicidal or homicidal threats or ideations or threat to harm others.
12. Any major bus disturbance or bus accident.
13. Any fire or suspected harmful chemical or biological release.
14. Any suspected site reconnaissance or surveillance.
15. Any intruder or other suspicious person or suspicious items.
16. Any building structural collapse.
17. Any other matter that may pose a threat to school safety.

D. The foregoing reporting requirement is mandatory

1. The SRO must notify the principal as soon as practical after taking a report. The SRO and the PPD will take law enforcement action as appropriate.
2. Nothing in this agreement shall be construed to impair or restrict activities otherwise appropriate by SROs within that officer's authority as a certified law enforcement officer.
3. School officials will assist and cooperate with law enforcement in the investigation of incidents reported to the SRO or the PPD pursuant to this agreement. Should it become necessary to conduct formal law enforcement interviews with students, the SRO or other investigator shall adhere to ECSB policy, PPD policy, and legal requirements with regard to such interview. If there is a conflict between the ECSB policy and the PPD policy or legal requirements, then the PPD policy or legal requirements shall prevail.
4. Any conduct or incident that is either a serious breach of conduct, or a very serious breach of conduct, as set forth in the Escambia

County School District Students Rights and Responsibilities Handbook but does not fall into one of the categories listed above, may, in the discretion of the principal, be handled by school officials without filing a report with the SRO or law enforcement. The SRO receiving information will either write an offence report and generate a complaint number when a crime is committed or will generate an incident through communications and provide a CAD number to the school.

- E. The POC for the ECSB shall be:

Kyle Kinser, Director of Protection Services
kinser@ecsdfi.us
 850-469-5421

ARTICLE IV

FINANCING OF THE SCHOOL RESOURCE OFFICER PROGRAM

- A. The ECSB and the PPD agree to share equally (50% each) in the personnel related costs associated with the SRO Program, as agreed upon and set forth in Appendix A. In addition, the ECSB will pay fifty percent (50%) of the costs associated with the SRO's attendance at State and National conferences.
- B. The ECSB's share, not to exceed \$ \$477,072.17, shall be reimbursed to the PPD on a pro-rated basis over the 2024-2025 school year, payable within thirty (30) days of receipt of the invoice and based on actual cost identified on a detailed invoice provided by the PPD's finance department and verified by the District. Upon execution of this agreement, the ECSB shall immediately pay the PPD the prorated portion of such reimbursement for those months of the 2024-2025 school year already completed at the time of execution. In the event the SROs assigned to this program work over and above their normal workday as a result of this agreement, the ECSB shall be responsible for reimbursement of those costs associated with such overtime. All overtime in excess of the normal workday under this contract would need to be approved by the Deputy Superintendent of the District in order to be considered for payment under this contract.

ARTICLE V

EMPLOYMENT STATUS OF SCHOOL RESOURCE OFFICER

SROs shall remain employees of the PPD and not be considered contract employees of the ECSB. The ECSB and the PPD acknowledge that the SROs shall

remain responsive to the authority of the PPD chain of command. The PPD office warrants that all SROs meet requirements as described in Section 1012.32, Florida Statutes. PPD shall maintain all training records for SROs in the same manner as PPD maintains all law enforcement training records.

ARTICLE VI

Appointment of SROs will be made by the Chief of Police per the PPD policy. The Chief of Police and his designated SRO staff, in coordination with the Superintendent of Schools, will determine which schools have the greater need for SROs. The Chief of Police will assign officers to the schools based upon many factors including, but not limited to, seniority, experience as an SRO, and conflicts or potential conflicts of interest (i.e., personal relationships with administrators, students, and/or teachers). Placement of individual SROs to a specific school will be made by the Chief of Police after considering the needs and request of the Superintendent of Schools.

In the event of an extended absence, the PPD administration will provide notification to the Superintendent of Schools' POC anytime an assigned SRO is approved temporary duty, training, extended leave, or other collateral responsibilities which required an absence away from their assigned school.

ARTICLE VII

DISMISSAL OF SCHOOL RESOURCE OFFICER; REPLACEMENT

- A. In the event the principal of the school to which the SRO is assigned feels that the particular SRO is not effectively performing his or her duties and responsibilities, the principal shall recommend to the Superintendent of Schools that the SRO be removed from the program and state the reasons in writing.
 1. Within a reasonable time after receiving the recommendation from the principal, the Superintendent or his designee shall advise the Chief of Police of the principal's request.
 2. If the Chief of Police so desires, the Superintendent and the Chief of Police, or their designees, shall meet with the SRO to mediate or resolve any problems that may exist. At such meeting, specified members of the staff of the school to which the SRO is assigned may be required to be present.
 3. If, within a reasonable amount of time after commencement of such mediation, the problem cannot be resolved, then the SRO shall be removed from the program at the school and a replacement shall be established.

4. In the event mediation is not sought by the Chief of Police then the SRO shall be removed from the SRO Program at the school and a replacement shall be established.
- B. The PPD may dismiss or reassign an SRO based upon agency rules and regulations within the discretion of the Chief of Police.
- C. In the event of resignation, dismissal, or reassignment of an SRO, or in the case of long-term absences by an SRO, the PPD shall provide a temporary replacement for the SRO within thirty (30) school days of receiving notice of such absence, dismissal, resignation, or reassignment. As soon as practicable, the PPD will select a permanent replacement for the SRO position.

ARTICLE VIII

BEGINNING AND ENDING DUTY DATES

SROs will report for duty at each assigned school on two (2) teacher planning days prior to the 2024-2025 school session. Their last day at each school will be the last day for students but includes graduation dates at the end of the 2024-2025 school year, or a date to be determined by the ECSB.

ARTICLE IX

HOLD HARMLESS AGREEMENT

It is hereby acknowledged that the SROs are assigned pursuant to the provisions of this agreement are employees of the employing law enforcement agency and not employees of the ECSB.

To the extent permitted by Florida law, and within the limits of liability set forth in Section 768.28, Florida Statutes, the City of Pensacola agrees to hold the ECSB harmless from any and all claims, damages, and judgments in connection with loss of life, bodily or personal injury, or property damage resulting from the actions of law enforcement officers employed and assigned pursuant to this agreement who are acting within the scope of their law enforcement responsibilities.

To the extent permitted by Florida law, and within the limits of liability of Section 768.28, Florida Statutes, the ECSB shall hold the City of Pensacola harmless from all claims, damages, and judgments in connection with loss of life, bodily or personal injury, or property damage resulting from the actions of any employee, representative, or agent of the ECSB.

No provision of this agreement to provide SRO services is intended to expand, enlarge, diminish, limit, waive, or alter in any way the scope of responsibility, liability,

immunities, or defenses which each signatory public agency has or may have for itself, its agents, or its employees. By entering into this agreement, neither signatory agency intends that any third-party beneficiary be created by execution of this agreement. In the event that any claim, action, lawsuit, or other proceeding is brought by a third party against one or both of the signatory agencies hereto, the costs of defense shall be borne separately by the agency or agencies so charged.

ARTICLE X

TERMINATION OF AGREEMENT

This agreement may be terminated by either party upon a ninety (90) day written notice that either party has failed to substantially perform in accordance with the terms and conditions of this agreement. This agreement may be terminated without cause by either party upon a one hundred eighty (180) day written notice. Termination of this agreement may only be accomplished as provided herein. In the event this agreement is terminated, compensation will be made to the PPD for all services performed to the date of termination. The ECSB shall be entitled to a prorated refund for that period of time when SRO services are not provided because of the termination of this agreement.

ARTICLE XI

GOOD FAITH

The ECSB, the PPD, their agents, and their employees agree to cooperate in good faith in fulfilling the terms of this agreement. Unforeseen difficulties or questions will be resolved by negotiation between the Superintendent and the PPD or their designees.

ARTICLE XII

MODIFICATION

This document constitutes the full understanding of the parties and no terms, conditions, understandings, or agreements purporting to modify or vary the terms of this document shall be binding unless hereafter made in writing and signed by the party to be charged.

ARTICLE XIII

NON-ASSIGNMENT

This agreement, and each and every covenant herein, shall not be capable of assignment unless the express written consent of the ECSB and the PPD is obtained.

ARTICLE XIV**MERGER**

This agreement constitutes a final written expression of all the terms of this agreement and is a complete and exclusive statement of those terms.

IN WITNESS WHEREOF, the parties have caused this agreement to be signed by their duly authorized officers.

Signed, sealed, and delivered in the presence of:

**THE SCHOOL BOARD OF ESCAMBIA
COUNTY, FLORIDA**

DocuSigned by:

Patricia Hightower

Patricia Hightower, Board Chair

DATE: 6/25/2024 | 9:45 AM CDT

THE CITY OF PENSACOLA, FLORIDA

D.C. Reeves, Mayor

DATE: _____

ATTEST:

DocuSigned by:

Keith Leonard

Keith Leonard, Superintendent

DATE: 6/25/2024 | 10:01 AM CDT

ATTEST:

Ericka L. Burnett, City Clerk

DATE: _____

DS

APPROVED
ESCAMBIA COUNTY SCHOOL BOARD

JUNE 18 2024

VERIFIED BY RECORDING SECRETARY

PENSACOLA POLICE DEPARTMENT

Eric Randall

Eric Randall, Chief of Police

DATE: _____

APPROVED AS TO FORM:

Ellen Odom

Ellen Odom, School Board Attorney

DATE: 5/24/24

APPROVED AS TO FORM:

Vanessa Moore

Vanessa Moore, Assistant City Attorney

DATE: 6/26/24



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-640

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

FISCAL YEAR 2024-2025 IN SUPPORT AND PARTNERSHIP OF SAFE SCHOOLS
MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE SCHOOL BOARD OF
ESCAMBIA COUNTY, FLORIDA, AND THE PENSACOLA POLICE DEPARTMENT

RECOMMENDATION:

That City Council approve the Memorandum of understanding between the Pensacola Police Department and the School Board of Escambia County for the purpose of providing protection and safety to the students and staff at all School Board of Escambia County schools located in the City of Pensacola. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this Memorandum of Understanding consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Florida Statute §1006.12 governs School Resource Officer (SRO) Programs, which are a cooperative agreement between the district school board and any law enforcement agency. In part, the law states that SROs shall be certified law enforcement officers, as defined in §943.10(1), who are employed by a law enforcement agency. The powers and duties of the law enforcement officer shall continue throughout the employee's tenure as an SRO. SROs shall abide by district school board policies and shall consult with and coordinate activities through the school principal, but shall be responsible to the law enforcement agency in all matters relating to employment, subject to agreements between the district school board and the law enforcement agency. Activities conducted by the SRO which are part of the regular instructional program of the school shall be under the direction of the school principal.

The Pensacola Police Department (PPD) will assist the Escambia County School Board with obligations regarding "safe school" criteria as described in §1006.12, Florida Statute, such as: officers on campus at ECSB elementary schools; participate in emergency drills, procedures and training; conduct safety assessments, review safety procedures and policies; and participate in Threat Assessment Team meetings.

The parties desire to enter into a memorandum of understanding setting forth the terms, conditions, and responsibilities of a coordinated and collective effort to continue the School Resource Officer Program and have determined that such an agreement to accomplish the purposes, as set forth herein, involves appropriate public expenditures to achieve important public purposes.

PRIOR ACTION:

August 3, 2023, the Pensacola Police Department and the School Board of Escambia County, Florida entered into a Fiscal Year 2023-2024 Safe Schools Memorandum of Understanding.

FUNDING:

N/A

FINANCIAL IMPACT:

N/A

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

6/26/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
Eric Randall, Chief of Police

ATTACHMENTS:

1. PPD and ECSB Safe Schools Memorandum of Understanding 2024-2025

PRESENTATION: No

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE PENSACOLA POLICE DEPARTMENT
AND
THE SCHOOL BOARD OF ESCAMBIA COUNTY, FLORIDA
IN SUPPORT AND PARTNERSHIP OF SAFE SCHOOLS

The Pensacola Police Department ("PPD") and the School Board of Escambia County ("ECSB") enter into this Memorandum of Understanding ("MOU") to memorialize their commitment to the protection and safety of students and staff at all School Board of Escambia County schools located within the City of Pensacola and to express the intent and cooperation of PPD to assist the ECSB in its obligations regarding "safe school" criteria as described in section 1006.12, Florida Statutes.

Both Parties Agree:

PPD will continue to provide offering of off duty details for PPD officers who meet "safe school" officer statutory criteria to sign up to provide a safe school officer on campus each school day at ECSB elementary schools located within the City of Pensacola. In the event that an off-duty detail is not filled or if an emergency situation arises where an officer will not be on a campus, the PPD will immediately notify the ECSB POC. The POCs for both agencies shall be the same as those listed in the SRO Agreement.

PPD will participate, upon request, in ECSB emergency drills and emergency procedure trainings related to any law enforcement related response to the ECSB schools located within the City of Pensacola. This participation will include assistance, upon request, in implementation of school safety and emergency procedures related to a law enforcement response.

PPD will participate, upon request, in conducting safety assessments of ECSB schools and in the development and review of ECSB safety procedures and policies of ECSB schools located within the City of Pensacola.

PPD will participate in all Threat Assessment Team meetings at ECSB schools located within the City of Pensacola, upon notification by a school of a scheduled Threat Assessment Team meeting.

This Agreement is entered into upon the date of signature by the last party and is effective from July 1, 2024 through June 30, 2025.

Signed, sealed, and delivered in the presence of:

**THE SCHOOL BOARD OF ESCAMBIA
COUNTY, FLORIDA**

DocuSigned by:

Patricia Hightower

Patricia Hightower, Board Chair

DATE: 6/25/2024 | 9:44 AM CDT

THE CITY OF PENSACOLA, FLORIDA

D.C. Reeves, Mayor

DATE: _____

DocuSigned by:

Keith Leonard

ATTEST:
Keith Leonard, Superintendent

DATE: 6/25/2024 | 10:03 AM CDT

ATTEST:
Ericka L. Burnett, City Clerk

DATE: _____

APPROVED AS TO FORM:

Ellen Odom

Ellen Odom, School Board Attorney

DATE: 5/24/24

PENSACOLA POLICE DEPARTMENT

Eric Randall

Eric Randall, Chief of Police

DATE: 6.27.2024

APPROVED AS TO FORM:

Vanessa Moore

Vanessa Moore, Assistant City Attorney

DATE: 6/26/24

DS

APPROVED
ESCAMBIA COUNTY SCHOOL BOARD

JUNE 18 2024

VERIFIED BY RECORDING SECRETARY



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-586

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

TENTATIVE MILLAGE RATE - FISCAL YEAR 2025

RECOMMENDATION:

That City Council set the tentative Fiscal Year 2025 millage rate for the City of Pensacola at 4.2895 mils and for the Downtown Improvement District at 2.0000 mils and authorize the Mayor to set final levies in compliance with all property tax reform regulations. Further, that the Mayor may administratively adjust the final adopted millage rate upon receipt of the final valuation if the City's final current year gross taxable value is reduced by more than 1%. Finally, that the first public hearing on the Fiscal Year 2025 millage rates be held on September 4, 2024, at 5:30 p.m. in Council Chambers.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Annually, each taxing authority in Florida must submit a tentative ad valorem tax millage rate to the Property Appraiser and Tax Collector. Tentative millage must also be publicly advertised as required by the Truth in Millage Law (TRIM). The legal deadline for submission of the Fiscal Year 2025 advertised ad valorem tax rate is August 4, 2024. The millage advertisement must include the date, time, and place for the first Public Hearing. By law, a taxing authority cannot exceed its advertised millage rate without extraordinary effort. Therefore, the advertised rate determines the maximum millage rate that a taxing authority can adopt.

The City's preliminary taxable value for Real and Personal Property came to \$6,411,177,896, which is an increase of 8.73% from the final adjusted FY 2024 value. Amendment 1 brought forth a new formula to determine the maximum millage rate that can be levied without a super-majority vote. Based on that calculation, the maximum millage rate that the City could impose is 11.1155 mils, which equates to an additional \$41.6 million in property tax revenue. However, the Mayor is recommending maintaining the same millage rate as FY 2024, which is 4.2895 and is below the calculated maximum millage rate allowed.

The Mayor is responsible for submitting a tentative millage rate for the City of Pensacola and the Downtown Improvement District. City Council will formally adopt a millage rate for each

entity during the Public Hearings on the budget. The first hearing is tentatively scheduled for September 4, 2024, at 5:30 p.m. in Council Chambers. The second hearing is tentatively set for September 11, 2024, at 5:30 p.m. and will also be held in Council Chambers.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

Approval of the Fiscal Year 2025 millage rates for the City of Pensacola and the Downtown Improvement District at 4.2895 mills and 2.0000 mills, respectively, will provide funding for a balanced budget. The total certification value for Real and Personal Property is \$6,411,177,896, an increase of 8.73%. This valuation will result in an increase of property tax revenue of \$2,440,400 (net of TIF \$5,928,593) from the Fiscal Year 2024 beginning budget.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No**STAFF CONTACT:**

Amy Miller, Interim City Administrator
Amy Lovoy, Finance Director

ATTACHMENTS:

1. FY 25 Taxable Value Estimates - updated july

PRESENTATION: No

**CITY OF PENSACOLA
FISCAL YEAR 2025
TAXABLE VALUE ESTIMATES**

	ADJUSTED FY 2024 FINAL	FY 2025 JUNE 1ST ESTIMATE	DIFFERENCE	%
City of Pensacola Valuation	5,896,261,697	6,340,662,330	444,400,633	7.54%
DIB Valuation	388,652,963	415,703,370	27,050,407	6.96%

CRA

Urban Core TIF (City/County)	926,630,814	1,058,749,904	132,119,090	14.26%
Urban Core TIF (DIB)	300,716,858	329,650,085	28,933,227	9.62%
Eastside TIF	44,996,878	52,790,272	7,793,394	17.32%
Westside TIF	199,440,372	218,869,647	19,429,275	9.74%

	ADJUSTED FY 2024 FINAL	FY 2025 JULY 1ST ESTIMATE	DIFFERENCE	%
City of Pensacola Valuation	5,896,261,697	6,411,177,896	514,916,199	8.73%
DIB Valuation	388,652,963	417,107,201	28,454,238	7.32%

CRA

City/County	926,630,814	1,071,355,846	144,725,032	15.62%
DIB	300,716,858	330,925,890	30,209,032	10.05%
Eastside TIF	44,996,878	54,035,036	9,038,158	20.09%
Westside TIF	199,440,372	227,979,788	28,539,416	14.31%



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-594

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

SCULPTURE DONATION "LEARNING TO FLY" FOR BARTRAM PARK

RECOMMENDATION:

That City Council approve the donation of "Learning to Fly" sculpture to be located in Bartram Park. Further, that City Council adopt a supplemental budget resolution to appropriate the revenues and expenditures for the sculpture art donation.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City of Pensacola received a funding donation from Ms. Anna Holliday Benson to be used toward the beautification of Bartram Park. Funds are to be used for a new art addition called "Learning to Fly." The sculpture represents a project that is centered on the idealized human figure and on beauty as an everyday tool. Once the sculpture is purchased and installed, it will become the property of the City of Pensacola. Prior to any future movement of the sculpture, a notice must be provided to Ms. Benson.

PRIOR ACTION:

June 18, 2024 - Parks and Recreation Board reviewed the item and discussed, however did not have quorum to make a recommendation.

FUNDING:

Budget:	\$ 87,000.00	"Learning to Fly"
	<u>\$ 14,200.00</u>	Installation & Permitting
	<u>\$101,200.00</u>	
Actual:	\$ 87,000.00	"Learning to Fly"
	\$ 3,000.00	Installation & Permitting
	<u>\$ 11,200.00</u>	Parks and Recreation (Estimate)

\$101,200.00

FINANCIAL IMPACT:

Approval of the supplemental budget resolution will appropriate the revenues and expenditures for the "Learning to Fly" sculpture art donation to the City of Pensacola. Ms. Benson is contributing the funds for the sculpture plus \$3,000 towards installation and permitting. The Parks and Recreation Department will bear the remaining cost of installation and anticipates expending \$11,200.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Amy Miller, Interim City Administrator
Ben Heistein, Parks and Recreation Director
Tonya Byrd, Parks and Recreation Assistant Director

ATTACHMENTS:

1. Park Amenity Dedication Form
2. Image of Coderch & Malavis Learning to Fly Sculpture

PRESENTATION: No

Park Amenity Dedication PROPOSAL FORM

The installation of any plaque as a dedication to an individual or group at a City facility must be approved. Please fill out the form below. You will be notified of the decision.

Nominating Party

NAME: Holly Benson
(INDIVIDUAL OR REPRESENTATIVE OF GROUP)

ADDRESS: 101 S. Ninth Ave., Pensacola, FL 32502

DAY PHONE: 8503933884 EVENING PHONE: 8503933884

E-MAIL: hb@hollybenson.com

PERSON/ORGANIZATION/EVENT BEING HONORED

NAME: N/A

PARK DEDICATION WOULD BE LOCATED: Bartram Park

DESCRIBE THE SIGNIFICANT CONTRIBUTIONS MADE BY THE HONOREE:
Donation to be used toward the beautification of Bartram Park.
New art addition called "Learning to Fly" is a sculpture that
represents a project that is centered on the idealized human
figure and on beauty as an everyday tool.

SIGNATURE Holly Benson DATE 06/12/24

PLEASE FORWARD TO THE PARKS AND RECREATION DEPARTMENT:

222 West Main Street
Pensacola, FL 32502
Phone: 850.436.5670
Fax: 850.436.5199





City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-552

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-48 - "LEARNING TO FLY"
SCULPTURE DONATION FOR BARTRAM PARK

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No. 2024-48.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City of Pensacola received a funding donation from Ms. Anna Holliday Benson to be used toward the beautification of Bartram Park. Funds are to be used for a new art addition called the "Learning to Fly." The sculpture represents a project that is centered on the idealized human figure and on beauty as an everyday tool. Once the sculpture is purchased and installed, it will become the property of the City of Pensacola. Prior to any future movement of the sculpture, a notice must be provided to Ms. Benson.

PRIOR ACTION:

June 18, 2024 – Parks and Recreation Board recommended that City Council approve.

FUNDING:

Budget:	\$ 87,000.00	"Learning to Fly" Donation
	<u>\$ 14,200.00</u>	Installation & Permitting
	<u>\$101,200.00</u>	

Actual:	\$ 87,000.00	"Learning to Fly"
	\$ 3,000.00	Installation Donation

\$ 11,200.00 Parks and Recreation Budget
\$ 101,200.00

FINANCIAL IMPACT:

Approval of the supplemental budget resolution will appropriate the revenues and expenditures for the "Learning to Fly" sculpture art donation to the City of Pensacola.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

6/24/2024

STAFF CONTACT:

D.C. Reeves, Mayor
Amy Miller, Interim City Administrator
Amy Lovoy, Finance Director

ATTACHMENTS:

1. Supplemental Budget Resolution No. 2024-48
2. Supplemental Budget Explanation No. 2024-48
3. INV-6949 (City of Pensacola)
4. Email from Holly Benson with Pictures

PRESENTATION: No

**RESOLUTION
NO. 2024-48**

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE
FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. SPECIAL REVENUE FUND

As Reads	Contributions & Donations	3,272,638
Amended		
To Read:	Contributions & Donations	3,362,638
As Reads	Capital Outlay	39,431,486
Amended		
To Read:	Capital Outlay	39,521,486

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk

THE CITY OF PENSACOLA

JULY 2024 - SUPPLEMENTAL BUDGET RESOLUTION - "LEARNING TO FLY" DONATION FOR BARTRAM PARK - RES NO. 2024-48

FUND	AMOUNT	DESCRIPTION
SPECIAL REVENUE FUND		
Estimated Revenues		
Contributions & Donations	90,000	Appropriate estimated revenue -Donated Sculpture (Holly Benson)
Total Revenues	<u>90,000</u>	
Appropriations		
Capital Outlay	90,000	Appropriate for Capital Outlay
Total Appropriations	<u>90,000</u>	

June 17, 2024

FACTURE 6949

The City of Pensacola
222 West Main Street
Pensacola
32502 Florida
United States

DESCRIPTION



Coderch & Malavia

Learning to Fly, 2018

Bronze patiné / Patinated bronze

72 5/8 x 112 1/4 x 35 1/2 "

184.5 x 285 x 90 cm

Ed. 2/8

(CM018)

\$ 94,000.00

Complimentary delivery from the gallery

Subtotal \$ 94,000.00

Discount - \$ 7,000.00

Subtotal after discount \$ 87,000.00

Total due \$ 87,000.00

Approved by Alexandra - Payment by wire transfer - 50% deposit / 50% balance prior to shipping

GLR41



41, rue Saint-Paul Ouest
Montréal QC

galerieleroyer.com

GLR60

60, rue Saint-Paul Ouest
Montréal QC

(514) 287-1351

GLRTo

162 Cumberland Street
Yorkville Lane
Toronto ON

(416) 944-1351

GALERIE LeROYER

Please refer to the following terms :

- a) Title Retention: Ownership of all artworks shall remain with the gallery until full payment has been received.
- b) Inspection and Claims: Upon receipt of the artwork(s), the client shall have a period of 48 hours to inspect the goods and initiate any necessary insurance claims.
- c) Storage: The gallery provides complimentary storage for a duration of 30 days following the acquisition of artwork(s). Any storage beyond this period may be subject to applicable fees.
- d) Shipping and Handling: Unless otherwise agreed upon, the purchaser assumes responsibility for all costs associated with shipping, crating, and handling of the artwork(s).
- e) Duties and Taxes: The invoice does not include any assessment of duties and taxes that may be levied by the destination country. Such duties and taxes are the sole responsibility of the buyer.
- f) We accept credit card payments for a maximum of 25,000.00 CAD. Any amount over this limit will incur a 3% transaction fee.
- g) Delivery Timeline: Unless otherwise agreed upon, delivery of artworks shall be completed within a maximum period of 12 weeks following receipt of full payment.

Payment of this invoice shall be construed as acknowledgement and acceptance of the aforementioned terms and conditions.

Bank details :

- Please add invoice number to wire transfer reference.
- Please wire the funds within 14 days upon receipt of this invoice

e-Transfer:

please send payment to brian@galerieleroyer.com and add invoice number to e-transfer reference.

Wire Transfer (usd):

Beneficiary Name: 9089-9642 QUEBEC INC.
Receiving Bank Name: CIBC, 1155 Rene-Levesque O. Montreal, QC, H3B 3Z4
Beneficiary Account number: 0403911
Transit: 00001
Institution: 010 (you may have to enter 0010)
SWIFT Code: CIBCCATT

Gallery Address :

Galerie LeRoyer
60 Saint-Paul Street West
Montreal, Quebec
H2Y 1Y6, Canada
(514) 287-1351

GLR41



41, rue Saint-Paul Ouest
Montréal QC
galerieleroyer.com

GLR60

60, rue Saint-Paul Ouest
Montréal QC
(514) 287-1351

GLRT0

162 Cumberland Street
Yorkville Lane
Toronto ON
(416) 944-1351

From: hb hollybenson.com <hb@hollybenson.com>
Sent: Sunday, May 19, 2024 11:40 AM
To: Amy Lovoy <alovoy@cityofpensacola.com>
Cc: Alexandra Daily <ADaily@cityofpensacola.com>; Ben Heistein <BHeistein@cityofpensacola.com>; Amy Miller <AMiller@cityofpensacola.com>
Subject: [EXTERNAL] Information about the sculpture



THIS EMAIL IS FROM AN EXTERNAL EMAIL ACCOUNT



Thank you, Amy.

The piece is called Learning to Fly and is by Coderch & Malavia. It is made of patinated bronze, and the dimensions are 72.75" x 112.25" x 35.5". I have included photos of the sculpture that the gallery sent me below.

The price of the sculpture is \$87,000, and I offered to donate up to \$3,000 to help with the costs of installation.

Let me know what additional information you need. I know you mentioned that we won't be able to get on the City Council agenda until July. Could you tell me when we'll be through the approvals so we can send payment to the gallery? I just wanted to manage expectations on their end.

Also, I know we are waiting to get official blessing from the Mayor, but I'm hoping Amy Miller will give us the go-ahead Monday.

Thank you all for your help,
Holly









Galerie LeRoy | Montréal

GLR60 I 60, Saint-Paul O. Montreal

GLR41 I 41, Saint-Paul O. Montreal

GLR24 I 24, Saint-Paul O. Montreal

514-287-1351

Galerie LeRoyer | Toronto
GLRTo I Yorkville Lane
162 Cumberland St., Toronto
416-944-1351

www.galerieleroyer.com
www.facebook.com/galerieleroyer
www.instagram.com/galerieleroyer



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-600

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-49 - APPROPRIATING INSURANCE PROCEEDS FOR GENERATOR AT FIRE STATION 1

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No. 2024-24.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City Council is being requested to adopt a supplemental budget resolution to recognize insurance proceeds in the amount of \$13,882 received from Liberty Mutual Insurance for the damage to the generator at fire station 1.

PRIOR ACTION:

On 02/08/2024, City Council adopted Supplemental Budget Resolution 2024-11 appropriating funding for generator at Fire Station 1.

Budget: \$123,800

Actual : \$123,800

FUNDING:

Budget: \$137,682

Actual: \$137,682

FINANCIAL IMPACT:

Adoption of the Supplemental Budget Resolution will appropriate insurance proceeds into

LOST IV - Replacement at Fire Station 1.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

6/27/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
Ginny Cranor, Fire Chief
Amy Lovoy, Finance Director

ATTACHMENTS:

1. Supplemental Budget Resolution No. 2024-49
2. Supplemental Budget Explanation No. 2024-49

PRESENTATION: No

**RESOLUTION
NO. 2024-49**

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE
FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. LOCAL OPTION SALES TAX FUND

As Reads:	Other Misc. Revenue - Generator at Fire Station 1	123,800
Amended		
To Read:	Other Misc. Revenue - Generator at Fire Station 1	137,682
As Reads:	Capital Outlay	15,495,766
Amended		
To Read:	Capital Outlay	15,509,648

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk

THE CITY OF PENSACOLA
JULY 2024 - SUPPLEMENTAL BUDGET RESOLUTION - APPROPRIATING INSURANCE PROCEEDS - GENERATOR AT FIRE STATION 1 EXPLANATION NO. 2024-49

FUND	AMOUNT	DESCRIPTION
LOCAL OPTION SALES TAX FUND		
Estimated Revenues		
Other Misc. Revenues	13,882	Appropriate estimated Revenue - Insurance Proceeds for Generator at Fire Station 1
Total Revenues	<u>13,882</u>	
Appropriations		
Capital Outlay - Generator at Fire Station 1	13,882	Appropriate Funding for Capital Outlay - Generator at Fire Station 1
Total Appropriations	<u>13,882</u>	



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-610

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

FLORIDA COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT - GRANT NO.
HS016 - BAPTIST HOSPITAL

RECOMMENDATION:

That City Council approve the acceptance of grant award HS016 to acquire, abate, and demolish a 20-acre portion of the abandoned Baptist Hospital campus in the amount of \$5,000,000 with a \$800,000 local match for a total value of \$5,800,000. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this grant, consistent with the terms of the grant and the Mayor's Executive Powers as granted in the City Charter. Finally, that City Council adopt a supplemental budget resolution appropriating the grant funds.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City of Pensacola has been awarded \$5,000,000.00 in CDBG-DR grant funding to acquire, abate, and demolish a 20-acre portion of the abandoned Baptist Hospital campus located in the center of a residential neighborhood in Pensacola, Florida. The City of Pensacola will use the funds awarded to prepare the acquired site for a community park.

PRIOR ACTION:

March 23, 2023 - City Council adopted Resolution No. 2023-030 supporting the application for CDBG-DR funding through Florida Commerce for \$5,000,000 to address possible rehabilitation and revitalization improvement options on all or portions of the abandoned Baptist Hospital Campus located at West Moreno Street.

FUNDING:

Budget	\$5,000,000	Florida Commerce CDBG-DR Hometown Revitalization Grant
	\$ 300,000	CRA Westside Local Tax Increment Financing

	<u>\$ 500,000</u>	ARPA Affordable Housing Funding
	\$5,800,000	Total Budget
Actual	\$ 125,000	Project Implementation/Administration (CDBG-DR Grant)
	\$1,250,000	Property Aquisition (CDBG-DR Grant)
	\$3,625,000	Construction (CDBG-DR Grant)
	\$ 300,000	Planning/Design/Environmental Review (CRA TIF)
	<u>\$ 500,000</u>	Planning/Design (ARPA)
	\$5,800,000	Total Project Cost

FINANCIAL IMPACT:

This project is funded by the CDBG-DR Hometown Revitalization Program along with CRA Westside TIF funds and ARPA funding.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

6/24/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
Amy Lovoy, Finance Director
Joel Hollon, Senior Grant Writer
William Boyer, Grant and Special Projects Coordinator

ATTACHMENTS:

1. HS016 Baptist Hospital HRP

PRESENTATION: No

State of Florida
Department of Commerce

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

THIS AGREEMENT is entered into by the State of Florida, Department of Commerce, (hereinafter referred to as “Commerce” or “Grantee”) and **City of Pensacola, Florida** (hereinafter referred to as “Subrecipient”), each individually a “Party” and collectively “the Parties.”

THIS 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 (hereinafter the “Appropriations Act”) The requirements of the Appropriations Act and implementing regulations at 24 CFR part 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) (hereinafter the “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 in Federal Register notices published as of this date or in the future, the U.S. Department of Housing and Urban Development (hereinafter referred to as “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 United States Code (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 (hereinafter the “Action Plan”).

WHEREAS, CDBG-DR funds made available for use by Subrecipient under this 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.

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

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 Agreement is expended for activities that benefit such persons.

NOW THEREFORE, Commerce and Subrecipient agree to the following:

(1) Scope of Work. The Scope of Work for this 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 Part 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 Contract shall be conducted in conformance with these provisions, as applicable: 45 CFR Part 75, 29 CFR Part 95, 2 CFR Part 200, 20 CFR Part 601, 24 CFR Part 570 subpart I, *et seq.*, and all other applicable federal laws, regulations, and policies governing the funds provided under this Agreement as now in effect and as may be amended from time to time.

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

(4) Modification of Agreement. Modifications to this 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 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 Agreement shall be subject to 2 CFR Part 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 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 Agreement.
- (d) Subrecipient will provide to Commerce all necessary and appropriate financial and compliance audits in accordance with Paragraph (7), 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 Agreement and the compliance of all subrecipients, contractors, subcontractors and consultants paid from funds under this 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 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 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 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 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 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 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 part 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, 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 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 Agreement.

(7) Reports.

Subrecipient shall provide Commerce with all reports and information set forth in Attachment G, Reports. The monthly, quarterly reports 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 Agreement. Within 10 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 part 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 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 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 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 Agreement in compliance with Commerce's procedures to prevent 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), F.S., pursuant to Section 768.28(19), F.S., 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 Agreement to the extent set forth in Section 768.28, Florida Statutes. Subrecipient shall hold Commerce harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement. For purposes of this 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 agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in Section 768.28, F.S. 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 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 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 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 Agreement and Subrecipient fails to cure this adverse change within thirty (30) calendar days from the date written notice is sent by Commerce;
- (c) If 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;
- (d) If Subrecipient fails to perform or timely complete any of its obligations under this 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.
- (e) Neither Party shall be liable to the other for any delay or failure to perform under this 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 Agreement. If the delay is excusable under this paragraph, the delay will not result in any additional charge or cost under the 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 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 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 Agreement quantity or (3) terminate the 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 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 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 Agreement or any applicable law, rule or regulation governing the use of the funds; and
- (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;
 - 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.
- (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 Agreement or provided at law or in equity. Failure to exercise any right or remedy in this 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 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, F.S., 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, F.S.

(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 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 feels 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.

(15) Termination.

- (a) Commerce may immediately suspend or terminate this 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 Agreement; Subrecipient's improper or ineffective use of funds provided under this 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 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, F.S., 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 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 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 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 Agreement is terminated, Subrecipient shall not incur new obligations under the terminated portion of the 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 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 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 Agreement.
- (g) The rights and remedies under this clause are in addition to any other rights or remedies provided by law or under this Agreement.

(16) Notice and Contact.

- (a) All notices provided under or pursuant to this 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 Agreement.
- (b) The name and address of Commerce's Primary Grant Manager for this Agreement is:

Eddy Gedeon Jr.

107 E. Madison Street, MSC 400

Tallahassee, Florida 32399

Ph: (850) 921-3283

Eddy.Gedeon@commerce.fl.gov

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

Kevin Boyer

Grants and Special Projects, Coordinator

222 W. Main Street

Pensacola, Florida 32502

Ph: (850) 435-1822

kboyer@cityofpensacola.com

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

(17) Contracts.

If Subrecipient contracts any of the work required under this 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, F.S. Subrecipient shall comply with the procurement standards in 2 CFR §200.318 - §200.327 and §200.330 when procuring property and services under this Agreement (refer to Attachments D & E).

Subrecipient shall include the following terms and conditions in any contract pertaining to the work required under this 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 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 Agreement;
- (f) the obligation of Subrecipient to document in Subrecipient's reports the contractor's progress in performing its work under this Agreement;
- (g) the requirements of 2 CFR Appendix II to Part 200 – Contract Provision for Non-Federal Entity Contract Under Federal Awards – (refer to Attachment I)

Subrecipient must comply with CDBG regulations regarding debarred or suspended entities (24 CFR 570.489(l)), 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 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 Agreement.

(18) Terms and Conditions.

This 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 Agreement; and this 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 Agreement and the attachments arise, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

- (b) This 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 Agreement shall not exceed ***Five Million Dollars and Zero Cents (\$5,000,000.00)***, subject to the availability of funds. The State of Florida and Commerce's performance and obligation to pay under this Agreement is contingent upon annual appropriations by the Legislature and subject to any modification in accordance with Chapter 216, F.S. 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 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 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 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 Agreement are ineligible for funding with CDBG-DR funds.
- (g) If the necessary funds are not available to fund this 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 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 Agreement, including monitoring and oversight of any person or entity retained or hired by Subrecipient.
- (i) All expenditures under this Agreement shall be made in accordance with this Agreement and any applicable state or federal statutes, rules, or regulations.
- (j) Funding for this 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 Agreement for allowable costs resulting from obligations incurred during the Agreement period. Subrecipient shall ensure that its contractors, subcontractors and consultants only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period.
- (b) In accordance with Section 215.971, F.S., 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 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 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), F.S., 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 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 Agreement is subject to the truth and accuracy of all the information, representations and materials submitted or provided by Subrecipient in this Agreement, in any later submission or response to a Commerce request or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations and materials are incorporated herein by reference.
- (b) This Agreement shall be construed under the laws of the State of Florida and venue for any actions arising out of this 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 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 Agreement.
- (d) Any power of approval or disapproval granted to Commerce under the terms of this Agreement shall survive the term of this Agreement.
- (e) This 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), F.S., a person or affiliate, as defined in Section 287.133(1), F.S., 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 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), F.S., an entity or affiliate, as defined in Section 287.134(1), 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 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, F.S., the rules promulgated thereunder and 2 CFR § 200.474.
- (k) If Subrecipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to Commerce or be applied against Commerce's obligation to pay the Agreement award amount.
- (l) Subrecipient hereby acknowledges that Subrecipient is subject to Florida's Government in the Sunshine Law (Section 286.011, F.S.) 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, F.S.
- (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 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 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 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 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 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 Agreement are hereby reserved to the State of Florida. Any and all copyrights accruing under or in connection with the performance of this 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 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 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 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 Agreement are transferred by Subrecipient to the State of Florida.
- (c) Within thirty (30) calendar days of execution of this Agreement, Subrecipient shall disclose all intellectual properties relating to the performance of this 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 Agreement.

(25) Legal Authorization.

- (a) Subrecipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. Subrecipient certifies that the undersigned person has the authority to legally execute and bind Subrecipient to the terms of this Agreement. Commerce may, at its discretion, request documentation evidencing the undersigned has authority to bind Subrecipient to this Agreement as of the date of execution; any such documentation is incorporated herein by reference.
- (b) Prior to the execution of this 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 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 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 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, F.S., 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 Agreement, unless the records are exempt from Article I, Section 24(a) of the Florida Constitution and Section 119.07(1), F.S. For records made or received by Subrecipient in conjunction with this Agreement, Subrecipient shall respond to requests to inspect or copy such records in accordance with Chapter 119, F.S. For all such requests for records that are public records, as public records are defined in Section 119.011, F.S., Subrecipient shall be responsible for providing such public records per the cost structure provided in Chapter 119, F.S., and in accordance with all other requirements of Chapter 119, F.S., or as otherwise provided by law.

- (c) This 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 Agreement.
- (d) If, for purposes of this Agreement, Subrecipient is a "contractor" as defined in Section 119.0701(1)(a), F.S. ("Subrecipient-contractor"), Subrecipient-contractor shall transfer to Commerce, at no cost to Commerce, all public records upon completion including termination, of this 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 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 Agreement, Subrecipient-contractor shall meet all applicable requirements for retaining public records in accordance with Chapters 119 and 257, F.S. 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 Agreement. Subrecipient-contractor who fails to provide public records to Commerce within a reasonable time may be subject to penalties under Section 119.10, F.S.
- (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 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, F.S., relating to public records and that reports, invoices and other documents Subrecipient submits to Commerce under this Agreement constitute public records under Florida Statutes. Subrecipient shall cooperate with Commerce regarding Commerce's efforts to comply with the requirements of Chapter 119, F.S.
- (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, F.S., 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 Agreement term and following completion of the Agreement if Subrecipient-contractor does not transfer the records to Commerce upon completion, including termination, of this 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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS by telephone at 850-245-7140, via email at 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 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, F.S., Subrecipient shall not publicly disseminate any information concerning this Agreement without prior written approval from Commerce, including, but not limited to, mentioning this 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 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 Agreement, except potential or actual employees, agents, representatives or subcontractors with the professional skills necessary to perform the work services required by the Agreement.
- (l) Subrecipient shall comply with the requirements set forth in Section 119.0701, F.S., when entering into any public agency contract for services after the Effective Date of this Agreement. Subrecipient shall amend each of Subrecipient's public agency contracts for services already in effect as of the Effective Date of this Agreement and which contract will or may be funded in whole or in part with any public funds. Commerce may terminate this 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, F.S., 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 C.F.R. 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 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 Agreement as part of Subrecipient's Quarterly Progress Report. Subrecipient shall use program income in accordance with the applicable requirements of 2 CFR part 200, 24 CFR part 570.504, and the terms of this 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 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 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 Agreement, it is mutually understood and agreed that Subrecipient is at all times acting and performing as an independent contractor. Nothing in this 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 Agreement. Nothing in this 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 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 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 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.
- (f) Commerce shall not be responsible for withholding taxes with respect to Subrecipient's use of funds under this 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 Agreement, must comply with the reporting and Reemployment Assistance contribution payment requirements of Chapter 443, F.S.

- (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 Agreement; Commerce may provide training in the form of an Implementation Workshop in keeping with implementation

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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 Agreement by their duly authorized undersigned officials.

CITY OF PENSACOLA, FLORIDA**DEPARTMENT OF COMMERCE**

By _____
Signature
Darcy Curran Reeves

By _____
Signature
J. Alex Kelly

Title _____
Mayor

Title _____
Secretary

Date _____
Federal
Tax ID # _____
59-6000406
UEI # _____
UBMRAF87HQP5

Date _____

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

**OFFICE OF GENERAL COUNSEL
DEPARTMENT OF COMMERCE**

By: _____

Approved Date: _____

Attachment A – Scope of Work

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 \$15,992,308.74 of this funding for the Rebuild Florida Hometown Revitalization Program through the CDBG-DR Program.

Activities that are eligible under the Rebuild Florida Hometown Revitalization Program include:

- Public facility improvements, including streetscapes, lighting, sidewalks, and other physical improvements to commercial areas;
- Acquisition, demolition, site preparation, or rehabilitation of commercial structures carried out by a unit of local government;
- Assistance to small businesses for rehabilitation and physical improvements to their places of business; and
- Facade improvements to private or public structures in commercial area

2. PROJECT DESCRIPTION:

The City of Pensacola has been awarded Five Million Dollars and Zero Cents (\$5,000,000.00) in CDBG-DR (Community Development Block Grant – Disaster Recovery) funding to acquire, abate, and demolish a 20-acre portion of the abandoned, Baptist Hospital campus located in the center of a residential neighborhood in Pensacola, Florida. The City of Pensacola will use the funds awarded to prepare the acquired site for a community park.

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 Hometown Revitalization 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 CFR 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).
 - 5) Policies and procedures for the requirements under 2 CFR 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, 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. Subrecipient shall provide photographs of projects to document progress with quarterly reports or when requested by Commerce.

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) Prepare list of minority and women business enterprise (MBE/WBE) firms that operate in the Recipient's area.
- 5) Prepare and submit public notices for publications.
- 6) Maintain financial records related to project activities on-site.
- 7) Conduct a Fair Housing activity.
- 8) Attend a pre-bid conference, bid opening, or preconstruction meeting.
- 9) Review 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) Prepare documentation for and participated in monitoring visits in person or virtual by Commerce.
- 13) Prepare financial activity for submission to Commerce.
- 14) Prepare and submit detailed monthly and quarterly reports to Commerce.
- 15) Prepare and submit Section 3 reports to Commerce.
- 16) Respond to citizens' complaints.
- 17) Prepare subgrant modification document for submission to Commerce for review and approval.
- 18) Prepare 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 – Acquisition

Acquisition activity will be completed in accordance with the Uniform Relocation Act and Commerce guidelines for the following properties:

- 1) Acquire parcels within the contiguous L-shape, 20-acre portion of the former Baptist Health Care E. Street Campus the property located at Baptist Health Care E Street Campus:
 - a. Prepare/distribute public notices.
 - b. Perform Phase I Environmental Site Assessment.
 - c. Provide legal services related to acquisition of the property (including closing, title search and deed).
 - d. File/record all associated documents with the Clerk of Court.
 - e. Obtain and review appraisal based upon independent cost estimate and market value.
 - f. Pay negotiated final property cost.

C. Deliverable No. 3 – Demolition and Construction

Tasks that are eligible for reimbursement are as follows:

- 1) Hire a Florida licensed demolition contractor to perform demolition activities in accordance with design plans and working drawings of the Baptist Hospital property.
- 2) Hire a Florida licensed contractor to perform construction activities in accordance with design plans and working drawings.

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

Deliverable No. 1 – Project Implementation		
TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
Subrecipient shall complete Project Implementation tasks 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.
Deliverable 1 Cost- \$125,000.00		
Deliverable No. 2 – Acquisition		
TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
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 any one task at each individual site as identified in Deliverables 4.B and evidenced by submittal of the following documentation: 1) Clear title and closing documents. 2) Invoice package in accordance with Section 7 of this Agreement.	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.
Deliverable 2 Cost- \$1,250,000.00		
Deliverable No. 3 – Demolition and Construction		
TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
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 the following increments: 10%, 20%, 30%, 40%, 50%, 60%, 70%, 80%, 90% and 100%, 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.
Deliverable 3 Cost- \$3,625,000.00		

Total Project Costs Not to Exceed \$5,000,000.00

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 s. 215.971(1), F.S. 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. 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 Grantee 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), F.S., 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 Grantee 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), F.S., 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), F.S., and which is located in a fiscally constrained county, as defined in section 218.67(1), F.S. If the Grantee meets the criteria set forth in this paragraph, then the Grantee 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 upon execution of the agreement.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

Attachment B – Project Budget (Example)

Subrecipient: _____

Contract Number: _____

Project Title: _____

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

*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 Grant Agreement under Section 4, Eligible Tasks within Attachment 1 – Scope of Work.	Estimated Leveraged Funds to be Expended per “Activity End Date”	Estimated Funds to be Requested per “Activity End Date”

Attachment D – Program and Special Conditions

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 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 part 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 § 58.34 nor categorically excluded pursuant to § 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 part 42, 49 CFR part 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 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 part 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 Agreement is subject to, Chapter 112 F.S.
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 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

The CDBG-DR funds available to Subrecipient through this 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 part 200. This 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 agreement.

Subrecipient agrees to, and, by signing this 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 part 570, as modified by the Federal Register notices that govern the use of CDBG-DR funds available under this 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 part 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 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 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 Agreement, including, but not limited to the following:

I. State of Florida Requirements

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

II. Audits, Inspections, and Monitoring

1. Single Audit

Subrecipient must be audited as required by 2 CFR part 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 §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 part 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 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 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

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 part 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 agreement. Subrecipient shall impose the Subrecipient's obligations under this 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 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 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 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 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 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 part 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 part 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 part 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 USC 4601 – 4655, 49 CFR part 24, 24 CFR part 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 part 6

Subrecipient will comply with 24 CFR part 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 part 8, which implement Section 504 for HUD programs, and the regulations of 24 CFR part 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 part 40 for residential structures, and appendix A to 41 CFR part 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 (§288.703-288.706, F.S.); Title VI of the Civil Rights Act of 1964 (24 CFR part 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 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 part 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 part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 24 CFR part 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 Agreement and the extension of any Federal financial assistance, Subrecipient assures that the program or activities described in this 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 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 Agreement or acquired with CDBG-DR funds and provided to Subrecipient under this 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 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 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 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 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 part 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 part 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 USC 1701u, and implementing its implementing regulations at 24 CFR part 75 (formerly 24 CFR part 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 part 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 part 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 part 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 part 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 part 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 part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.
 - F. Noncompliance with HUD's regulations in 24 CFR part 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 USC 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this 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 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 paragraph (i) through (iv) 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 agreement shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction or proselytization.

Equal Treatment for Faith-Based Organizations. Prohibits any State or local government receiving funds under any Department program, or any intermediate organization with the same duties as a governmental entity, from discriminating for or against an organization on the basis of the organization's religious character or affiliation. Prohibits religious organizations 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. Prohibits an organization that participates in programs funded by direct financial assistance from the Department, in providing services, 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. 24 CFR 58.22 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 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 parts 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 USC 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 part 800 insofar as they apply to the performance of this 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 Parts 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: Contractor 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, Contractor 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: Contractor assures that, to the greatest extent practicable, all equipment and products purchased with funds made available under this 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 Contract 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 Part 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.
 - J. Immigration Reform and Control Act. Contractor 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

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/emails 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 or email:
 - a) The nature of the call or email,
 - b) The actions taken in response to the call or email 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 Part 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 or email:
 - a) The nature of the call or email,
 - b) The actions taken in response to the call or email and
 - c) The results of the actions taken.

Section 504 prohibitions against discrimination (see 45 CFR part 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 part 35, and Title III, 28 CFR part 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 the 29 CFR part 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 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 part 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 part 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 part 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 part 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 part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.
- F. Noncompliance with HUD's regulations in 24 CFR part 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:

- 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 part 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 City of Pensacola shall comply with all of the provisions and Federal regulations listed in this Attachment F.

By: _____ **Date:** _____

Name: Darcy Curran Reeves

Title: Mayor

Attachment G – Reports

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 (11) Default, of this 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 5th of every April, July, October and January.

3.

3. Subrecipient shall closeout its use of the CDBG-DR funds and its obligations under this Agreement by complying with the closeout procedures in 2 CFR § 200.344. 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 Agreement, Subrecipient shall transfer to the recipient 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 part 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 part 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 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 Agreement.

Attachment H – Warranties and Representations

Financial Management

Subrecipient's financial management system must comply with the provisions of 2 CFR part 200 (and particularly 2 C.F.R. 200.302 titled "Financial Management"), Section 218.33, F.S., 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 part 200 (and particularly 2 CFR 200 Subpart E titled "Costs Principles") and the terms and conditions of this 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.

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, F.S., 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

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 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), F.S.

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, F.S.; 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 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), F.S. This includes submission of a financial reporting package as defined by section 215.97(2), F.S., 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, F.S., 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, F.S., 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), F.S., 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, F.S. 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

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

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 agreement shall be submitted timely in accordance with 2 CFR §200.512, section 215.97, F.S., 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 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

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

Federal Awarding Agency:	U.S. Department of Housing and Urban Development
Federal Funds Obligated to Subrecipient:	\$5,000,000.00
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:	The City of Pensacola has been awarded Five Million Dollars and Zero Cents (\$5,000,000.00) in CDBG-ER (Community Development Block Grant – Economic Recovery) funding to acquire, abate, and demolish the 45-acre, abandoned, Baptist Hospital located in the center of a residential neighborhood in Pensacola, Florida.

This is not a research and development award.

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

Federal Program

1. Subrecipient shall perform its obligations in accordance with Sections 290.0401- 290.048, F.S.
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 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 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 Agreement are as Follows: N/A

NOTE: Title 2 CFR § 200.331 and Section 215.97(5), F.S., 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 part 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

Attachment K will be provided after execution of this Agreement

Attachment L

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

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 Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 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 Part 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 42424240 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 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 Part 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 Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(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 part 1986 Comp., p. 189) and 12689 (3 CFR part 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 **[insert Subrecipient name]** (hereinafter referred to as “Subrecipient”) and the State of Florida, Department of Commerce (hereinafter referred to as “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, 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.

CITY OF PENSACOLA, FLORIDA

DEPARTMENT OF COMMERCE

By _____
Signature
Darcy Curran Reeves

By _____
Signature
J. Alex Kelly

Title **Mayor** _____

Title **Secretary** _____

Date _____

Date _____



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-612

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-51 - FLORIDA COMMERCE
COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR)
FUNDING - FORMER BAPTIST HOSPITAL CAMPUS

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No. 2024-51

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR
THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE
DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City of Pensacola has been awarded \$5,000,000.00 in CDBG-DR grant funding to acquire, abate, and demolish a 20-acre portion of the abandoned Baptist Hospital campus located in the center of a residential neighborhood in Pensacola, Florida. The City of Pensacola will use the funds awarded to prepare the acquired site for a community park.

PRIOR ACTION:

March 20, 2023 - City Council passed a resolution supporting the application for CDBG-DR funding through Florida Commerce for \$5,000,000 to address possible rehabilitation and revitalization improvement options on all or portions of the abandoned Baptist Hospital Campus located at West Moreno Street.

FUNDING:

Budget	\$5,000,000	Florida Commerce CDBG-DR Hometown Revitalization Grant
	\$ 300,000	CRA Westside Local Tax Increment Financing
	<u>\$ 500,000</u>	ARPA Funding

	\$5,800,000	Total Budget
Actual	\$ 125,000	Project Implementation/Administration/Engineering (CDBG-DR Grant)
	\$1,250,000	Property Aquisition (CDBG-DR Grant)
	\$3,625,000	Construction (CDBG-DR Grant)
	\$ 300,000	Planning/Design/Environmental Review (CRA TIF)
	<u>\$ 500,000</u>	Planning/Design (ARPA)
	\$5,800,000	Total Project Cost

FINANCIAL IMPACT:

This project is funded by the CDBG-DR Hometown Revitalization Program along with CRA Westside TIF funds and ARPA funding.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

7/1/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
Amy Lovoy, Finance Director
Joel Hollon, Senior Grant Writer
William Boyer, Grants and Special Projects Coordinator

ATTACHMENTS:

1. Supplemental Budget Resolution No. 2024-51
2. Supplemental Budget Explanation No. 2024-51
3. Grant Agreement No. HS016

PRESENTATION: No

**RESOLUTION
NO. 2024-51**

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE
FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. SPECIAL GRANTS FUND

As Reads	Federal Grants	46,693,113
Amended		
To Read:	Federal Grants	51,693,113
As Reads	Capital Outlay	39,431,486
Amended		
To Read:	Capital Outlay	44,431,486

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk

THE CITY OF PENSACOLA

JULY 2024 - SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-51 EXPLANATION - FLORIDA COMMERCE GRANT- CDBG-DR - FORMER BAPTIST HOSPITAL CAMPUS

FUND	AMOUNT	DESCRIPTION
SPECIAL GRANTS FUND		
Estimated Revenues		
Federal Grants	5,000,000	Increase appropriation for Federal Grants - FL Commerce Grant - Baptist Hospital
Total Revenues	<u>5,000,000</u>	
Appropriations		
Capital Outlay	5,000,000	Increase appropriation for Capital Outlay
Total Appropriations	<u>5,000,000</u>	

State of Florida
Department of Commerce

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

THIS AGREEMENT is entered into by the State of Florida, Department of Commerce, (hereinafter referred to as “Commerce” or “Grantee”) and **City of Pensacola, Florida** (hereinafter referred to as “Subrecipient”), each individually a “Party” and collectively “the Parties.”

THIS 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 (hereinafter the “Appropriations Act”) The requirements of the Appropriations Act and implementing regulations at 24 CFR part 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) (hereinafter the “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 in Federal Register notices published as of this date or in the future, the U.S. Department of Housing and Urban Development (hereinafter referred to as “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 United States Code (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 (hereinafter the “Action Plan”).

WHEREAS, CDBG-DR funds made available for use by Subrecipient under this 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.

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

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 Agreement is expended for activities that benefit such persons.

NOW THEREFORE, Commerce and Subrecipient agree to the following:

(1) Scope of Work. The Scope of Work for this 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 Part 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 Contract shall be conducted in conformance with these provisions, as applicable: 45 CFR Part 75, 29 CFR Part 95, 2 CFR Part 200, 20 CFR Part 601, 24 CFR Part 570 subpart I, *et seq.*, and all other applicable federal laws, regulations, and policies governing the funds provided under this Agreement as now in effect and as may be amended from time to time.

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

(4) Modification of Agreement. Modifications to this 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 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 Agreement shall be subject to 2 CFR Part 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 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 Agreement.
- (d) Subrecipient will provide to Commerce all necessary and appropriate financial and compliance audits in accordance with Paragraph (7), 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 Agreement and the compliance of all subrecipients, contractors, subcontractors and consultants paid from funds under this 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 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 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 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 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 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 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 part 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, 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 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 Agreement.

(7) Reports.

Subrecipient shall provide Commerce with all reports and information set forth in Attachment G, Reports. The monthly, quarterly reports 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 Agreement. Within 10 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 part 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 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 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 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 Agreement in compliance with Commerce's procedures to prevent 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), F.S., pursuant to Section 768.28(19), F.S., 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 Agreement to the extent set forth in Section 768.28, Florida Statutes. Subrecipient shall hold Commerce harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement. For purposes of this 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 agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in Section 768.28, F.S. 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 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 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 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 Agreement and Subrecipient fails to cure this adverse change within thirty (30) calendar days from the date written notice is sent by Commerce;
- (c) If 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;
- (d) If Subrecipient fails to perform or timely complete any of its obligations under this 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.
- (e) Neither Party shall be liable to the other for any delay or failure to perform under this 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 Agreement. If the delay is excusable under this paragraph, the delay will not result in any additional charge or cost under the 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 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 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 Agreement quantity or (3) terminate the 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 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 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 Agreement or any applicable law, rule or regulation governing the use of the funds; and
- (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;
 - 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.
- (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 Agreement or provided at law or in equity. Failure to exercise any right or remedy in this 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 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, F.S., 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, F.S.

(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 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 feels 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.

(15) Termination.

- (a) Commerce may immediately suspend or terminate this 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 Agreement; Subrecipient's improper or ineffective use of funds provided under this 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 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, F.S., 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 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 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 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 Agreement is terminated, Subrecipient shall not incur new obligations under the terminated portion of the 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 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 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 Agreement.
- (g) The rights and remedies under this clause are in addition to any other rights or remedies provided by law or under this Agreement.

(16) Notice and Contact.

- (a) All notices provided under or pursuant to this 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 Agreement.
- (b) The name and address of Commerce's Primary Grant Manager for this Agreement is:

Eddy Gedeon Jr.

107 E. Madison Street, MSC 400

Tallahassee, Florida 32399

Ph: (850) 921-3283

Eddy.Gedeon@commerce.fl.gov

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

Kevin Boyer

Grants and Special Projects, Coordinator

222 W. Main Street

Pensacola, Florida 32502

Ph: (850) 435-1822

kboyer@cityofpensacola.com

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

(17) Contracts.

If Subrecipient contracts any of the work required under this 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, F.S. Subrecipient shall comply with the procurement standards in 2 CFR §200.318 - §200.327 and §200.330 when procuring property and services under this Agreement (refer to Attachments D & E).

Subrecipient shall include the following terms and conditions in any contract pertaining to the work required under this 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 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 Agreement;
- (f) the obligation of Subrecipient to document in Subrecipient's reports the contractor's progress in performing its work under this Agreement;
- (g) the requirements of 2 CFR Appendix II to Part 200 – Contract Provision for Non-Federal Entity Contract Under Federal Awards – (refer to Attachment I)

Subrecipient must comply with CDBG regulations regarding debarred or suspended entities (24 CFR 570.489(l)), 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 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 Agreement.

(18) Terms and Conditions.

This 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 Agreement; and this 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 Agreement and the attachments arise, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

- (b) This 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 Agreement shall not exceed ***Five Million Dollars and Zero Cents (\$5,000,000.00)***, subject to the availability of funds. The State of Florida and Commerce's performance and obligation to pay under this Agreement is contingent upon annual appropriations by the Legislature and subject to any modification in accordance with Chapter 216, F.S. 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 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 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 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 Agreement are ineligible for funding with CDBG-DR funds.
- (g) If the necessary funds are not available to fund this 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 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 Agreement, including monitoring and oversight of any person or entity retained or hired by Subrecipient.
- (i) All expenditures under this Agreement shall be made in accordance with this Agreement and any applicable state or federal statutes, rules, or regulations.
- (j) Funding for this 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 Agreement for allowable costs resulting from obligations incurred during the Agreement period. Subrecipient shall ensure that its contractors, subcontractors and consultants only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period.
- (b) In accordance with Section 215.971, F.S., 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 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 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), F.S., 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 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 Agreement is subject to the truth and accuracy of all the information, representations and materials submitted or provided by Subrecipient in this Agreement, in any later submission or response to a Commerce request or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations and materials are incorporated herein by reference.
- (b) This Agreement shall be construed under the laws of the State of Florida and venue for any actions arising out of this 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 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 Agreement.
- (d) Any power of approval or disapproval granted to Commerce under the terms of this Agreement shall survive the term of this Agreement.
- (e) This 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), F.S., a person or affiliate, as defined in Section 287.133(1), F.S., 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 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), F.S., an entity or affiliate, as defined in Section 287.134(1), 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 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, F.S., the rules promulgated thereunder and 2 CFR § 200.474.
- (k) If Subrecipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to Commerce or be applied against Commerce's obligation to pay the Agreement award amount.
- (l) Subrecipient hereby acknowledges that Subrecipient is subject to Florida's Government in the Sunshine Law (Section 286.011, F.S.) 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, F.S.
- (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 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 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 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 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 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 Agreement are hereby reserved to the State of Florida. Any and all copyrights accruing under or in connection with the performance of this 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 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 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 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 Agreement are transferred by Subrecipient to the State of Florida.
- (c) Within thirty (30) calendar days of execution of this Agreement, Subrecipient shall disclose all intellectual properties relating to the performance of this 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 Agreement.

(25) Legal Authorization.

- (a) Subrecipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. Subrecipient certifies that the undersigned person has the authority to legally execute and bind Subrecipient to the terms of this Agreement. Commerce may, at its discretion, request documentation evidencing the undersigned has authority to bind Subrecipient to this Agreement as of the date of execution; any such documentation is incorporated herein by reference.
- (b) Prior to the execution of this 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 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 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 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, F.S., 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 Agreement, unless the records are exempt from Article I, Section 24(a) of the Florida Constitution and Section 119.07(1), F.S. For records made or received by Subrecipient in conjunction with this Agreement, Subrecipient shall respond to requests to inspect or copy such records in accordance with Chapter 119, F.S. For all such requests for records that are public records, as public records are defined in Section 119.011, F.S., Subrecipient shall be responsible for providing such public records per the cost structure provided in Chapter 119, F.S., and in accordance with all other requirements of Chapter 119, F.S., or as otherwise provided by law.

- (c) This 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 Agreement.
- (d) If, for purposes of this Agreement, Subrecipient is a "contractor" as defined in Section 119.0701(1)(a), F.S. ("Subrecipient-contractor"), Subrecipient-contractor shall transfer to Commerce, at no cost to Commerce, all public records upon completion including termination, of this 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 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 Agreement, Subrecipient-contractor shall meet all applicable requirements for retaining public records in accordance with Chapters 119 and 257, F.S. 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 Agreement. Subrecipient-contractor who fails to provide public records to Commerce within a reasonable time may be subject to penalties under Section 119.10, F.S.
- (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 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, F.S., relating to public records and that reports, invoices and other documents Subrecipient submits to Commerce under this Agreement constitute public records under Florida Statutes. Subrecipient shall cooperate with Commerce regarding Commerce's efforts to comply with the requirements of Chapter 119, F.S.
- (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, F.S., 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 Agreement term and following completion of the Agreement if Subrecipient-contractor does not transfer the records to Commerce upon completion, including termination, of this 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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS by telephone at 850-245-7140, via email at 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 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, F.S., Subrecipient shall not publicly disseminate any information concerning this Agreement without prior written approval from Commerce, including, but not limited to, mentioning this 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 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 Agreement, except potential or actual employees, agents, representatives or subcontractors with the professional skills necessary to perform the work services required by the Agreement.
- (l) Subrecipient shall comply with the requirements set forth in Section 119.0701, F.S., when entering into any public agency contract for services after the Effective Date of this Agreement. Subrecipient shall amend each of Subrecipient's public agency contracts for services already in effect as of the Effective Date of this Agreement and which contract will or may be funded in whole or in part with any public funds. Commerce may terminate this 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, F.S., 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 C.F.R. 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 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 Agreement as part of Subrecipient's Quarterly Progress Report. Subrecipient shall use program income in accordance with the applicable requirements of 2 CFR part 200, 24 CFR part 570.504, and the terms of this 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 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 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 Agreement, it is mutually understood and agreed that Subrecipient is at all times acting and performing as an independent contractor. Nothing in this 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 Agreement. Nothing in this 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 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 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 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.
- (f) Commerce shall not be responsible for withholding taxes with respect to Subrecipient's use of funds under this 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 Agreement, must comply with the reporting and Reemployment Assistance contribution payment requirements of Chapter 443, F.S.

- (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 Agreement; Commerce may provide training in the form of an Implementation Workshop in keeping with implementation

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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 Agreement by their duly authorized undersigned officials.

CITY OF PENSACOLA, FLORIDA**DEPARTMENT OF COMMERCE**

By _____
Signature
Darcy Curran Reeves

By _____
Signature
J. Alex Kelly

Title **Mayor**

Title **Secretary**

Date _____
Federal
Tax ID # **59-6000406**
UEI # **UBMRAF87HQP5**

Date _____

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

**OFFICE OF GENERAL COUNSEL
DEPARTMENT OF COMMERCE**

By: _____

Approved Date: _____

Attachment A – Scope of Work

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 \$15,992,308.74 of this funding for the Rebuild Florida Hometown Revitalization Program through the CDBG-DR Program.

Activities that are eligible under the Rebuild Florida Hometown Revitalization Program include:

- Public facility improvements, including streetscapes, lighting, sidewalks, and other physical improvements to commercial areas;
- Acquisition, demolition, site preparation, or rehabilitation of commercial structures carried out by a unit of local government;
- Assistance to small businesses for rehabilitation and physical improvements to their places of business; and
- Facade improvements to private or public structures in commercial area

2. PROJECT DESCRIPTION:

The City of Pensacola has been awarded Five Million Dollars and Zero Cents (\$5,000,000.00) in CDBG-DR (Community Development Block Grant – Disaster Recovery) funding to acquire, abate, and demolish a 20-acre portion of the abandoned, Baptist Hospital campus located in the center of a residential neighborhood in Pensacola, Florida. The City of Pensacola will use the funds awarded to prepare the acquired site for a community park.

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 Hometown Revitalization 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 CFR 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).
 - 5) Policies and procedures for the requirements under 2 CFR 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, 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. Subrecipient shall provide photographs of projects to document progress with quarterly reports or when requested by Commerce.

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) Prepare list of minority and women business enterprise (MBE/WBE) firms that operate in the Recipient's area.
- 5) Prepare and submit public notices for publications.
- 6) Maintain financial records related to project activities on-site.
- 7) Conduct a Fair Housing activity.
- 8) Attend a pre-bid conference, bid opening, or preconstruction meeting.
- 9) Review 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) Prepare documentation for and participated in monitoring visits in person or virtual by Commerce.
- 13) Prepare financial activity for submission to Commerce.
- 14) Prepare and submit detailed monthly and quarterly reports to Commerce.
- 15) Prepare and submit Section 3 reports to Commerce.
- 16) Respond to citizens' complaints.
- 17) Prepare subgrant modification document for submission to Commerce for review and approval.
- 18) Prepare 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 – Acquisition

Acquisition activity will be completed in accordance with the Uniform Relocation Act and Commerce guidelines for the following properties:

- 1) Acquire parcels within the contiguous L-shape, 20-acre portion of the former Baptist Health Care E. Street Campus the property located at Baptist Health Care E Street Campus:
 - a. Prepare/distribute public notices.
 - b. Perform Phase I Environmental Site Assessment.
 - c. Provide legal services related to acquisition of the property (including closing, title search and deed).
 - d. File/record all associated documents with the Clerk of Court.
 - e. Obtain and review appraisal based upon independent cost estimate and market value.
 - f. Pay negotiated final property cost.

C. Deliverable No. 3 – Demolition and Construction

Tasks that are eligible for reimbursement are as follows:

- 1) Hire a Florida licensed demolition contractor to perform demolition activities in accordance with design plans and working drawings of the Baptist Hospital property.
- 2) Hire a Florida licensed contractor to perform construction activities in accordance with design plans and working drawings.

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

Deliverable No. 1 – Project Implementation		
TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
Subrecipient shall complete Project Implementation tasks 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.
Deliverable 1 Cost- \$125,000.00		
Deliverable No. 2 – Acquisition		
TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
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 any one task at each individual site as identified in Deliverables 4.B and evidenced by submittal of the following documentation: 1) Clear title and closing documents. 2) Invoice package in accordance with Section 7 of this Agreement.	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.
Deliverable 2 Cost- \$1,250,000.00		
Deliverable No. 3 – Demolition and Construction		
TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
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 the following increments: 10%, 20%, 30%, 40%, 50%, 60%, 70%, 80%, 90% and 100%, 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.
Deliverable 3 Cost- \$3,625,000.00		

Total Project Costs Not to Exceed \$5,000,000.00

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 s. 215.971(1), F.S. 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. 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 Grantee 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), F.S., 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 Grantee 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), F.S., 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), F.S., and which is located in a fiscally constrained county, as defined in section 218.67(1), F.S. If the Grantee meets the criteria set forth in this paragraph, then the Grantee 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 upon execution of the agreement.

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Attachment B – Project Budget (Example)

Subrecipient: _____

Contract Number: _____

Project Title: _____

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

*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 Grant Agreement under Section 4, Eligible Tasks within Attachment 1 – Scope of Work.	Estimated Leveraged Funds to be Expended per “Activity End Date”	Estimated Funds to be Requested per “Activity End Date”

Attachment D – Program and Special Conditions

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 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 part 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 § 58.34 nor categorically excluded pursuant to § 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 part 42, 49 CFR part 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 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 part 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 Agreement is subject to, Chapter 112 F.S.
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 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

The CDBG-DR funds available to Subrecipient through this 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 part 200. This 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 agreement.

Subrecipient agrees to, and, by signing this 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 part 570, as modified by the Federal Register notices that govern the use of CDBG-DR funds available under this 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 part 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 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 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 Agreement, including, but not limited to the following:

I. State of Florida Requirements

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

II. Audits, Inspections, and Monitoring

1. Single Audit

Subrecipient must be audited as required by 2 CFR part 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 §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 part 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 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 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

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 part 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 agreement. Subrecipient shall impose the Subrecipient's obligations under this 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 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 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 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 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 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 part 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 part 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 part 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 USC 4601 – 4655, 49 CFR part 24, 24 CFR part 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 part 6

Subrecipient will comply with 24 CFR part 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 part 8, which implement Section 504 for HUD programs, and the regulations of 24 CFR part 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 part 40 for residential structures, and appendix A to 41 CFR part 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 (§288.703-288.706, F.S.); Title VI of the Civil Rights Act of 1964 (24 CFR part 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 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 part 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 part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 24 CFR part 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 Agreement and the extension of any Federal financial assistance, Subrecipient assures that the program or activities described in this 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 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 Agreement or acquired with CDBG-DR funds and provided to Subrecipient under this 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 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 agreement.

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

Subrecipient shall take the affirmative steps listed in 24 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 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 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 part 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 part 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 USC 1701u, and implementing its implementing regulations at 24 CFR part 75 (formerly 24 CFR part 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 part 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 part 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 part 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 part 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 part 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 part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.
 - F. Noncompliance with HUD's regulations in 24 CFR part 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 USC 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this 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 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 paragraph (i) through (iv) 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 agreement shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction or proselytization.

Equal Treatment for Faith-Based Organizations. Prohibits any State or local government receiving funds under any Department program, or any intermediate organization with the same duties as a governmental entity, from discriminating for or against an organization on the basis of the organization's religious character or affiliation. Prohibits religious organizations 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. Prohibits an organization that participates in programs funded by direct financial assistance from the Department, in providing services, 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. 24 CFR 58.22 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 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 parts 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 USC 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 part 800 insofar as they apply to the performance of this 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 Parts 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: Contractor 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, Contractor 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: Contractor assures that, to the greatest extent practicable, all equipment and products purchased with funds made available under this 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 Contract 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 Part 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.
 - J. Immigration Reform and Control Act. Contractor 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

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/emails 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 or email:
 - a) The nature of the call or email,
 - b) The actions taken in response to the call or email 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 Part 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 or email:
 - a) The nature of the call or email,
 - b) The actions taken in response to the call or email and
 - c) The results of the actions taken.

Section 504 prohibitions against discrimination (see 45 CFR part 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 part 35, and Title III, 28 CFR part 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 the 29 CFR part 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 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 part 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 part 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 part 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 part 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 part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.
- F. Noncompliance with HUD's regulations in 24 CFR part 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:

- 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 part 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 City of Pensacola shall comply with all of the provisions and Federal regulations listed in this Attachment F.

By: _____ **Date:** _____

Name: Darcy Curran Reeves

Title: Mayor

Attachment G – Reports

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 (11) Default, of this 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 5th of every April, July, October and January.

3.

3. Subrecipient shall closeout its use of the CDBG-DR funds and its obligations under this Agreement by complying with the closeout procedures in 2 CFR § 200.344. 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 Agreement, Subrecipient shall transfer to the recipient 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 part 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 part 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 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 Agreement.

Attachment H – Warranties and Representations

Financial Management

Subrecipient's financial management system must comply with the provisions of 2 CFR part 200 (and particularly 2 C.F.R. 200.302 titled "Financial Management"), Section 218.33, F.S., 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 part 200 (and particularly 2 CFR 200 Subpart E titled "Costs Principles") and the terms and conditions of this 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.

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, F.S., 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

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 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), F.S.

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, F.S.; 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 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), F.S. This includes submission of a financial reporting package as defined by section 215.97(2), F.S., 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, F.S., 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, F.S., 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), F.S., 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, F.S. 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

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

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 agreement shall be submitted timely in accordance with 2 CFR §200.512, section 215.97, F.S., 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 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

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

Federal Awarding Agency:	U.S. Department of Housing and Urban Development
Federal Funds Obligated to Subrecipient:	\$5,000,000.00
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:	The City of Pensacola has been awarded Five Million Dollars and Zero Cents (\$5,000,000.00) in CDBG-ER (Community Development Block Grant – Economic Recovery) funding to acquire, abate, and demolish the 45-acre, abandoned, Baptist Hospital located in the center of a residential neighborhood in Pensacola, Florida.

This is not a research and development award.

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

Federal Program

1. Subrecipient shall perform its obligations in accordance with Sections 290.0401- 290.048, F.S.
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 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 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 Agreement are as Follows: N/A

NOTE: Title 2 CFR § 200.331 and Section 215.97(5), F.S., 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 part 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

Attachment K will be provided after execution of this Agreement

Attachment L

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

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 Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 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 Part 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 42424240 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 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 Part 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 Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(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 part 1986 Comp., p. 189) and 12689 (3 CFR part 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 **[insert Subrecipient name]** (hereinafter referred to as “Subrecipient”) and the State of Florida, Department of Commerce (hereinafter referred to as “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, 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.

CITY OF PENSACOLA, FLORIDA

DEPARTMENT OF COMMERCE

By _____
Signature
Darcy Curran Reeves

By _____
Signature
J. Alex Kelly

Title **Mayor**

Title **Secretary**

Date _____

Date _____



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-611

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

FLORIDA COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT - GRANT NO.
HS017 - PACE AND CERVANTES

RECOMMENDATION:

That City Council approve the acceptance of grant award HS017 for rehabilitating the Pace/Cervantes corridor in the amount of \$5,000,000 with a \$700,000 local match for a total value of \$5,700,000. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this grant, consistent with the terms of the grant and the Mayor's Executive Powers as granted in the City Charter. Finally, that City Council adopt a supplemental budget resolution appropriating the grant funds.

HEARING REQUIRED:

SUMMARY:

The City of Pensacola has received \$5,000,000 with the intent of rehabilitating and revitalizing two key commercial corridors within the City-designated Westside Community Redevelopment Area (CRA): West Cervantes Street and North Pace Boulevard. The City will revitalize the corridors by targeting acquisition of blighted and/or dilapidated commercial properties positioned to further the Westside Community Redevelopment Plans, preparing acquired sites for redevelopment or reuse, rehabilitating commercial buildings, constructing commercial structures, and/or demolishing dilapidated buildings within the target area.

PRIOR ACTION:

March 23, 2023 - City Council adopted Resolution No. 2023-030 supporting the application for \$5,000,000 in CDBG-DR funding through Florida Commerce to address possible rehabilitation and revitalization improvement options on two key commercial corridors within the City-designated Westside Community Redevelopment Area (CRA): West Cervantes Street and North Pace Boulevard.

FUNDING:

Budget \$5,000,000 Florida Commerce CDBG-DR HRP Grant
\$ 700,000 Westside Local Tax Increment Financing (TIF)
\$5,700,000 Total Budget

Actual \$ 614,781 Project Implementation, Engineering, Administration (CDBG-DR Grant)
\$3,233,619 Property Acquisition and Pre-Development (CDBG-DR Grant)
\$1,151,600 Construction (CDBG-DR Grant)
\$ 700,000 Construction (TIF)
\$5,700,000 Total Project Cost

FINANCIAL IMPACT:

This project is funded by the CDBG-DR Hometown Revitalization Program grant funding and local TIF funds.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

6/24/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
Amy Lovoy, Finance Director
Joel Hollon, Senior Grant Writer
William Boyer, Grants and Special Projects Coordinator

ATTACHMENTS:

1. HS017 Pace-Cervantes HRP

PRESENTATION: No

State of Florida
Department of Commerce

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

THIS AGREEMENT is entered into by the State of Florida, Department of Commerce, (hereinafter referred to as “Commerce” or “Grantee”) and the **City of Pensacola, Florida** (hereinafter referred to as “Subrecipient”), each individually a “Party” and collectively “the Parties.”

THIS 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 (hereinafter the “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) (hereinafter the “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 in Federal Register notices published as of this date or in the future, the U.S. Department of Housing and Urban Development (hereinafter referred to as “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 United States Code (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 (hereinafter the “Action Plan”).

WHEREAS, CDBG-DR funds made available for use by Subrecipient under this 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.

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

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 Agreement is expended for activities that benefit such persons.

NOW THEREFORE, Commerce and Subrecipient agree to the following:

(1) Scope of Work. The Scope of Work for this 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 Contract 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 Agreement as now in effect and as may be amended from time to time.

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

(4) Modification of Agreement. Modifications to this 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 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 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 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 Agreement.
- (d) Subrecipient will provide to Commerce all necessary and appropriate financial and compliance audits in accordance with Paragraph (7), 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 Agreement and the compliance of all subrecipients, contractors, subcontractors and consultants paid from funds under this 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 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 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 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 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 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 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, 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 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 Agreement.

(7) Reports.

Subrecipient shall provide Commerce with all reports and information set forth in Attachment G, Reports. The monthly, quarterly reports 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 Agreement. Within 10 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 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 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 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 Agreement in compliance with Commerce's procedures to prevent 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), F.S., pursuant to Section 768.28(19), F.S., 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 Agreement to the extent set forth in Section 768.28, Florida Statutes. Subrecipient shall hold Commerce harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement. For purposes of this 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 agrees to be liable for any damages proximately caused

by the acts or omissions to the extent set forth in Section 768.28, F.S. 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 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 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 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 Agreement and Subrecipient fails to cure this adverse change within thirty (30) calendar days from the date written notice is sent by Commerce;
- (c) If 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;
- (d) If Subrecipient fails to perform or timely complete any of its obligations under this 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.
- (e) Neither Party shall be liable to the other for any delay or failure to perform under this 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 Agreement. If the delay is excusable under this paragraph, the delay will not result in any additional charge or cost under the 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 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 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 Agreement quantity or (3) terminate the 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 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 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 Agreement or any applicable law, rule or regulation governing the use of the funds; and
- (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;
 - 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.
- (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 Agreement or provided at law or in equity. Failure to exercise any right or remedy in this 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 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, F.S., 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, F.S.

(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 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 feels 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.

(15) Termination.

- (a) Commerce may immediately suspend or terminate this 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 Agreement; Subrecipient's improper or ineffective use of funds provided under this 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 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, F.S., 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 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 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 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 Agreement is terminated, Subrecipient shall not incur new obligations under the terminated portion of the 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 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 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 Agreement.
- (g) The rights and remedies under this clause are in addition to any other rights or remedies provided by law or under this Agreement.

(16) Notice and Contact.

- (a) All notices provided under or pursuant to this 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 Agreement.
- (b) The name and address of Commerce's Primary Grant Manager for this Agreement is:

Eddy Gedeon Jr.

107 E. Madison Street, MSC 400

Tallahassee, Florida 32399

Ph: (850) 921-3283

Eddy.Gedeon@commerce.fl.gov

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

Kevin Boyer

Grants and Special Projects, Coordinator

222 W. Main Street

Pensacola, Florida 32502

Ph: (850) 435-1822

kboyer@cityofpensacola.com

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

(17) Contracts.

If Subrecipient contracts any of the work required under this 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, F.S. Subrecipient shall comply with the procurement standards in 2 CFR 200.318 - §200.327 and §200.330 when procuring property and services under this Agreement (refer to Attachments D & E).

Subrecipient shall include the following terms and conditions in any contract pertaining to the work required under this 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 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 Agreement;
- (f) the obligation of Subrecipient to document in Subrecipient's reports the contractor's progress in performing its work under this Agreement;
- (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(l)), 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 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 Agreement.

(18) Terms and Conditions.

This 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 Agreement; and this 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 Agreement and the attachments arise, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.
- (b) This 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 Agreement shall not exceed ***Five Million Dollars and Zero Cents (\$5,000,000.00)***, subject to the availability of funds. The State of Florida and Commerce's performance and obligation to pay under this Agreement is contingent upon annual appropriations by the Legislature and subject to any modification in accordance with Chapter 216, F.S. 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 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 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 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 Agreement are ineligible for funding with CDBG-DR funds.
- (g) If the necessary funds are not available to fund this 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 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 Agreement, including monitoring and oversight of any person or entity retained or hired by Subrecipient.
- (i) All expenditures under this Agreement shall be made in accordance with this Agreement and any applicable state or federal statutes, rules, or regulations.
- (j) Funding for this 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 Agreement for allowable costs resulting from obligations incurred during the Agreement period. Subrecipient shall ensure that its contractors, subcontractors and consultants only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period.
- (b) In accordance with Section 215.971, F.S., 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 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 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), F.S., 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 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 Agreement is subject to the truth and accuracy of all the information, representations and materials submitted or provided by Subrecipient in this Agreement, in any later submission or response to a Commerce request or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations and materials are incorporated herein by reference.
- (b) This Agreement shall be construed under the laws of the State of Florida and venue for any actions arising out of this 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 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 Agreement.
- (d) Any power of approval or disapproval granted to Commerce under the terms of this Agreement shall survive the term of this Agreement.
- (e) This 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), F.S., a person or affiliate, as defined in Section 287.133(1), F.S., 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 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), F.S., an entity or affiliate, as defined in Section 287.134(1), 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 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, F.S., the rules promulgated thereunder and 2 CFR 200.474.
- (k) If Subrecipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to Commerce or be applied against Commerce's obligation to pay the Agreement award amount.

- (l) Subrecipient hereby acknowledges that Subrecipient is subject to Florida's Government in the Sunshine Law (Section 286.011, F.S.) 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, F.S.
- (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 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 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 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 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 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 Agreement are hereby reserved to the State of Florida. Any and all copyrights accruing under or in connection with the performance of this 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 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 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 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 Agreement are transferred by Subrecipient to the State of Florida.
- (c) Within thirty (30) calendar days of execution of this Agreement, Subrecipient shall disclose all intellectual properties relating to the performance of this 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 Agreement.

(25) Legal Authorization.

- (a) Subrecipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. Subrecipient certifies that the undersigned person has the authority to legally execute and bind Subrecipient to the terms of this Agreement. Commerce may, at its discretion, request documentation evidencing the undersigned has authority to bind Subrecipient to this Agreement as of the date of execution; any such documentation is incorporated herein by reference.
- (b) Prior to the execution of this 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 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 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 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, F.S., 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 Agreement, unless the records are exempt from Article I, Section 24(a) of the Florida Constitution and Section 119.07(1), F.S. For records made or received by Subrecipient in conjunction with this Agreement, Subrecipient shall respond to requests to inspect or copy such records in accordance with Chapter 119, F.S. For all such requests for records that are public records, as public records are defined in Section 119.011, F.S., Subrecipient shall be responsible for providing such public records per the cost structure provided in Chapter 119, F.S., and in accordance with all other requirements of Chapter 119, F.S., or as otherwise provided by law.
- (c) This 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 Agreement.
- (d) If, for purposes of this Agreement, Subrecipient is a "contractor" as defined in Section 119.0701(1)(a), F.S. ("Subrecipient-contractor"), Subrecipient-contractor shall transfer to Commerce, at no cost to Commerce, all public records upon completion including termination, of this 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 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 Agreement, Subrecipient-contractor shall meet all applicable requirements for retaining public records in accordance with Chapters 119 and 257, F.S. 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 Agreement. Subrecipient-contractor who fails to provide public records to Commerce within a reasonable time may be subject to penalties under Section 119.10, F.S.
- (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 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, F.S., relating to public records and that reports, invoices and other documents Subrecipient submits to Commerce under this Agreement constitute public records under Florida Statutes. Subrecipient shall cooperate with Commerce regarding Commerce's efforts to comply with the requirements of Chapter 119, F.S.
- (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, F.S., 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 Agreement term and following completion of the Agreement if Subrecipient-contractor does not transfer the records to Commerce upon completion, including termination, of this 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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS by telephone at 850-245-7140, via email at 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 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, F.S., Subrecipient shall not publicly disseminate any information concerning this Agreement without prior written approval from Commerce, including, but not limited to, mentioning this 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 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 Agreement, except potential or actual employees, agents, representatives or subcontractors with the professional skills necessary to perform the work services required by the Agreement.
- (l) Subrecipient shall comply with the requirements set forth in Section 119.0701, F.S., when entering into any public agency contract for services after the Effective Date of this Agreement. Subrecipient shall amend each of Subrecipient's public agency contracts for services already in effect as of the Effective Date of this Agreement and which contract will or may be funded in whole or in part with any public funds. Commerce may terminate this 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, F.S., 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 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 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 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 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 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 Agreement, it is mutually understood and agreed that Subrecipient is at all times acting and performing as an independent contractor. Nothing in this 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 Agreement. Nothing in this 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 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 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 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.
- (f) Commerce shall not be responsible for withholding taxes with respect to Subrecipient's use of funds under this 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 Agreement, must comply with the reporting and Reemployment Assistance contribution payment requirements of Chapter 443, F.S.
- (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 Agreement; Commerce may provide training in the form of an Implementation Workshop in keeping with implementation

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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 Agreement by their duly authorized undersigned officials.

CITY OF PENSACOLA, FLORIDA		DEPARTMENT OF COMMERCE	
By	Signature Darcy Curran Reeves	By	Signature J. Alex Kelly
Title	Mayor	Title	Secretary
Date		Date	
Federal Tax ID #	59-6000406		
UEI #	UBMRAF87HQQF5		

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

OFFICE OF GENERAL COUNSEL
DEPARTMENT OF COMMERCE

By: _____

Approved Date: _____

Attachment A – Scope of Work

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 \$15,992,308.74 of this funding for the Rebuild Florida Hometown Revitalization Program through the CDBG-DR Program.

Activities that are eligible under the Rebuild Florida Hometown Revitalization Program include:

- Public facility improvements, including streetscapes, lighting, sidewalks, and other physical improvements to commercial areas;
- Acquisition, demolition, site preparation, or rehabilitation of commercial structures carried out by a unit of local government;
- Assistance to small businesses for rehabilitation and physical improvements to their places of business; and
- Facade improvements to private or public structures in commercial area

2. PROJECT DESCRIPTION:

The City of Pensacola has been awarded Five Million Dollars and Zero Cents (\$5,000,000.00) in CDBG-DR (Community Development Block Grant – Disaster Recovery) funding with intent of acquisition, demolition, and rehabilitation of two key commercial corridors within the City-designated Westside Community Redevelopment Area (CRA): West Cervantes Street and North Pace Boulevard. The City will revitalize the corridors by targeting acquisition of blighted and/or dilapidated commercial properties positioned to further the Westside Community Redevelopment Plans, preparing acquired sites for redevelopment or reuse, rehabilitating commercial buildings, constructing commercial structures, and/or demolishing dilapidated buildings within the target area.

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 Hometown Revitalization 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 CFR 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).
 - 5) Policies and procedures for the requirements under 2 CFR 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, 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. Subrecipient shall provide photographs of projects to document progress with quarterly reports or when requested by the Commerce.

4. ELIGIBLE TASKS AND DELIVERABLES:

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 and program documents for the Recipient to adopt related to special conditions listed in this subgrant agreement.

- 3) Prepare procurement documents.
- 4) Prepare list of minority and women business enterprise (MBE/WBE) firms that operate in the Recipient's area.
- 5) Prepare and submit public notices for publications.
- 6) Maintain financial records related to project activities on-site.
- 7) Conduct a Fair Housing activity.
- 8) Attend a pre-bid conference, bid opening, or preconstruction meeting.
- 9) Review 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) Attend meetings of the Recipient's local governing body to provide progress reports on subgrant activities.
- 12) Prepare documentation for and participate in monitoring visits in person or virtual by Commerce.
- 13) Prepare financial activity for submission to Commerce.
- 14) Prepare and submit detailed monthly and quarterly reports to Commerce.
- 15) Prepare and submit Section 3 reports to Commerce.
- 16) Respond to citizens' complaints.
- 17) Prepare subgrant modification document for submission to Commerce for review and approval.
- 18) Prepare responses to monitoring findings and concerns for Recipient to submit to Commerce or HUD.
- 19) Project Closeout, Certification of Completion, Grant Closeout Package completed and submitted to Commerce.
- 20) Prepare documentation and present to required boards and Council for required approvals.
- 21) Conduct planning and site/property analysis activities to select property best suited for acquisition, rehabilitation and/or demolition.
- 22) Review applications and prepare documentation necessary for program administration and management.
- 23) Prepare program documents related to special conditions required by CDBG funding.
- 24) Conduct surveys necessary to inform project, including lead-based paint and asbestos surveying.
- 25) Monitor program agreements post-construction/demolition/rehabilitation.

B. Deliverable No. 2 – Acquisition/Pre-Development

Pre-Development activities, including acquisition, will be completed prior to development, rehabilitation, demolition and/or the physical preparation of property for development within the approved project area. Acquisition activity will be completed in accordance with the Uniform Relocation Act and Commerce guidelines for properties located within the approved project area. Tasks that are eligible for reimbursement are as follows:

- 1) Acquire eligible properties located within the approved project area along Pace Blvd and/or Cervantes St. including all purchase and closing costs.
- 2) Prepare/print/publish/distribute public notices related to pre-development and acquisition activities.
- 3) Procure pre-development services to inform acquisition, demolition, rehabilitation and/or development of eligible properties such as appraisals, title services, studies, assessments and/or reports (ex. environmental, capital needs, property improvement), property inspections, feasibility and site analysis, testing (ex. asbestos/lead-based paint/soils) and/or surveys.
- 4) Perform environmental remediation or monitoring, as needed, to allow for redevelopment and/or rehabilitation of eligible properties.

- 5) Produce plans, specifications, manuals and/or work write-ups for rehabilitation and demolition activities related to properties located within the approved project area.
- 6) File/record all documents associated with acquisition and/or predevelopment of eligible properties with the Clerk of Court.
- 7) Procure legal services related to acquisition and predevelopment activities for eligible property (ex. closing, title search, deed).

C. Deliverable No. 3 – Demolition and Construction

Tasks that are eligible for reimbursement are as follows:

Hire a Florida licensed contractor to perform construction, demolition, and/or site activities in accordance with plans, specifications, and/or working drawings. Items are site dependent and may include:

- 1. Contractor to obtain required insurance and bonding.
- 2. Contractor to mobilize to jobsite to begin construction activities.
- 3. Contractor to rehabilitate commercial buildings within the approved project area.
- 4. Contractor to demolish properties.
- 5. Contractor to install, expand, and/or retrofit infrastructure necessary to accommodate redevelopment and/or reuse.
- 6. Procure services for Davis Bacon compliance monitoring.
- 7. Prepare/print/publish/distribute public notices related to construction/demolition/site preparation activities.
- 8. File/record all documents associated with rehabilitation and/or demolition of eligible buildings with the Clerk of Court.
- 9. Procure professional services necessary to manage construction, demolition and/or site preparation activities in progress (ex. CEI).

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

Deliverable No. 1 – Project Implementation		
TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
Subrecipient shall complete Project Implementation tasks 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, timesheets 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.
Deliverable 1 Cost- \$614,781.00		

Deliverable No. 2 – Acquisition/Pre-Development		
TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
Subrecipient shall complete Acquisition/ Pre-Development 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.
Deliverable 2 Cost- \$3,233,619.00		

Deliverable No. 3 – Demolition and Construction		
TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
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 the following increments: 10%, 20%, 30%, 40%, 50%, 60%, 70%, 80%, 90% and 100%, 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.
Deliverable 3 Cost- \$1,151,600.00		
Total Project Costs Not to Exceed \$5,000,000.00		

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 s. 215.971(1), F.S. 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. 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 (1) 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 Grantee 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), F.S., 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 Grantee 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), F.S., 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), F.S., and which is located in a fiscally constrained county, as defined in section 218.67(1), F.S. If the Grantee meets the criteria set forth in this paragraph, then the Grantee 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 upon execution of the agreement.

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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					
TOTALS					

*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 Grant Agreement under Section 4, Eligible Tasks within Attachment 1 – Scope of Work.	Estimated Leveraged Funds to be Expended per “Activity End Date”	Estimated Funds to be Requested per “Activity End Date”

Attachment D – Program and Special Conditions

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 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 § 58.34 nor categorically excluded pursuant to § 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 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 Agreement is subject to, Chapter 112 F.S.
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 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

The CDBG-DR funds available to Subrecipient through this 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 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 agreement.

Subrecipient agrees to, and, by signing this 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 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 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 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 Agreement, including, but not limited to the following:

I. State of Florida Requirements

State of Florida Requirements are stated throughout this 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 §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 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 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

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 agreement. Subrecipient shall impose the Subrecipient's obligations under this 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 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 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 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 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 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 USC 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 (§§ 288.703-288.706, F.S.); 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 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 24 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 Agreement and the extension of any Federal financial assistance, Subrecipient assures that the program or activities described in this 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 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 Agreement or acquired with CDBG-DR funds and provided to Subrecipient under this 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 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 agreement.

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

Subrecipient shall take the affirmative steps listed in 24 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 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 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 USC 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 USC 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this 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 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 paragraph (i) through (iv) 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 agreement shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction or proselytization.

Equal Treatment for Faith-Based Organizations. Prohibits any State or local government receiving funds under any Department program, or any intermediate organization with the same duties as a governmental entity, from discriminating for or against an organization on the basis of the organization's religious character or affiliation. Prohibits religious organizations 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. Prohibits an organization that participates in programs funded by direct financial assistance from the Department, in providing services, 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. 24 CFR 58.22 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 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 parts 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 USC 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 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 Parts 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: Contractor 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, Contractor 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: Contractor assures that, to the greatest extent practicable, all equipment and products purchased with funds made available under this 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 Contract 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.
- J. Immigration Reform and Control Act. Contractor 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

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/emails 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 or email:
 - a) The nature of the call or email,
 - b) The actions taken in response to the call or email 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 or email:
 - a) The nature of the call or email,
 - b) The actions taken in response to the call or email 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 the 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 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:

- 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 City of Pensacola shall comply with all of the provisions and Federal regulations listed in this Attachment F.

By: _____ **Date:** _____

Name: Darcy Curran Reeves

Title: Mayor

Attachment G – Reports

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 (11) Default, of this 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 5th of every April, July, October and January.

3. Subrecipient shall closeout its use of the CDBG-DR funds and its obligations under this Agreement by complying with the closeout procedures in 2 CFR 200.344. 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 Agreement, Subrecipient shall transfer to the recipient 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 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 Agreement.

Attachment H – Warranties and Representations

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, F.S., 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 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.

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, F.S., 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 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 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), F.S.

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, F.S.; 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 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), F.S. This includes submission of a financial reporting package as defined by section 215.97(2), F.S., 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, F.S., 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, F.S., 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), F.S., 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, F.S. 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

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

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 agreement shall be submitted timely in accordance with 2 CFR 200.512, section 215.97, F.S., 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 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

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

Federal Awarding Agency:	U.S. Department of Housing and Urban Development
Federal Funds Obligated to Subrecipient:	\$5,000,000.00
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:	The City of Pensacola has been awarded Five Million Dollars and Zero Cents (\$5,000,000.00) in CDBG-DR (Community Development Block Grant – Disaster Recovery) funding with intent of acquisition, demolition, and rehabilitation of two key commercial corridors within the City-designated Westside Community Redevelopment Area (CRA): West Cervantes Street and North Pace Boulevard.
<i>This is not a research and development award.</i>	

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

Federal Program

1. Subrecipient shall perform its obligations in accordance with Sections 290.0401- 290.048, F.S.
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 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 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 Agreement are as Follows: N/A

NOTE: Title 2 CFR 200.331 and Section 215.97(5), F.S., 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

<i>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.</i>	
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

Attachment K will be provided after execution of this Agreement

Attachment L

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

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 Part, 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 42424240 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 City of Pensacola, Florida hereinafter referred to as “Subrecipient”) and the State of Florida, Department of Commerce (hereinafter referred to as “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, 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.

CITY OF PENSACOLA, FLORIDA

DEPARTMENT OF COMMERCE

By _____
Signature
Darcy Curran Reeves

By _____
Signature
J. Alex Kelly

Title **Mayor**

Title **Secretary**

Date _____

Date _____



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-613

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-52 - FLORIDA COMMERCE
COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG- DR) -
PACE/CERVANTES

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No.2024-52.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR
THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE
DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City of Pensacola has received \$5,000,000 with the intent of rehabilitating and revitalizing two key commercial corridors within the City-designated Westside Community Redevelopment Area (CRA): West Cervantes Street and North Pace Boulevard. The City will revitalize the corridors by targeting acquisition of blighted and/or dilapidated commercial properties positioned to further the Westside Community Redevelopment Plans, preparing acquired sites for redevelopment or reuse, rehabilitating commercial buildings, constructing commercial structures, and/or demolishing dilapidated buildings within the target area.

PRIOR ACTION:

March 23, 2023 - City Council adopted Resolution No. 2023-030 supporting the application for \$5,000,000 in CDBG-DR funding through Florida Commerce to address possible rehabilitation and revitalization improvement options on two key commercial corridors within the City-designated Westside Community Redevelopment Area (CRA): West Cervantes Street and North Pace Boulevard.

FUNDING:

Budget	\$5,000,000	Florida Commerce CDBG-DR HRP Grant
	<u>\$ 700,000</u>	Local Tax Increment Financing (TIF)
	\$5,700,000	Total Budget

Actual	\$ 614,781	Project Implementation, Engineering, Administration (CDBG-DR Grant)
	\$3,233,619	Property Acquisition and Pre-Development (CDBG-DR Grant)
	\$1,151,600	Construction (CDBG-DR Grant)
	<u>\$ 700,000</u>	Construction (TIF)
	\$5,700,000	Total Project Cost

FINANCIAL IMPACT:

This project is funded by the CDBG-DR Hometown Revitalization Program grant funding and local TIF funds.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

6/24/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
Amy Lovoy, Finance Director
Joel Hollon, Senior Grant Writer
William Boyer, Grants and Special Projects Coordinator

ATTACHMENTS:

1. Supplemental Budget Resolution No. 2024-52
2. Supplemental Budget Explanation No. 2024-52
3. HS017 Pace-Cervantes HRP

PRESENTATION: No

**RESOLUTION
NO. 2024-52**

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE
FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. SPECIAL GRANTS FUND

As Reads	Federal Grants	51,693,113
Amended		
To Read:	Federal Grants	56,693,113
As Reads	Capital Outlay	44,431,486
Amended		
To Read:	Capital Outlay	49,431,486

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk

THE CITY OF PENSACOLA

JULY 2024 - SUPPLEMENTAL BUDGET RESOLUTION -FLORIDA COMMERCE CDBGR GRANT - PACE/CERVANTES - RES NO. 2024-52

FUND	AMOUNT	DESCRIPTION
SPECIAL GRANTS FUND		
Estimated Revenues		
Federal Grants	5,000,000	Increase appropriation for Federal Grants - FL Commerce CDBGR Grant - Pace/Cervantes
Total Revenues	<u>5,000,000</u>	
Appropriations		
Capital Outlay	5,000,000	Increase appropriation for Capital Outlay
Total Appropriations	<u>5,000,000</u>	

State of Florida
Department of Commerce

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

THIS AGREEMENT is entered into by the State of Florida, Department of Commerce, (hereinafter referred to as “Commerce” or “Grantee”) and the **City of Pensacola, Florida** (hereinafter referred to as “Subrecipient”), each individually a “Party” and collectively “the Parties.”

THIS 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 (hereinafter the “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) (hereinafter the “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 in Federal Register notices published as of this date or in the future, the U.S. Department of Housing and Urban Development (hereinafter referred to as “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 United States Code (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 (hereinafter the “Action Plan”).

WHEREAS, CDBG-DR funds made available for use by Subrecipient under this 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.

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

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 Agreement is expended for activities that benefit such persons.

NOW THEREFORE, Commerce and Subrecipient agree to the following:

(1) Scope of Work. The Scope of Work for this 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 Contract 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 Agreement as now in effect and as may be amended from time to time.

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

(4) Modification of Agreement. Modifications to this 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 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 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 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 Agreement.
- (d) Subrecipient will provide to Commerce all necessary and appropriate financial and compliance audits in accordance with Paragraph (7), 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 Agreement and the compliance of all subrecipients, contractors, subcontractors and consultants paid from funds under this 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 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 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 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 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 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 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, 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 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 Agreement.

(7) Reports.

Subrecipient shall provide Commerce with all reports and information set forth in Attachment G, Reports. The monthly, quarterly reports 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 Agreement. Within 10 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 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 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 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 Agreement in compliance with Commerce's procedures to prevent 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), F.S., pursuant to Section 768.28(19), F.S., 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 Agreement to the extent set forth in Section 768.28, Florida Statutes. Subrecipient shall hold Commerce harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement. For purposes of this 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 agrees to be liable for any damages proximately caused

by the acts or omissions to the extent set forth in Section 768.28, F.S. 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 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 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 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 Agreement and Subrecipient fails to cure this adverse change within thirty (30) calendar days from the date written notice is sent by Commerce;
- (c) If 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;
- (d) If Subrecipient fails to perform or timely complete any of its obligations under this 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.
- (e) Neither Party shall be liable to the other for any delay or failure to perform under this 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 Agreement. If the delay is excusable under this paragraph, the delay will not result in any additional charge or cost under the 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 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 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 Agreement quantity or (3) terminate the 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 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 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 Agreement or any applicable law, rule or regulation governing the use of the funds; and
- (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;
 - 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.
- (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 Agreement or provided at law or in equity. Failure to exercise any right or remedy in this 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 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, F.S., 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, F.S.

(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 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 feels 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.

(15) Termination.

- (a) Commerce may immediately suspend or terminate this 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 Agreement; Subrecipient's improper or ineffective use of funds provided under this 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 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, F.S., 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 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 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 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 Agreement is terminated, Subrecipient shall not incur new obligations under the terminated portion of the 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 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 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 Agreement.
- (g) The rights and remedies under this clause are in addition to any other rights or remedies provided by law or under this Agreement.

(16) Notice and Contact.

- (a) All notices provided under or pursuant to this 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 Agreement.
- (b) The name and address of Commerce's Primary Grant Manager for this Agreement is:

Eddy Gedeon Jr.

107 E. Madison Street, MSC 400

Tallahassee, Florida 32399

Ph: (850) 921-3283

Eddy.Gedeon@commerce.fl.gov

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

Kevin Boyer

Grants and Special Projects, Coordinator

222 W. Main Street

Pensacola, Florida 32502

Ph: (850) 435-1822

kboyer@cityofpensacola.com

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

(17) Contracts.

If Subrecipient contracts any of the work required under this 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, F.S. Subrecipient shall comply with the procurement standards in 2 CFR 200.318 - §200.327 and §200.330 when procuring property and services under this Agreement (refer to Attachments D & E).

Subrecipient shall include the following terms and conditions in any contract pertaining to the work required under this 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 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 Agreement;
- (f) the obligation of Subrecipient to document in Subrecipient's reports the contractor's progress in performing its work under this Agreement;
- (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(l)), 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 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 Agreement.

(18) Terms and Conditions.

This 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 Agreement; and this 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 Agreement and the attachments arise, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.
- (b) This 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 Agreement shall not exceed ***Five Million Dollars and Zero Cents (\$5,000,000.00)***, subject to the availability of funds. The State of Florida and Commerce's performance and obligation to pay under this Agreement is contingent upon annual appropriations by the Legislature and subject to any modification in accordance with Chapter 216, F.S. 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 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 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 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 Agreement are ineligible for funding with CDBG-DR funds.
- (g) If the necessary funds are not available to fund this 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 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 Agreement, including monitoring and oversight of any person or entity retained or hired by Subrecipient.
- (i) All expenditures under this Agreement shall be made in accordance with this Agreement and any applicable state or federal statutes, rules, or regulations.
- (j) Funding for this 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 Agreement for allowable costs resulting from obligations incurred during the Agreement period. Subrecipient shall ensure that its contractors, subcontractors and consultants only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period.
- (b) In accordance with Section 215.971, F.S., 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 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 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), F.S., 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 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 Agreement is subject to the truth and accuracy of all the information, representations and materials submitted or provided by Subrecipient in this Agreement, in any later submission or response to a Commerce request or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations and materials are incorporated herein by reference.
- (b) This Agreement shall be construed under the laws of the State of Florida and venue for any actions arising out of this 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 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 Agreement.
- (d) Any power of approval or disapproval granted to Commerce under the terms of this Agreement shall survive the term of this Agreement.
- (e) This 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), F.S., a person or affiliate, as defined in Section 287.133(1), F.S., 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 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), F.S., an entity or affiliate, as defined in Section 287.134(1), 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 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, F.S., the rules promulgated thereunder and 2 CFR 200.474.
- (k) If Subrecipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to Commerce or be applied against Commerce's obligation to pay the Agreement award amount.

- (l) Subrecipient hereby acknowledges that Subrecipient is subject to Florida's Government in the Sunshine Law (Section 286.011, F.S.) 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, F.S.
- (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 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 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 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 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 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 Agreement are hereby reserved to the State of Florida. Any and all copyrights accruing under or in connection with the performance of this 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 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 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 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 Agreement are transferred by Subrecipient to the State of Florida.
- (c) Within thirty (30) calendar days of execution of this Agreement, Subrecipient shall disclose all intellectual properties relating to the performance of this 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 Agreement.

(25) Legal Authorization.

- (a) Subrecipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. Subrecipient certifies that the undersigned person has the authority to legally execute and bind Subrecipient to the terms of this Agreement. Commerce may, at its discretion, request documentation evidencing the undersigned has authority to bind Subrecipient to this Agreement as of the date of execution; any such documentation is incorporated herein by reference.
- (b) Prior to the execution of this 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 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 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 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, F.S., 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 Agreement, unless the records are exempt from Article I, Section 24(a) of the Florida Constitution and Section 119.07(1), F.S. For records made or received by Subrecipient in conjunction with this Agreement, Subrecipient shall respond to requests to inspect or copy such records in accordance with Chapter 119, F.S. For all such requests for records that are public records, as public records are defined in Section 119.011, F.S., Subrecipient shall be responsible for providing such public records per the cost structure provided in Chapter 119, F.S., and in accordance with all other requirements of Chapter 119, F.S., or as otherwise provided by law.
- (c) This 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 Agreement.
- (d) If, for purposes of this Agreement, Subrecipient is a "contractor" as defined in Section 119.0701(1)(a), F.S. ("Subrecipient-contractor"), Subrecipient-contractor shall transfer to Commerce, at no cost to Commerce, all public records upon completion including termination, of this 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 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 Agreement, Subrecipient-contractor shall meet all applicable requirements for retaining public records in accordance with Chapters 119 and 257, F.S. 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 Agreement. Subrecipient-contractor who fails to provide public records to Commerce within a reasonable time may be subject to penalties under Section 119.10, F.S.
- (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 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, F.S., relating to public records and that reports, invoices and other documents Subrecipient submits to Commerce under this Agreement constitute public records under Florida Statutes. Subrecipient shall cooperate with Commerce regarding Commerce's efforts to comply with the requirements of Chapter 119, F.S.
- (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, F.S., 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 Agreement term and following completion of the Agreement if Subrecipient-contractor does not transfer the records to Commerce upon completion, including termination, of this 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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS by telephone at 850-245-7140, via email at 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 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, F.S., Subrecipient shall not publicly disseminate any information concerning this Agreement without prior written approval from Commerce, including, but not limited to, mentioning this 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 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 Agreement, except potential or actual employees, agents, representatives or subcontractors with the professional skills necessary to perform the work services required by the Agreement.
- (l) Subrecipient shall comply with the requirements set forth in Section 119.0701, F.S., when entering into any public agency contract for services after the Effective Date of this Agreement. Subrecipient shall amend each of Subrecipient's public agency contracts for services already in effect as of the Effective Date of this Agreement and which contract will or may be funded in whole or in part with any public funds. Commerce may terminate this 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, F.S., 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 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 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 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 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 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 Agreement, it is mutually understood and agreed that Subrecipient is at all times acting and performing as an independent contractor. Nothing in this 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 Agreement. Nothing in this 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 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 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 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.
- (f) Commerce shall not be responsible for withholding taxes with respect to Subrecipient's use of funds under this 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 Agreement, must comply with the reporting and Reemployment Assistance contribution payment requirements of Chapter 443, F.S.
- (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 Agreement; Commerce may provide training in the form of an Implementation Workshop in keeping with implementation

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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 Agreement by their duly authorized undersigned officials.

CITY OF PENSACOLA, FLORIDA

DEPARTMENT OF COMMERCE

By _____
Signature
Darcy Curran Reeves

Title Mayor

Date _____
Federal _____
Tax ID # 59-6000406

UEI # UBMRAF87HQQF5

By _____
Signature
J. Alex Kelly

Title Secretary

Date _____

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

OFFICE OF GENERAL COUNSEL
DEPARTMENT OF COMMERCE

By: _____

Approved Date: _____

Attachment A – Scope of Work

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 \$15,992,308.74 of this funding for the Rebuild Florida Hometown Revitalization Program through the CDBG-DR Program.

Activities that are eligible under the Rebuild Florida Hometown Revitalization Program include:

- Public facility improvements, including streetscapes, lighting, sidewalks, and other physical improvements to commercial areas;
- Acquisition, demolition, site preparation, or rehabilitation of commercial structures carried out by a unit of local government;
- Assistance to small businesses for rehabilitation and physical improvements to their places of business; and
- Facade improvements to private or public structures in commercial area

2. PROJECT DESCRIPTION:

The City of Pensacola has been awarded Five Million Dollars and Zero Cents (\$5,000,000.00) in CDBG-DR (Community Development Block Grant – Disaster Recovery) funding with intent of acquisition, demolition, and rehabilitation of two key commercial corridors within the City-designated Westside Community Redevelopment Area (CRA): West Cervantes Street and North Pace Boulevard. The City will revitalize the corridors by targeting acquisition of blighted and/or dilapidated commercial properties positioned to further the Westside Community Redevelopment Plans, preparing acquired sites for redevelopment or reuse, rehabilitating commercial buildings, constructing commercial structures, and/or demolishing dilapidated buildings within the target area.

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 Hometown Revitalization 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 CFR 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).
 - 5) Policies and procedures for the requirements under 2 CFR 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, 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. Subrecipient shall provide photographs of projects to document progress with quarterly reports or when requested by the Commerce.

4. ELIGIBLE TASKS AND DELIVERABLES:

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 and program documents for the Recipient to adopt related to special conditions listed in this subgrant agreement.

- 3) Prepare procurement documents.
- 4) Prepare list of minority and women business enterprise (MBE/WBE) firms that operate in the Recipient's area.
- 5) Prepare and submit public notices for publications.
- 6) Maintain financial records related to project activities on-site.
- 7) Conduct a Fair Housing activity.
- 8) Attend a pre-bid conference, bid opening, or preconstruction meeting.
- 9) Review 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) Attend meetings of the Recipient's local governing body to provide progress reports on subgrant activities.
- 12) Prepare documentation for and participate in monitoring visits in person or virtual by Commerce.
- 13) Prepare financial activity for submission to Commerce.
- 14) Prepare and submit detailed monthly and quarterly reports to Commerce.
- 15) Prepare and submit Section 3 reports to Commerce.
- 16) Respond to citizens' complaints.
- 17) Prepare subgrant modification document for submission to Commerce for review and approval.
- 18) Prepare responses to monitoring findings and concerns for Recipient to submit to Commerce or HUD.
- 19) Project Closeout, Certification of Completion, Grant Closeout Package completed and submitted to Commerce.
- 20) Prepare documentation and present to required boards and Council for required approvals.
- 21) Conduct planning and site/property analysis activities to select property best suited for acquisition, rehabilitation and/or demolition.
- 22) Review applications and prepare documentation necessary for program administration and management.
- 23) Prepare program documents related to special conditions required by CDBG funding.
- 24) Conduct surveys necessary to inform project, including lead-based paint and asbestos surveying.
- 25) Monitor program agreements post-construction/demolition/rehabilitation.

B. Deliverable No. 2 – Acquisition/Pre-Development

Pre-Development activities, including acquisition, will be completed prior to development, rehabilitation, demolition and/or the physical preparation of property for development within the approved project area. Acquisition activity will be completed in accordance with the Uniform Relocation Act and Commerce guidelines for properties located within the approved project area. Tasks that are eligible for reimbursement are as follows:

- 1) Acquire eligible properties located within the approved project area along Pace Blvd and/or Cervantes St. including all purchase and closing costs.
- 2) Prepare/print/publish/distribute public notices related to pre-development and acquisition activities.
- 3) Procure pre-development services to inform acquisition, demolition, rehabilitation and/or development of eligible properties such as appraisals, title services, studies, assessments and/or reports (ex. environmental, capital needs, property improvement), property inspections, feasibility and site analysis, testing (ex. asbestos/lead-based paint/soils) and/or surveys.
- 4) Perform environmental remediation or monitoring, as needed, to allow for redevelopment and/or rehabilitation of eligible properties.

- 5) Produce plans, specifications, manuals and/or work write-ups for rehabilitation and demolition activities related to properties located within the approved project area.
- 6) File/record all documents associated with acquisition and/or predevelopment of eligible properties with the Clerk of Court.
- 7) Procure legal services related to acquisition and predevelopment activities for eligible property (ex. closing, title search, deed).

C. Deliverable No. 3 – Demolition and Construction

Tasks that are eligible for reimbursement are as follows:

Hire a Florida licensed contractor to perform construction, demolition, and/or site activities in accordance with plans, specifications, and/or working drawings. Items are site dependent and may include:

- 1. Contractor to obtain required insurance and bonding.
- 2. Contractor to mobilize to jobsite to begin construction activities.
- 3. Contractor to rehabilitate commercial buildings within the approved project area.
- 4. Contractor to demolish properties.
- 5. Contractor to install, expand, and/or retrofit infrastructure necessary to accommodate redevelopment and/or reuse.
- 6. Procure services for Davis Bacon compliance monitoring.
- 7. Prepare/print/publish/distribute public notices related to construction/demolition/site preparation activities.
- 8. File/record all documents associated with rehabilitation and/or demolition of eligible buildings with the Clerk of Court.
- 9. Procure professional services necessary to manage construction, demolition and/or site preparation activities in progress (ex. CEI).

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

Deliverable No. 1 – Project Implementation		
TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
Subrecipient shall complete Project Implementation tasks 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, timesheets 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.
Deliverable 1 Cost- \$614,781.00		

Deliverable No. 2 – Acquisition/Pre-Development		
TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
Subrecipient shall complete Acquisition/ Pre-Development 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.
Deliverable 2 Cost- \$3,233,619.00		

Deliverable No. 3 – Demolition and Construction		
TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
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 the following increments: 10%, 20%, 30%, 40%, 50%, 60%, 70%, 80%, 90% and 100%, 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.
Deliverable 3 Cost- \$1,151,600.00		
Total Project Costs Not to Exceed \$5,000,000.00		

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 s. 215.971(1), F.S. 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. 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 (1) 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 Grantee 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), F.S., 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 Grantee 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), F.S., 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), F.S., and which is located in a fiscally constrained county, as defined in section 218.67(1), F.S. If the Grantee meets the criteria set forth in this paragraph, then the Grantee 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 upon execution of the agreement.

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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					
TOTALS					

*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 Grant Agreement under Section 4, Eligible Tasks within Attachment 1 – Scope of Work.	Estimated Leveraged Funds to be Expended per “Activity End Date”	Estimated Funds to be Requested per “Activity End Date”

Attachment D – Program and Special Conditions

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 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 § 58.34 nor categorically excluded pursuant to § 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 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 Agreement is subject to, Chapter 112 F.S.
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 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

The CDBG-DR funds available to Subrecipient through this 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 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 agreement.

Subrecipient agrees to, and, by signing this 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 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 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 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 Agreement, including, but not limited to the following:

I. State of Florida Requirements

State of Florida Requirements are stated throughout this 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 §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 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 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

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 agreement. Subrecipient shall impose the Subrecipient's obligations under this 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 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 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 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 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 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 USC 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 (§§ 288.703-288.706, F.S.); 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 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 24 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 Agreement and the extension of any Federal financial assistance, Subrecipient assures that the program or activities described in this 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 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 Agreement or acquired with CDBG-DR funds and provided to Subrecipient under this 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 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 agreement.

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

Subrecipient shall take the affirmative steps listed in 24 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 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 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 USC 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 USC 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this 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 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 paragraph (i) through (iv) 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 agreement shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction or proselytization.

Equal Treatment for Faith-Based Organizations. Prohibits any State or local government receiving funds under any Department program, or any intermediate organization with the same duties as a governmental entity, from discriminating for or against an organization on the basis of the organization's religious character or affiliation. Prohibits religious organizations 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. Prohibits an organization that participates in programs funded by direct financial assistance from the Department, in providing services, 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. 24 CFR 58.22 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 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 parts 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 USC 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 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 Parts 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: Contractor 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, Contractor 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: Contractor assures that, to the greatest extent practicable, all equipment and products purchased with funds made available under this 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 Contract 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.
- J. Immigration Reform and Control Act. Contractor 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

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/emails 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 or email:
 - a) The nature of the call or email,
 - b) The actions taken in response to the call or email 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 or email:
 - a) The nature of the call or email,
 - b) The actions taken in response to the call or email 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 the 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 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:

- 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 City of Pensacola shall comply with all of the provisions and Federal regulations listed in this Attachment F.

By: _____ **Date:** _____

Name: Darcy Curran Reeves

Title: Mayor

Attachment G – Reports

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 (11) Default, of this 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 5th of every April, July, October and January.

3. Subrecipient shall closeout its use of the CDBG-DR funds and its obligations under this Agreement by complying with the closeout procedures in 2 CFR 200.344. 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 Agreement, Subrecipient shall transfer to the recipient 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 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 Agreement.

Attachment H – Warranties and Representations

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, F.S., 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 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.

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, F.S., 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 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 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), F.S.

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, F.S.; 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 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), F.S. This includes submission of a financial reporting package as defined by section 215.97(2), F.S., 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, F.S., 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, F.S., 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), F.S., 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, F.S. 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

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

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 agreement shall be submitted timely in accordance with 2 CFR 200.512, section 215.97, F.S., 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 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

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

Federal Awarding Agency:	U.S. Department of Housing and Urban Development
Federal Funds Obligated to Subrecipient:	\$5,000,000.00
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:	The City of Pensacola has been awarded Five Million Dollars and Zero Cents (\$5,000,000.00) in CDBG-DR (Community Development Block Grant – Disaster Recovery) funding with intent of acquisition, demolition, and rehabilitation of two key commercial corridors within the City-designated Westside Community Redevelopment Area (CRA): West Cervantes Street and North Pace Boulevard.
<i>This is not a research and development award.</i>	

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

Federal Program

- 1. Subrecipient shall perform its obligations in accordance with Sections 290.0401- 290.048, F.S.
- 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 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 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 Agreement are as Follows: N/A

NOTE: Title 2 CFR 200.331 and Section 215.97(5), F.S., 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

<i>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.</i>	
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

Attachment K will be provided after execution of this Agreement

Attachment L

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

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 Part, 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 42424240 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 City of Pensacola, Florida hereinafter referred to as “Subrecipient”) and the State of Florida, Department of Commerce (hereinafter referred to as “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, 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.

CITY OF PENSACOLA, FLORIDA

DEPARTMENT OF COMMERCE

By _____
Signature
Darcy Curran Reeves

By _____
Signature
J. Alex Kelly

Title **Mayor** _____

Title **Secretary** _____

Date _____

Date _____



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-608

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

RESOLUTION NO. 2024-50 - DESIGNATING CITY STAFF AS CLERK TO TRAFFIC
INFRACTION DETECTOR SPECIAL MAGISTRATES

RECOMMENDATION:

That City Council adopt Resolution No. 2024-50.

A RESOLUTION OF THE CITY COUNCIL OF PENSACOLA, FLORIDA, PROVIDING FOR
USE OF CITY STAFF AS CLERK TO TRAFFIC INFRACTION DETECTOR SPECIAL
MAGISTRATES IN ACCORDANCE WITH FLORIDA STATUTES IN THE CITY OF
PENSACOLA, FLORIDA; PROVIDING AN EFFECTIVE DATE

HEARING REQUIRED: No Hearing Required

SUMMARY:

Pursuant to the authority granted by Florida Statute 316.008 and Florida Statute 166.021, the City has elected to exercise its option to use traffic infraction detectors within its jurisdiction to enforce F.S. § 316.074(1) or § 316.075 (1)(C), when a driver fails to stop at a traffic signal on streets and highways in the City's jurisdiction.

Special Magistrates that have been designated by City Council pursuant to Pensacola Ordinances chapter 13-2 have the authority to serve as Traffic Infraction Detector Special Magistrates and shall have jurisdiction over matters pursuant to Florida Statute §316.0083. Specifically, the Special Magistrate shall decide whether a Petitioner has committed a red light infraction and adjudicate accordingly.

Florida Statute 316.0083 requires that a municipality designate by resolution existing city staff to serve as the clerk to the special magistrate in hearings related to traffic infraction violations.

City staff who serve as clerks shall, among other things, schedule and reschedule hearings, cancel hearings, prepare the agenda for each hearing, maintain a record of proceedings, prepare and transmit information to the Department of Highway Safety and Motor Vehicles (DHSMV) and camera vendor, deliver hearing agendas, and in general, serve as the liaison between the Special Magistrate and the City of Pensacola.

PRIOR ACTION:

None

FUNDING:

None

FINANCIAL IMPACT:

None

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

6/17/2024

STAFF CONTACT:

Amy Miller, Interim City Administrator
Eric Randall, Chief of Police

ATTACHMENTS:

1. Resolution No. 2024-50

PRESENTATION: No

RESOLUTION
NO. 2024-50

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF PENSACOLA,
FLORIDA, PROVIDING FOR USE OF CITY STAFF AS
CLERK TO TRAFFIC INFRACTION DETECTOR SPECIAL
MAGISTRATES IN ACCORDANCE WITH FLORIDA
STATUTES IN THE CITY OF PENSACOLA, FLORIDA;
PROVIDING AN EFFECTIVE DATE

WHEREAS, The City may utilize traffic infraction detectors as a supplemental means of monitoring and assisting law enforcement personnel in the enforcement of compliance with laws related to traffic control signals as permitted and provided for by state law, which are designed to protect and improve the public health, safety, and welfare of the community and thereby reduce accidents, injuries and disruption of traffic associated with such violations.

WHEREAS, pursuant to the authority granted by Florida Statute 316.008 and Florida Statute 166.021 the City has elected to exercise its option to use traffic infraction detectors within its jurisdiction to enforce F.S. § 316.074(1) or § 316.075 (1)(C), when a driver fails to stop at a traffic signal on streets and highways in the City's jurisdiction.

WHEREAS, Special Magistrates that have been designated by City Council pursuant to Pensacola Ordinances chapter 13-2 have the authority to serve as Traffic Infraction Detector Special Magistrates and shall have jurisdiction over matters pursuant to Florida Statute §316.0083. Specifically, the Special Magistrate shall decide whether a Petitioner has committed a red light infraction and adjudicate accordingly.

WHEREAS, Florida Statute 316.0083 requires that a municipality designate by resolution existing city staff to serve as the clerk to the special magistrate in hearings related to traffic infraction violations. City staff who serve as clerk shall, among other things, schedule and reschedule hearings, cancel hearings, prepare the agenda for each hearing, maintain a record of proceedings, prepare and transmit information to the Department of Highway Safety and Motor Vehicles (DHSMV) and camera vendor, deliver hearing agendas, and in general, serve as the liaison between the Special Magistrate and the City of Pensacola.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF PENSACOLA, FLORIDA:**

SECTION 1: That the above stated recitals are true and correct and incorporated herein by reference.

SECTION 2. That the City of Pensacola hereby designates members of existing city staff to serve as clerk to the Traffic Infraction Detector Special Magistrate.

SECTION 3: The City Council hereby authorizes the Mayor, or his designee, to take all actions necessary to effectuate the provisions of this Resolution.

SECTION 4: This Resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

ATTEST:

City Clerk



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-632

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council Member Jennifer Brahier

SUBJECT:

RESOLUTION NO. 2024-53 - TERMINATING FDOT BEAUTIFICATION GRANT AGREEMENT

RECOMMENDATION:

That City Council adopt Resolution No. 2024-53:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA; TERMINATING THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) BEAUTIFICATION GRANT AGREEMENT NO. G2533 FOR GARDEN STREET LANDSCAPE IMPROVMENTS WEST OF "A" STREET; PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In September 2021, the City Council and Community Redevelopment Agency (CRA) authorized the CRA to submit a grant application to the Florida Department of Transportation (FDOT) to continue the beautification and enhancement of Garden Street from A Street westward. Improvement was targeted for A Street to C Street, with actual boundaries to be determined based on cost. A notice of award in the amount of \$23,919 was received from FDOT in February 2022 and funding appropriated in March.

Bid No. 24-023 was published on March 7, 2024, for the installation of the Garden Street improvements, as well as three (3) other FDOT right of way corridors (Fairfield Drive, Navy Boulevard, and the Creighton & 9th Avenue Intersection. Two (2) responsive bids were received. However, the lowest and most responsive bid, in the amount of \$545,470.00 from Russell Landscape of Sugar Hill, Ga, was substantially higher than the cost estimate of \$90,076.56. The bids were rejected due to being over budget.

Staff has further investigated other eligible enhancements that could be considered with the grant funding awarded. However, due to cost, design, and irrigation constraints, it has been determined that the project is not feasible at this time. Resolution No. 2024-53 is required by FDOT to terminate the grant agreement.

PRIOR ACTION:

September 20, 2021 - CRA approved Resolution No. 2021-04 CRA authorizing the CRA to apply for and accept a FDOT Beautification Grant for Garden Street Landscape Improvements - West of A Street.

September 23, 2021 - City Council approved Resolution No. 2021-81 authorizing the Community Redevelopment Agency (CRA) to apply for and accept a FDOT Beautification Grant for constructing landscape improvement within the Garden Street corridor.

March 10, 2022 - City Council adopted Supplemental Budget Resolution No. 2022-027 appropriating the grant funds.

FUNDING:

N/A

FINANCIAL IMPACT:

Adoption of Resolution No. 2024-53 will authorize the return of the FDOT Beautification Grant, in the amount of \$23,919, for Garden Street Landscape Improvements west of A Street.

Adoption of the corresponding Supplemental Budget Resolution will remove the appropriations for the FDOT Beautification Grant.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No**STAFF CONTACT:**

Don Kraher, Council Executive
David Forte, Deputy City Administrator
Sherry Morris, Development Services Director
Victoria D'Angelo, CRA Division Manager
Hilary Halford, CRA Division Assistant Manager
Brad Hinote, City Engineer

ATTACHMENTS:

1. Resolution No. 2024-53

PRESENTATION: No

RESOLUTION
NO. 2024-53

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA; TERMINATING THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) BEAUTIFICATION GRANT AGREEMENT NO. G2533 FOR GARDEN STREET LANDSCAPE IMPROVMENTS WEST OF "A" STREET; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 9 and September 23, 2021, the Community Redevelopment Agency of the City of Pensacola (CRA) and the Pensacola City Council, respectively, adopted resolutions authorizing the CRA to apply or and accept a Florida Department of Transportation Beautification Grant for Garden Street Landscape Improvements West of "A" Street.

WHEREAS, on March 10, 2022, the Pensacola City Council adopted Supplemental Budget Resolution No. 2022-027 appropriating the grant funds; and

WHEREAS, the City of Pensacola is party with the Florida Department of Transportation for the Florida Beautification Grant and Landscape and Construction Agreement number G2533, on behalf of the CRA; and

WHEREAS, the Pensacola City Council has determined that said agreement no longer serves in the best interest of the City of Pensacola; and

WHEREAS, the CRA and City can verify no funds have been received by its board, council or staff and as such, desire to terminate the effective agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA AS FOLLOWS:

Section 1. The Pensacola City Council supports a resolution to terminate the referenced agreement for the Florida Department of Transportation's Florida Beautification Grant.

Section 2. That the Pensacola City Council and FDOT recognize that by terminating the grant award, neither party shall have any obligations under the terms of the agreements.

Section 3. This Resolution shall become effective the fifth business day after the adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
City Council President

ATTEST:

City Clerk



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-634

City Council

7/18/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council Member Jennifer Brahier

SUBJECT:

SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-54 - TERMINATING FLORIDA
DEPARTMENT OF TRANSPORTATION (FDOT) BEAUTIFICATION GRANT AGREEMENT

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No. 2024-54:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR
THE FISCAL YEAR ENDING SEPTEMBER 30, 2024, PROVIDING FOR AN EFFECTIVE
DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In September 2021, the City Council and Community Redevelopment Agency (CRA) authorized the CRA to submit a grant application to the Florida Department of Transportation (FDOT) to continue the beautification and enhancement of Garden Street from A Street westward. Improvement was targeted for A Street to C Street, with actual boundaries to be determined based on cost. A notice of award in the amount of \$23,919 was received from FDOT in February 2022 and funding appropriated in March.

Bid No. 24-023 was published on March 7, 2024, for the installation of the Garden Street improvements, as well as three (3) other FDOT right of way corridors (Fairfield Drive, Navy Boulevard, and the Creighton & 9th Avenue Intersection. Two (2) responsive bids were received. However, the lowest and most responsive bid, in the amount of \$545,470.00 from Russell Landscape of Sugar Hill, Ga, was substantially higher than the cost estimate of \$90,076.56. The bids were rejected due to being over budget.

Staff has further investigated other eligible enhancements that could be considered with the grant funding awarded. However, due to cost, design, and irrigation constraints, it has been determined that the project is not feasible at this time.

PRIOR ACTION:

September 20, 2021 - CRA approved Resolution No. 2021-04 CRA authorizing the CRA to apply for and accept a FDOT Beautification Grant for Garden Street Landscape Improvements - West of A Street.

September 23, 2021 - City Council approved Resolution No. 2021-81 authorizing the Community Redevelopment Agency (CRA) to apply for and accept a FDOT Beautification Grant for constructing landscape improvement within the Garden Street corridor.

March 10, 2022 - City Council adopted Supplemental Budget Resolution No. 2022-027 appropriating the grant funds.

FUNDING:

N/A

FINANCIAL IMPACT:

Adoption of the Supplemental Budget Resolution will remove the appropriations for the FDOT Beautification Grant.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Don Kraher, Council Executive
David Forte, Deputy City Administrator
Sherry Morris, Development Services Director
Victoria D'Angelo, CRA Division Manager
Hilary Halford, CRA Division Assistant Manager
Brad Hinote, City Engineer

ATTACHMENTS:

1. Supplemental Budget Resolution No. 2024-54
2. Supplemental Budget Explanation No. 2024-54

PRESENTATION: No

**RESOLUTION
NO. 2024-54**

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE
FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. SPECIAL GRANTS FUND

As Reads	State Grants	1,787,564
Amended		
To Read:	State Grants	1,763,645
As Reads	Operating Expenses	4,627,828
Amended		
To Read:	Operating Expenses	4,603,909

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk

THE CITY OF PENSACOLA

JULY 2024 - SUPPLEMENTAL BUDGET RESOLUTION - TERMINATING FDOT HIGHWAY BEAUTIFICATION GRANT - RES NO. 2024-54

FUND	AMOUNT	DESCRIPTION
SPECIAL GRANTS FUND		
Estimated Revenues		
State Grants	(23,919)	Decrease appropriation for State Grants - FDOT Highway Beautification Grant
Total Revenues	<u>(23,919)</u>	
Appropriations		
Operating Expenses	(23,919)	Decrease appropriation for Operating Expenses
Total Appropriations	<u>(23,919)</u>	