



Hurricane Michael General Infrastructure Repair Program Subrecipient Policies and Procedures

VERSION 2.3
APRIL 4, 2024

VERSION HISTORY

Version Number	Change Date	Summary of Changes
1.0	04/10/2021	Original Document
2.0	08/04/2021	Added a new section for Anti-Fraud, Waste, and Abuse.
2.1	08/25/2021	<p>Changed Cover Page to correspond with cover pages for OLTR Program specific Policies and Procedures.</p> <p>Changed name of Document from Office of Long-Term Resiliency Hurricane Michael Infrastructure Subrecipient Policies and Procedures to Hurricane Michael General Infrastructure Repair Program Subrecipient Policies and Procedures to maintain consistency</p> <p>Updated Preface and Purpose sections to reflect changes from <i>Policies and Procedures to Guidelines</i>.</p> <p>Reorganized certain sections to mirror other OLTR policy documents</p> <ol style="list-style-type: none"> 1. Relocated Version History, Version Policy, Policy Change Control to precede the Table of Contents. 2. Relocated Appendix B: Definitions to 1.0 Definitions to precede Preface <p>Changed formatting of entire document to mirror OLTR Policy Document guidelines. Document decreased by one page.</p> <p>Changed several places in the document which read CDBG to CDBG-DR.</p> <p>Added language for “General Conduct of Government” to the Ineligible Activities Section.</p> <p>Added language for Insurance Requirements for structures being rehabilitated or reconstructed in Special Flood Hazard Areas (SFHA)</p>
2.2	4/14/2023	Replaced section 23.0 Monitoring and Risk Assessment and its subsections with updated monitoring language creating section 23.0 Compliance Monitoring Plan, CDBG-DR Programs. Language referring readers to the Hurricane Michael Policy Manual for more specific monitoring requirements and procedures is included at the end of the section.
2.3	04/04/2024	<p>As of July 1, 2023, and per Florida HB 5, ch. 2023-173, L.O.F. the former Florida Department of Economic Opportunity has been renamed the Florida Department of Commerce, referred to as “FloridaCommerce.”</p> <p>To reflect this change, all references to the former Florida Department of Economic Opportunity (including “the Department” and “DEO”) have been updated to represent FloridaCommerce.</p>

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	<p>Associated branding (including logos, fonts, and colors) has been updated throughout the document.</p> <p>Change Section 9 - Site Visit verbiage to ensure they align with program procedures.</p> <ul style="list-style-type: none">• 9.2 – removed “Initial” since Site Visits can be conducted throughout the Project life and we may conduct more than one Site Visit on projects.• 9.3 – removed “application” and included clarifying language on additional documents that may be reviewed on a site visit.• 9.4 – added clarifying language on additional information that is included in the Site Visit Reports. <p>Removed Modification Form requirement in Section 10.1 and put clarifying language in Section 10.1.1 to outline what documents are required for amendment requests.</p> <p>Updated Section 12.1 and 12.14 to ensure accurate verbiage and checklists were being referenced.</p> <p>Change Section 15 to ensure we referenced accurate checklists and updated the Micro and Small Purchasing Threshold amounts in Section 15.3.</p> <p>Updated Section 18.3 Notice to Proceed to ensure they accurately reflect the Program Procedures.</p>
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VERSION POLICY

Version history is tracked in the Version History Table (page i), with notes regarding version changes. Dates of each publication are also tracked in this table.

Substantive changes in this document that reflect a policy change will result in the issuance of a new version of the document. For example, a substantive policy change after the issuance of Version 1.0 would result in the issuance of Version 2.0, an increase in the primary version number. Non-substantive changes such as minor wording and editing or clarification of existing policy that do not affect interpretation or applicability of the policy will be included in minor version updates denoted by a sequential number increase behind the primary version number (i.e., Version 2.1, Version 2.2, etc.).

POLICY CHANGE CONTROL

Policy review and changes for the State of Florida Michael Community Development Block Grant - Disaster Recovery Program are considered through a change-control process. Policy clarifications, additions, or deletions are needed during the course of the program to more precisely define the rules by which the Program will operate. Program staff will document policy-change requests that will be tracked in the program files. Requests are compiled and brought before supervisory staff in a policy meeting. Subject matter experts working in a particular policy area or task area that will be affected by the policy decision may be invited to assist in policy evaluation, if necessary. Policy meetings will be held as frequently as is necessary to consider policy decisions critical to moving the Program forward in a timely manner. Policy decisions will be documented and will result in the revision of the Department of Commerce's Policies and Procedures Manual.

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1.0 Definitions

Acquisition: This term refers to the acquiring of real property, in whole or in part, by the recipient or other public or private nonprofit entity through purchase, long-term lease, donation or otherwise for any public purpose, subject to the limitation of 24 CFR 570.207. Real property includes air rights, water rights, rights-of-way, easements and other interests therein. (24CFR 570.201)

Activity, Project or Program: These terms refer to a housing, infrastructure, economic development, or planning endeavor undertaken by the subrecipient.

Appraisal: An appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Bid: A bid is an offer by a company, firm, or individual to provide goods or services submitted in response to solicitation for those goods or services.

Change order: This term refers to work that is added or deleted from the original contract activities to be performed and changes the original contract amount and/or the completion due date. The change order must be approved by the Department of Commerce (FloridaCommerce) Office of Long-Term Resiliency (OLTR), homeowner, subrecipient, contractor, subcontractor, and project architect and/or engineer, as appropriate, prior to being implemented.

Concern: A concern is an issue identified in FloridaCommerce's monitoring report sent to the subrecipient that, if not addressed or corrected, may result in a finding in a future monitoring report.

Contractor: This term refers to an entity competitively selected to provide clearly specified goods or services meeting the procurement requirements at 24 CFR 85.36, 2 CFR 200, Section 287.055, Florida Statutes, and Rule 73-23.0051(3), Florida Administrative Code. In accordance with 24 CFR 85.36(c), such procurement actions must be conducted in a manner that provides for free and open competition.

Corrective Action: This term refers to required steps to be taken to resolve findings and/or concerns identified in the FloridaCommerce Disaster Recovery Unit's monitoring report sent to a subrecipient.

Cost Reimbursement: This term refers to payment made to the subrecipient after a request for funds has been submitted and approved by the State of Florida. In Community Development Block Grant (CDBG) Disaster Recovery (DR) agreements with subrecipients, subrecipients initially pay invoices for work completed under a CDBG-DR sub-agreement. The subrecipient is reimbursed for the payment made for work performed.

Deficiency: This term refers to an inadequacy based on a federal or state statutory, regulatory, or program requirement.

Direct Cost: This term refers to any project cost or project delivery cost that is identified specifically with completing an activity or product such as materials and labor. Costs identified specifically with a contract are direct costs of that contract. Administrative expenses are not generally considered direct costs.

Disaster Recovery Grant Reporting System: This is the U.S. Department of Housing and Urban Development's (HUD) web-based reporting and grants-management system.

Environmental Review Record: This term refers to environmental file and documents associated with activities to be undertaken with CDBG-DR funds.

Federal Register: This is the official journal of the federal government of the United States that contains government agency rules, proposed rules, and public notices issued by federal administrative agencies.

Finding(s): This term refers to a specific issue of noncompliance with federal or state regulatory requirements, including CDBG-DR subgrant agreement provisions, that is identified in a monitoring report produced by FloridaCommerce sent to the subrecipient.

Grantee: As used in this manual, this term refers to the State of Florida FloridaCommerce Disaster Recovery Unit as recipient of CDBG-DR funds from HUD.

Indirect Cost: This term refers to any cost not directly identified with a cost objective, such as a specific project, facility, or function. Indirect costs include administration, personnel, and security costs.

Low- to Moderate-Income (LMI) Household: This term refers to a household whose annual income does not exceed 80 percent of the median income for the area as most recently determined by HUD.

Low- to Moderate-Income Resident, Person, or Individual: These terms refer to a person whose annual income does not exceed 80 percent of the median income for the area as most recently determined by HUD.

Offer: An offer is a response to a solicitation that, if accepted, would bind the offer. Responses to an Invitation to Bid are offers that are called "bids" or "sealed bids."

Program Income: This term refers to gross income received by the subrecipient directly generated from the use of CDBG-DR funds (revenue that is received by a state, unit of general local government, or subrecipient as defined at 24 CFR 570.500).

Project Cost: This term refers to total CDBG-DR funds, local and other matching funds, and total business investment in the project.

Project Delivery Cost: This term refers to costs used specifically to meet requirements to complete a particular project, especially as it applies to meeting CDBG-DR requirements.

Project, Program, or Activity: These terms refer to housing, infrastructure, economic development, or planning endeavor undertaken by the subrecipient using CDBG-DR funds.

Real Property: This term refers to land, including all the natural resources and permanent buildings on it. Real property includes air rights, water rights, rights-of-way, easements, and other interests therein (24CFR 570.201).

Release of Funds: This term refers to HUD's or FloridaCommerce's granting approval to use CDBG-DR funding. This approval or authority to use grant funds is executed through HUD form 7015.16. The authority to use CDBG- DR funds usually occurs after the project environmental review is completed and approved by FloridaCommerce.

Request for Funds: This term refers to a subrecipient's request for funds from FloridaCommerce.

Request for Proposals (RFPs): This term refers to a solicitation, often made through a bidding process, by an agency to communicate an entity's requirements for goods or services to prospective contractors.

Request for Qualifications (RFQs): This term refers to a bidding solicitation where an entity asks vendors to provide a cost quote to provide goods or services. RFQs are often used to procure the services of an engineering or architectural firm.

Request for Release of Funds: This term refers to a subrecipient's request for a release of funds. This request is executed through HUD Form 7015.15.

Sealed Bid: This is a method of contracting that employs competitive bids, public opening of bids, and awarding the bid.

Section 3: This term refers to Section 3 of the Housing and Community Development Act of 1968, as amended, and the implementing regulation, 24 CFR Part 135, relating to employment and other economic opportunities for low- and very-low-income persons.

Section 3 Business or Business Concern: This term, as related to Section 3 of the HUD Act of 1968, as amended, refers to a business that is 51 percent or more owned by Section 3 residents or whose permanent, full-time employees includes 30 percent of such residents as employees.

Section 3 Resident: This term refers to a public housing resident, tribal housing resident, or an individual residing in a metropolitan area or a non-metropolitan county who meets the definition of a low-income or very-low-income person.

Service Area: This term refers to the total geographic area to be directly or indirectly served by a subgrant project that addresses the Low- and Moderate-Income National Objective, where at least 51 percent of the residents are low- and moderate-income persons. A service area must include all and only those beneficiaries who are reasonably served or would be reasonably served by the activity.

Solicitation: This term refers to any request to submit offers or quotations to the local government. Solicitations under sealed bid procedures are called "invitations for bids." Solicitations under negotiated procedures are called "requests for proposals." Solicitations under simplified acquisition procedures may require submission of either a quotation or an offer.

Subcontract: This term refers to any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or another subcontract. It includes purchase orders and changes and modifications to purchase orders.

Subcontractor: This term refers to any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

Subrecipient: This term refers to a recipient, usually a local government, that is provided CDBG-DR funds from FloridaCommerce to carry out agreed-upon eligible activities documented in a Subrecipient Agreement.

Subrecipient Agreement: This term refers to an agreement between FloridaCommerce and a subrecipient to undertake activities the subrecipient will undertake using CDBG-DR funds.

Subrecipient Enterprise Resource Application (SERA): This is FloridaCommerce's web-based reporting and grants management system.

Very Low-Income (VU) Household/Family: This term refers to a household whose annual income does not exceed 30 percent of the median income for the area as most recently determined by HUD.

Very Low-Income (VU) Person or Individual: This term refers to a person whose annual income does not exceed 30 percent of the median income for the area as most recently determined by HUD.

Waiver: This term refers to a revision to standard CDBG-DR regulations, requirements, and activities granted by HUD.

2.0 Preface

On October 10, 2018, Hurricane Michael (DR-4399) made landfall in the state of Florida as a Category 5 hurricane, causing unprecedented damage to housing, business and infrastructure in Florida's Panhandle. The impacts of Hurricane Michael demonstrated the need for an effective, comprehensive long-term recovery plan that would address and meet the remaining needs of Floridians after catastrophe struck in October of 2018. In the wake of this natural disaster, Florida came together to recover and rebuild, but significant unmet needs still remain. Recognizing this, Congress appropriated and the U.S. Department of Housing and Urban-Development (HUD) allocated a total of \$735 million in funding to support long-term recovery efforts following Hurricane Michael through the Florida Department of Commerce's (FloridaCommerce) Community Development Block Grant Disaster Recovery (CDBG-DR) Program. This funding is designed to address needs that remain after other assistance has been exhausted, including federal assistance as well as private insurance. The Florida Department of Commerce (FloridaCommerce) is the responsible entity for administering the CDBG-DR funds allocated to the state. FloridaCommerce has competitively procured IEM to assist with program and contract administration services for disaster recovery programs associated with Hurricane Michael.

FloridaCommerce recognizes its fiscal and regulatory responsibility to administer these funds consistent with all federal and state requirements. FloridaCommerce's initial step toward securing this funding on behalf of the state of Florida was the successful creation and submission of the State of Florida CDBG-DR Action Plan (Action Plan), which HUD approved on June 26, 2020. The FloridaCommerce has allocated \$223,032,145 in CDBG-DR funds for the Rebuild Florida General Infrastructure Repair Program. The allocated FloridaCommerce funds will be made available in two rounds of funding. Pursuant to the Action Plan, the Rebuild Florida General Infrastructure Repair program was launched on September 2, 2020. This will result in the obligation of \$111,516,145 for the benefit of Floridians in the first round of funding. The remaining balance of available funds will be made awarded in a subsequent application round. The Action Plan is the guiding framework for how FloridaCommerce will administer the funds to implement programs for disaster recovery.

In order to ensure that the funds assist the most-impacted areas, 80 percent must be expended on disaster recovery in HUD-identified "most impacted and distressed" areas for eligible disaster-related activities. The unmet needs assessment evaluates three core aspects of recovery - housing, infrastructure and economic development - as the basis for the Rebuild Florida Program framework.

This Rebuild Florida Disaster Recovery Policy Manual is intended to identify applicable federal regulations that govern CDBG-DR funds, provide individual program summaries with program-specific policy and procedures referenced in appendices, and delineate state-level responsibilities for FloridaCommerce Office of Long-Term Resiliency (OLTR) staff members from subrecipients. FloridaCommerce will provide technical assistance for each subrecipient applying for disaster recovery assistance funding and will monitor those subrecipients who are successful in obtaining funding.

This manual supports FloridaCommerce's ability to help homeowners, owners of rental housing, and communities achieve long-term recovery by providing compliance requirements that will keep Florida in good standing with HUD while delivering services to Floridians. It is intended to provide for consistent and efficient application of procedures across disaster recovery activities for Michael, regardless of where and by whom these activities are conducted.

FloridaCommerce anticipates that circumstances will arise where the application of the policies and procedures outlined in this manual may lead to an unintended consequence and that some circumstances may not fit within the policy and procedure framework. In these cases, deviations may be justified and necessary. Any deviation from policies and procedures must be clearly documented and included in the specific file for the project requiring such deviation.

3.0 Purpose

This Policies and Procedures Manual for the Office of Long-Term Resiliency is provided to assist program staff, subgrantees and subrecipients in implementing and managing disaster recovery grants. It provides guidance regarding the general requirements that apply to units of local government. It is the responsibility of the Department of Commerce's disaster recovery staff to ensure that subgrantees comply with all provisions of this manual, state and federal rules and regulations, and the grant award agreement. Subgrantees and subrecipients must also carry out proper and efficient grant administrative practices. The Policies and Procedures Manual is intended to provide clear areas of responsibility to ensure consistent application of the procedures outlined in the manual. It is anticipated that circumstances will arise that will require deviations from the processes outlined in this manual. In those instances, the reason for the deviations need to be clearly documented and included in the subgrantees file. In some cases, these circumstances will require amending the Policies and Procedures Manual to include new or revised policies or procedures to accommodate these situations.

If there are any questions, subgrantees and subrecipients should contact the Florida Department of Commerce's Office of Long-Term Resiliency at:

Florida Department of Commerce
Office of Long-Term Resiliency
107 East Madison Street
Caldwell Building, MSC 420
Tallahassee, FL 32399
(850)-717-8466

4.0 Introduction

The U.S. Department of Housing and Urban Development (HUD) provides supplemental Community Development Block Grant (CDBG-DR) funds appropriated by Congress to assist in the recovery of areas declared by the President of the United States as disaster areas. The public notice regarding supplemental appropriations is included in the Federal Register and specifies the disaster or the time period of the disaster declaration(s) for which funding is available, as well as any special provisions that will apply. Grant funds are generally based on unmet disaster recovery needs and made available to states and units of general local government, Indian tribes, and insular areas, unless otherwise specified in the supplemental appropriation legislation. HUD generally awards noncompetitive, nonrecurring disaster recovery grants by a formula that considers the amount of damage received by the area and the amount of unmet need that remains after considering other federal disaster assistance programs.

Grant recipients receiving funding directly from HUD, must prepare an Action Plan that outlines the overall plan for recovery, the proposed use of the funds, how the funds will be distributed, and how the grant will be administered.

Disaster Recovery grants often supplement disaster programs of the Federal Emergency Management Agency (FEMA), the Small Business Administration (SBA) and the U.S. Army Corps of Engineers (Corps). In addition, Home Investment Partnership (HOME) funds can provide an important resource for providing affordable housing to disaster victims. The HOME program is administered by the Florida Housing Finance Corporation.

Eligible activities must meet at least one of three program national objectives: (1) benefit persons of low to moderate-income, (2) aid in the prevention or elimination of slum or blight, or (3) meet other urgent community development needs because existing conditions pose a serious and immediate threat to the health and welfare of the community where other financial resources are not available. Unless otherwise restricted by statute or provided by waiver, the funds may be used for any activity eligible under Section 105(a) of the Housing and Community Development Act of 1974, as amended, that meets a national objective under Section 104(b) (3) of the Act, and the activities must be related to the covered disaster. Generally, at least 51 percent of the beneficiaries are to be persons of low- to moderate- income.

Typically, subgrantees and subrecipients may use CDBG-DR funds for recovery efforts involving housing, economic development, infrastructure repair, and prevention of further damage to affected areas.

Eligible activities must be specified in a grant recipient's Action Plan and funded activities cannot duplicate funding available from other sources such as FEMA, SBA, insurance, or any other sources of public or private funding that is available to undertake the same activity. Examples of eligible activities include:

- Buying damaged properties in a flood plain and relocating residents to safer areas;
- Relocation payments for people and businesses displaced by the disaster;
- Debris removal not covered by FEMA;
- Rehabilitation of homes and buildings damaged by the disaster;
- Buying, constructing, or rehabilitating public facilities such as streets, neighborhood centers, and water, sewer, and drainage systems;
- Homeownership activities such as down payment assistance, interest rate subsidies and loan guarantees for disaster victims;
- Public services;
- Helping businesses retain or create jobs in disaster impacted areas; and

- Planning and administration costs.

Federal requirements state that the funds can be used only for disaster relief and long-term recovery in communities affected by the specified disaster(s) and directed to areas with the greatest unmet need. Funds cannot be used for a project or activity that was underway prior to the Presidential Disaster Declaration. All projects must be directly related to one or more of the disaster events defined in the Presidential Disaster Declaration. Activities that are reimbursable by the FEMA, the National Flood Insurance Program (NFIP), private insurance, private or public donations, dedicated tax revenues, or available through the SBA cannot be reimbursed with these funds.

5.0 Overview Of CDBG-DR

Before federal disaster recovery funds are made available to the State of Florida, the state must agree to accept CDBG-DR funds from HUD and prepare an Action Plan for HUD's approval. The Action Plan outlines how the funds will be used, describes the method of distribution to the recipient local governments, delineates the state's grant-administration process, and defines when changes to the Action Plan are considered Substantial Amendments requiring public review and comment.

FloridaCommerce's Office of Long-Term Resiliency monitors subrecipients' activities for compliance with program and grant-agreement requirements.

FloridaCommerce has the responsibility of notifying local governments of the amount of funding they can receive, preparing an application form that local governments can use to apply for funding; and preparing an application-review checklist. UGLGs have their own set of responsibilities in applying for, obtaining, and managing funding. These requirements are more fully laid out within this manual. UGLGs are encouraged to contact FloridaCommerce if further guidance is required.

HUD provides guidebooks for grantees and subrecipients under the CDBG-DR Program section on its website at <https://www.hudexchange.info/programs/cdbg-dr/toolkits/>.

6.0 National Objectives

The core purpose of CDBG-DR is the ability of the state and its subrecipients to meet a national objective through an eligible activity related to Hurricane Michael.

6.1 Meeting a National Objective

All projects funded under CDBG-DR must address at least one of the following two national objectives of the CDBG-DR Infrastructure Program:

- Primarily benefit low- to moderate-income (LMI) persons,
- Meet an urgent need. A project that meets a community need having an urgency because an existing condition poses a serious and immediate threat to the health or welfare of the community and no other financial resources are available.

Seventy percent of the overall funding benefit must meet the first national objective, i.e., it must be for the benefit of LMI persons. For any project to count toward the 70 percent LMI national objective goal, at least 51 percent of beneficiaries on an area basis must be LMI individuals or households. For the 20-percent set-aside allocation, 100 percent of funds must be used to benefit LMI persons or households for both direct- and indirect-benefit projects.

Subrecipients must identify the national objective of each proposed project and the percentage of LMI persons or households that will benefit from each project. FloridaCommerce will determine the eligibility of an activity and whether a national objective is obtained as a part of the application-review process. See 24 Code of Federal Regulations (CFR) 570.483 for more information about national objectives.

Urgent need is a seldom-used category in CDBG-DR implementation, but it plays a more significant role in CDBG-DR/Urgent need can be difficult to justify and should be thoroughly reviewed with FloridaCommerce.

6.2 National Objective Documentation and Records

Subrecipients must maintain records showing that funded activities meet one of the three national objectives. This information will also be useful in reporting performance measures information.

Documents required to be maintained for purposes of demonstrating that a national objective is being met are as follows:

- LMI service-area boundaries
- Census data, including total persons and percentage of LMI households
- Evidence that the area is primarily residential
- Income-verification survey documentation (if applicable)

LMI Limited Clientele: Documentation that beneficiaries are of LMI or presumed to be of LMI is as follows (see 24 CFR 570.208):

- LMI job creation and retention number of jobs created or retained
- Type and title of jobs created or retained
- Income of persons benefiting from jobs created or retained

Under CDBG regulations, a project is not considered having met a national objective until it has provided complete documentation that verifies the national objective has been met. Subrecipients must be aware of the national objective category and document compliance throughout the life of the project or program

LMI Housing Direct Benefit: Documentation should include households' income verification using the Adjusted Gross Income [AGI] definition of "household income"), including source documentation.

Urgent Need: Documentation should support decision to classify activity as urgent need and should include the following:

- Documentation of urgency of need and timing
- Certification that other financing resources were unavailable and that CDBG-DR is the only available funding source

7.0 Federal Register Notice

Federal Register Notices explain the Congressional legislative intent of funding allocations. Generally, Federal Register Notices contain the specific disaster event, the amount of funding, the geographic location of the areas to be assisted, and broad parameters for implementation. For Hurricane Michael, the Federal Registers are as follows:

- Federal Register – Docket No. FR-6182-N-01, Volume 85, Number 17

This notice may be found on FloridaCommerce’s website at <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative/hurricane-michael>.

7.1 Citizen Participation

Citizen participation is a key element of CDBG-DR. Subrecipients are required to adopt Citizen Participation Plans that outline broad CDBG-DR processes, including citizen-complaint procedures, amendment procedures, advertising requirements, and other basics of public participation. The requirement is found in 24 CFR 91.105. Subrecipients are required to maintain records related to citizen participation, including the following:

- Copies of all notices of public hearings held and proofs of publication relating to the CDBG-DR program
- List of persons attending public hearings and minutes of the meetings
- Citizen inquiries and complaints and correspondence responding to inquiries and complaints
- Copy of the Citizen Participation Plan with adopting resolution
- Records documenting implementation and compliance with the Citizen Participation Plan
- Citizen-complaint procedures

7.2 Beneficiaries

All CDBG-DR activities (except for planning and administration) are required to provide benefit to the community. If CDBG-DR funds are spent and, at the time of closeout, there are no beneficiaries, then the cost is disallowed. Therefore, all activities must be completed and must provide the benefit as outlined in the contract documents. Benefit may be either direct (e.g., housing rehabilitation) or indirect (e.g., infrastructure, public facilities).

When subrecipients report beneficiaries, they must maintain files that demonstrate the source of beneficiary data. For example, if a subrecipient reports beneficiaries from 100 housing rehabilitations, FloridaCommerce staff should be able to readily determine the validity of that data through the subrecipient’s record keeping. Similarly, for projects qualified based on census or surveys, the completed project must correspond with the parameters of the project approved in the application. It is generally acceptable to exceed the number of beneficiaries outlined in the application, but it is inadvisable to reduce beneficiaries without prior approval from FloridaCommerce.

Seventy percent of the overall funding benefit must meet the first national objective, i.e., it must be for the benefit of LMI persons. For any project to count toward the 70-percent LMI national objective goal, at least 51 percent of beneficiaries on an area basis must be LMI individuals or households. CDBG-DR funds allocated through the 20-percent set-aside must benefit 100 percent LMI beneficiaries. Indirect activities such as infrastructure must meet the 51-percent LMI threshold, while direct benefit activities such as housing must meet the 100-percent threshold.

Hurricane Michael Infrastructure Policies and Procedures

Subrecipients must identify the national objective of each proposed project and the percentage of LMI persons or households that will benefit from each project. FloridaCommerce will determine the eligibility of an activity and whether a national objective is obtained as a part of the application-review process. See 24 CFR 570.483 for more information about national objectives.

8.0 Subrecipient Applications

FloridaCommerce has designed this CDBG-DR program in compliance with the National Program objectives and will ensure that assistance is prioritized toward the most disadvantaged populations to address unmet housing needs. Florida intends to spend a minimum of 70 percent of program funds on activities that benefit the Low-and-Moderate Income (LMI) population. LMI status is determined by evaluating income as a percentage of the Area Median Income (AMI) in the region in which the applicant lives.

In addition, a minimum of 80 percent of funding will be spent in HUD-identified most-impacted and distressed areas, with the 20 percent of funding spent in state-identified most-impacted and distressed areas. Proposed projects dealing with drinking water, drainage and sewage, storm water and wastewater will be given priority due to their critical nature.

8.1 Tie to the Storm

Before any activity can be funded in whole or in part with CDBG-DR funds, the activity must be determined eligible under Title I of the Housing and Community Development Act (HCDA), as amended. Federal requirements clearly state that funds may be used only for disaster relief and long-term recovery in communities affected by the specified disaster. Requirements provide that funds be directed to areas with the greatest need. All CDBG-DR funded eligible activities must tie to storm damage as specified in and not prior to the Presidential Disaster Declaration 4399 for Michael on October 11, 2018 (<https://www.fema.gov/disaster/4399>) projects must be directly related to Hurricane Michael.

8.2 Eligible Applicants

Eligible applicants in the following counties and zip codes may apply for funding based on the terms and conditions in this application:

Eligible Counties and Zip Codes that Experienced Storm Damage			
Bay*	Gadsden*	Jackson*	Taylor
Calhoun*	Gulf*	Leon	Wakulla*
Franklin*	Holmes	Liberty*	Washington*

*HUD Most Impacted and Distressed Counties

MID Zip Codes and Descriptions	
	Bay County
	Calhoun County
	Gulf County
	Jackson
32321	Liberty County
32327	Wakulla County

32328	Franklin County
32346	Wakulla and Franklin Counties
32351	Gadsden County
32428	Washington County

Units of General Local Government (UGLG) including counties, municipalities, water management districts, and water authorities located in the eligible areas that experienced Hurricane Michael storm damage are eligible to apply for funding based on the terms and conditions in this application.

8.3 Eligible Activities

To be eligible for consideration of funding, UGLGs must propose programs or projects that align with CDBG-DR and FloridaCommerce requirements and priorities as outlined in the action plan and the Federal Register, including but not limited to those set forth below:

- Projects must demonstrate tie-back to Michael.
- Projects must primarily serve LMI populations.
- Projects for infrastructure must support LMI housing.
- Projects must not duplicate benefits.

8.3.1 Infrastructure

- Restoration of infrastructure damaged by Hurricane Michael (including water and sewer facilities, streets, provision of generators, removal of debris, drainage, bridges, etc.);
- Water and sewer facilities have been identified as areas of critical importance.
- Public facilities such as emergency community shelters;
- Demolition, rehabilitation of publicly or privately owned commercial or industrial buildings;
- Economic revitalization which includes any CDBG-DR eligible activity that demonstrably restores and improves some aspect of the local economy.

Subrecipients must identify how unmet housing needs will be addressed or how its infrastructure activities will contribute to the long-term recovery and restoration of housing in the most impacted and distressed areas.

8.4 Ineligible Activities

Ineligible activities identified in the Federal Register, Vol. 83, No. 28, Friday, February 9, 2018, include the use of CDBG-DR for forced mortgage payoff, construction of a dam/levee beyond original footprint, incentive payments to households that move to disaster-impacted floodplains, assistance to privately owned utilities, not prioritizing assistance to businesses that meet the definition of a small business, or assistance for second homes, funding of buildings for the general conduct of government, and activities identified in 24 CFR 570.207. All activities and uses authorized under Title I of the Housing and Community Development Act of 1974 and allowed by waiver. In addition, any activities reimbursable by, or activities for which funds are made available by the Federal Emergency Management Agency (FEMA) or the Army Corps of Engineers are considered ineligible activities.

8.5 Use of CDBG-DR as Match

Use of CDBG-DR as Match Additionally, funds may be used to meet a matching, share, or contribution requirement for any other federal program when used to carry out an eligible CDBG-DR activity. This includes programs or activities administered by the Federal Emergency Management Agency (FEMA) or the U.S. Army Corps of Engineers (USACE). By law, the amount of CDBG-DR funds that may be contributed to a USACE project is \$250,000 or less. Note that the Appropriations Act prohibits supplanting the use of CDBG-DR funds for any activity reimbursable by, or for which funds are also made available, by FEMA or USACE.

9.0 Site Visits

9.1 Pre-Award Applicant Site Visits

FloridaCommerce may visit applicants prior to an award of funds. The Pre-Award Site Visit is a fact-finding trip to evaluate application materials for accuracy and viability. FloridaCommerce staff will interview local government staff, design professionals, and consultants responsible for the application. During this visit, FloridaCommerce staff may also visit the project site. FloridaCommerce may use the information gained from the Pre-Award Site Visit to determine if a project activity is eligible, meets a national objective, and can be funded.

9.2 Subrecipient Site Visits

Site visits may be conducted throughout the life of the grant agreement. If the site visit is conducted early in the life cycle of the grant agreement, the purpose of the site visit is to determine the subrecipient's readiness to proceed and compliance with the grant agreement. The purpose of site visits conducted later in the life cycle of the grant agreement is to see the progress of the project and provide additional technical assistance, if needed. FloridaCommerce will issue letters notifying subrecipients of the upcoming site visit.

9.3 Documentation

During the site visit, FloridaCommerce may review documentation used to support the application as well as recent reports submitted in regard to the project. These may include items such as service-area maps, field visits, claims made in the application regarding the project's location and purpose, budgetary information, key staff, and other items. Required local policies will be reviewed for compliance with state and federal requirements.

9.4 Site Visit Report

Once FloridaCommerce has conducted a site visit, the subrecipient will receive a report containing a brief description of the project, subrecipient staff and FloridaCommerce staff that were in attendance, details of the site visit location and observations, a summary of the outcome, overall takeaway, and any follow up items that need to be addressed. The report may require additional documentation, or the visit may be satisfactory without the need for further follow-up.

10.0 Subrecipient Agreement

Following application reviews, site visits to verify the information in the application, and completion of the risk analysis, the subrecipient award process is initiated. During this process, contract numbers are provided by the Operations Unit and initial information regarding the subrecipient is entered into the Subrecipient Enterprise Resource Application (SERA) system, FloridaCommerce's grants management system. The subrecipient agreement is prepared based on the subrecipient agreements used in the Small Cities CDBG program, including scope of work and other attachments, but it is modified to meet the needs of the CDBG-DR program. This subrecipient agreement template is prepared within FloridaCommerce and then reviewed by FloridaCommerce's Budget, Grants, and General Counsel's offices. Subrecipient agreements are sent unsigned to the subrecipient for review and approval. The subrecipient signs and returns the agreements to the department. A final review is completed, and the contract is executed by the department, and the requisite information is entered into the SERA and IDIS systems.

10.1 Amendments

During the term of the subrecipient agreement, changes may need to be made to the agreement. If the subrecipient agreement requires revisions, the Subrecipient will need to submit a written request to their assigned grant manager for review and approval by FloridaCommerce. Typical modifications include extending the subrecipient agreement, budget revisions, and scope of work revisions. These amendments, along with procedures for requesting and reviewing these amendments, are discussed below.

- **Extension of Timeline:** This type of amendment must be requested when the subrecipient determines that all project work cannot be completed prior to the subrecipient agreement expiration date.
- **Budget Revisions:** This type of amendment must be requested for the following:
 - A need to revise the number of proposed accomplishments or beneficiaries
 - Transfer of excess administrative funds to an approved project activity
 - Transfer of unobligated funds from a completed activity to another activity
 - Transfer of funds from one activity to another activity
- **Scope of Work:** This type of amendment must be requested when expanding or reducing the approved scope of work to be performed. For instance, if a project was approved to rehabilitate 20 homes, but the subrecipient has enough funds to rehabilitate additional homes, an amendment must be submitted. Approval of project amendments is subject to the availability of funds remaining in the project's approved budget. In addition, all amendments must be reviewed by CDBG's environmental staff to determine if the amended scope of work requires in additional environmental review. Changing the scope of work usually involves a budget modification as well. However, increasing the scope of work without an increase in the budget does not generally require an amendment.

10.1.1 Procedures for Submitting and Acting on an Amendment Request

Requests for amendments should be submitted by the subrecipient no later than 45 days prior to the subrecipient agreement expiration date. All amendments must be submitted with a transmittal letter explaining the need and providing a justification for the proposed amendment. The transmittal letter must be signed by the subrecipient grant manager, the chief elected official or authorized designee. If an authorized designee is used, FloridaCommerce must have a designated authorized signee document on file approving the designee.

FloridaCommerce will provide written notification of approving or disapproving the subrecipient agreement request. All approved amendments will become a part of the original project award and will be subject to all applicable terms of the original subrecipient agreement.

Note: If FloridaCommerce finds that a request for amendment is for an action that has already taken place, the amendment may not be approved.

10.2 Subrogation Agreement

All subrecipients will be required to sign a subrogation agreement. All duplicative funding received by a subrecipient must be remitted to or accounted for by the subrecipient regardless of when the applicant receives it. If a subrecipient receives additional funding for the same purpose as the CDBG-DR-funded grant award even after an award is executed, the applicant is required to report the additional funding to the state. By accepting the award, subrecipients that they will report any duplicative funds to the state. Upon receipt of a report that additional benefits have been received, the state will recalculate the applicant's award and provide instructions as to whether such funds must be used in construction prior to additional funding by the state and the subrecipient are expended or whether the applicant must remit such amounts to the state and the subrecipient as reimbursement. In the event a subrecipient uses CDBG-DR funds on HUD unallowable costs the subrecipient would be subject repayment to the state of funds.

11.0 SERA System

The Subrecipient Enterprise Resource Application (SERA) is FloridaCommerce's web-based reporting and grants management system. SERA is designed to be the system of record for both the financial and the programmatic components of CDBG-DR. This system is the means by which subrecipients draw funds and reconcile online budgets. FloridaCommerce will provide each subrecipient with SERA training. A detailed guide to SERA is available, separate from this manual, from FloridaCommerce.

12.0 Financial Management

Financial management and control of CDBG-DR funds is the sole responsibility of the subrecipient that accepts the funds. This chapter describes accounting procedures that must be followed to comply with state and federal requirements for financial management. The subrecipient is required to have a financial management system that provides the following:

- Effective control over and accountability for all funds, property, and other assets
- Accurate, complete, and timely disclosure of the status and financial results in accordance with specified requirements
- Records that adequately identify (by activity) the source and use of funds for each CDBG-DR-supported project, including "reasonableness, allowability, and allocability" of costs
- Procedures to comply with the timely distribution of funds

The subrecipient's responsibility is often divided between the local office that has primary responsibility for CDBG-DR program administration and the finance officer. The subrecipient program administrative office is usually responsible for reviewing and approving all transactions involving CDBG-DR funds before the transactions are processed by the finance officer. The administrative office's responsibilities include the following:

- Approval of purchase orders and contracts to be paid with CDBG-DR funds
- Receipt and approval of invoices
- Assurance that transactions involving CDBG-DR funds are properly coded
- Review and approval of requisitions for payments involving CDBG-DR funds

The finance officer is usually responsible for maintaining official CDBG-DR financial records and for posting account transactions. Official records may be maintained in either an automated or a manual format. The finance officer's responsibilities may also include such things as the following:

- Control of accounting documents once they are approved for processing by the program department
- Preparation of financial reports (based on accounting records)
- Preparation of Requests for Funds (subject to review by the administration office)
- Entry of transactions into the accounting system
- Assisting the local government's auditor in preparing an annual financial audit

Federal requirements that are applicable to financial management may be found in 2 CFR 200 and should be reviewed for more detailed information and for other additional information, including special circumstances.

FloridaCommerce utilizes monitoring review checklists to guide the reviews, which are based on exhibits from HUD's Community Planning and Development Monitoring Handbook 6509.2. The exhibits are available for reference on the HUD website under [HUD CPD's Monitoring Handbook](#).

12.1 Internal Controls

Internal controls consist of policies and procedures, job responsibilities, qualified personnel, and records management that are designed to safeguard assets such as cash, property, and other assets. The subrecipient must establish a system of internal controls that meets the following minimum requirements:

- A single individual must not be allowed to exercise complete control over all phases of any significant transaction. This means, for example, that the same person cannot purchase

materials, receive materials, authorize payment for the materials, and write the check to pay for materials.

- Record keeping must be separate from operations and handling and custody of assets.
- Monthly reconciliation and verification of cash balances with bank statements must be made by employees who do not handle or record cash or sign checks.
- Actual lines of responsibility must be clearly established, and a single person identified to assume responsibility for management oversight of the entire financial management system.
- The person who prepares payrolls should not handle related paychecks. If signature stamps are used, they should not be under the control of the same individual who retains blank checks.

An adequate system of internal controls, with specific program and financial management responsibilities, will enable recipients to maintain records necessary to comply with Florida law and federal requirements. Where possible, accounting policies and procedures of the local government should mirror requirements of the Office of the Auditor General.

12.2 Financial System

Source documents should provide all details of a transaction. The information contained in source documents is necessary for accounting purposes and is recorded in one of the books of original entry before being filed. A variety of source documents and records are needed to properly account for CDBG-DR transactions. Supporting documentation is necessary to show that costs charged against CDBG-DR funds were incurred during the effective period of the subrecipient's agreement with the state, were actually paid out (or properly accrued), were expended on allowable items, and had been approved by the responsible official(s) in the subrecipient's organization. These documents include the following:

- **Purchase Orders** may be prepared in the same format as other purchase orders except that appropriate CDBG-DR program classification data should be coded on the document. Purchase orders should be approved by the subrecipient's program office. After approval, one copy should be retained by the program administrative office to verify receipt of goods, and remaining copies must be forwarded to the finance officer.
- **Contracts** should be filed in the CDBG-DR program administrative office. Each contract must identify the activity, program, or project to be charged. If multiple contracts are issued for each project or if non-contractual charges are recorded against a project, a separate record must be maintained for each contract to provide readily available information on contract balances. There should be a separate obligation for each contract relating to the same activity to prevent overpayment of any contract. In addition, a Cash Control Register should be maintained to provide summary information for all CDBG-DR contracts.
- **Vendor Invoices** to be paid with CDBG-DR funds should be referred to the program administrative office, compared to the purchase order, checked for appropriateness and accuracy, approved, and coded as necessary. Approved vendor invoices and appropriate supporting documents may then be forwarded to the finance officer for payment.
- **Time-distribution Sheets** for all employees paid from CDBG-DR funds. Employees must complete time sheets that indicate the number of hours worked on CDBG-DR projects, other grant projects, local government activities, and job duties. Time sheets are then referred to the finance department so that charges to the correct programs and projects can be computed and properly charged. Payroll expenses can only be paid from CDBG-DR funds based on time and attendance records.
- **CDBG-DR Financial Files** that demonstrate the program's financial soundness and regulatory compliance. To maintain an orderly record of CDBG-DR transactions that will withstand the scrutiny of an audit, there must be a logical system for maintaining financial files. Two broad categories of files are recommended: *process files* and *permanent files* (see below).

- **Space and Utilities:** Space costs must be supported by documentation such as rental or lease agreements. Utility costs will be supported by bills from utility companies. Both types of expenses will be supported by canceled checks if the cost of space or utilities is split between the CDBG-DR program and other sources, a reasonable method must be in place to allocate the charges fairly among the sources.
- **Supplies** documentation includes purchase orders or requisition forms initiated by an authorized representative of the subrecipient, invoices from vendors that have been signed off by the subrecipient to indicate goods were received, canceled checks from vendors demonstrating payment was made, and information regarding where supplies are being stored and for what cost objective(s) they are being used.

Administrative funds are not available to subrecipients under this program. Therefore, all overhead costs must be allocated to projects. FloridaCommerce will provide guidance on the exact procedure for allocating costs.

12.3 Process Files

Process files are working files that are used until source documents are processed and posted. They include the following:

- **Open Purchase Order File:** All purchase orders that have been issued but not yet filled by vendors should be filed sequentially by purchase-order number. When goods are delivered, invoice received, and all appropriate approvals obtained, the purchase order should be removed and filed with related invoices and the receiving report in the pending payments file. This file contains encumbrances against the project budget.
- **Pending Payments File:** All source documents that will generate a cash disbursement are stored in the pending payments file and are maintained by due date. If a discount is offered for early payment, early payment should be made. A schedule of bills payable from approved invoices and the account to be charged is also kept in this file.
- **Pending Receipt File:** This file contains copies of outstanding bills and requests for funds submitted to the CDBG-DR program that have not yet been recorded in the Cash Receipts Journal or posted to the CDBG-DR Cash Control Register.
- **Personnel Payroll File:** This file contains a record for each employee who works on CDBG-DR activities and includes the rate at which the employee's salary can't be charged the CDBG-DR program. Time sheets showing the amount of time each employee spends on CDBG-DR activities must be kept on file. This file is maintained in addition to the local government's official personnel records.

12.4 Permanent Files

These files must be maintained for all source documents and other records once they have been processed or posted to books of original entry. Documents removed from process files are placed in the permanent files after all processing is complete (i.e., placing bank verifications or CDBG-DR contract payment transactions in a CDBG-DR Receipt File).

Purchase requisitions, purchase orders, and related invoices are filed together; contracts, related invoices, payment vouchers, and check copies are filed together; and grant fund receipt documentation is filed together. Permanent files contain the documents necessary for undertaking an audit of the program. A single individual should be assigned responsibility for file maintenance.

12.5 CDBG-DR Accounting Records

CDBG-DR records are used to accumulate CDBG-DR accounting information for financial reporting. The required CDBG-DR accounting records are listed and discussed below.

- **Cash-receipts Journal:** All receipts of cash that are deposited into the CDBG-DR account(s) are recorded in the cash receipts journal. Receipts may include contract payments to the subrecipient from the CDBG-DR program, receipts from the disposition of land, program income, and any other cash received. The general procedure for using this journal is to record every CDBG-DR receipt by date in the order that it was received and indicate the source of the funds received, account or activity line item to be credited, receipt number, and date. A notation regarding final disposition for all funds received must also be included in the journal.
- **Cash-disbursements Journal:** All encumbrances and expenditures for program costs are entered into the cash-disbursements journal. Encumbrance is a term used in government accounting to mean a reservation of funds against an appropriation for a future expenditure. An encumbrance is not necessarily an obligation; it is a commitment of funds. While encumbrances are not normally recorded in a disbursements journal, the practice is recommended for the CDBG-DR program to conform to the accrual basis required for reporting information to the CDBG-DR program. When goods or services are received by the local government, an obligation has been incurred. If the local government uses a warrant or other schedule for bills payable, it need not maintain a separate cash-disbursements journal but must maintain copies of individual warrants.
- **Property Register:** This is a listing of all property acquired in part or entirely using CDBG-DR funds. It must be maintained to comply with state and federal standards relating to acquisition, control, and disposition of real and personal property. Examples of property that would be recorded include both real property and office equipment.
- **Detailed Activity Ledger:** A subrecipient may have several ongoing projects (e.g., Smith Street sewer-line installation and Jones Street repaving). To maintain accounting control, a detailed project ledger must be established for each project. All financial transactions relating to a particular project should be recorded in this ledger.

12.6 Cash Control Register

In addition to the above control procedures, CDBG-DR financial reporting and control is enhanced by the use of the CDBG-DR Cash Control Register. This register is used to document and control the following:

- State of Florida funds received
- Requests for payment (drawdowns on grant reservation)
- Balance of CDBG-DR cash on hand
- Balance of CDBG-DR grant funds available by line item
- Collections, refunds, and miscellaneous receipts
- Disbursements

This register is important because it summarizes the status of CDBG-DR cash on hand. It should be reviewed daily to determine compliance with CDBG-DR rules and regulations relating to cash on hand. The register also serves as a cross-reference to the journal accounts such as cash receipts and disbursements and the detailed project ledger.

12.7 Accounting for Cash Receipts

Cash receipts for the CDBG-DR program come primarily from the state as contract payments based on Requests for Funds. Local sources of cash receipts may include loan repayments, payment for services provided, rent from CDBG-DR property, and other miscellaneous receipts. Other sources may include federal or state agencies participating in project funding such as Rural Development. All cash receipts must be logged in the Cash Receipts Journal, CDBG-DR Cash Control Register, and detailed Project Ledger.

12.8 Accounting for Cash Disbursement

The local government should establish specific days on which it will disburse CDBG-DR funds. The frequency of these payment dates depends on transaction volumes and staff capacity. One payment date every 1 or 2 weeks may be sufficient. To allow time for orderly processing and requisitioning of CDBG-DR contract funds, cut-off dates for receipt of invoices to be paid the next pay date should be established. All cash disbursements must be supported by source documentation, such as invoices, time sheets, and payroll vouchers, that fully explain the reason for the disbursement.

Contractor payments should be made only after determining that the contractor is performing in accordance with contract provisions and time schedules and that any problems identified by the subrecipient during compliance monitoring or inspections have been corrected. To facilitate adequate contract management, a CDBG-DR contract management control card should be maintained. All cash disbursements must be entered in the CDBG-DR Cash Disbursements Journal, the CDBG-DR Cash Control Register, and Detailed Activity Ledger.

12.9 Subrecipient Financial Management

The information provided in this policies and procedures manual is provided as a general guide. Each subrecipient will have its own financial management system that must adhere to federal requirements as outlined in 2 CFR Part 200.

12.10 Allowable Costs

The standards for determining reasonableness, allowability, and allocability of costs incurred as part of CDBG-DR-financed activities are found in 2 CFR 200.403. According to general guidelines contained in 2 CFR 200.403, a cost is allowable under the CDBG-DR program as follows:

- The expenditure is necessary, reasonable, and directly related to the grant.
- The cost conforms with any limitations or exclusions established in 24 CFR 200 Subpart E (Cost Principles) or the CDBG-DR award.
- The expenditure is consistent with policies and procedures that apply uniformly to both federally funded and other activities of the state or the subrecipient.
- The cost is accorded equal treatment. For example, a direct cost cannot be assigned if in other similar circumstances the cost was allocated as an indirect cost.
- The cost is in accordance with generally accepted accounting principles, except for states, local governments, and tribes only, as otherwise provided for in 2 CFR 200.416 and 2 CFR 200.417 (Cost Allocation Plans and Indirect Cost Proposals), and 2 CFR 200.417 (Interagency Service).
- The cost is not used to meet cost-sharing or matching requirements of any federally funded program. See 2 CFR 200.306(b) regarding cost sharing and matching.
- Costs must be adequately documented. See 2 CFR 200.300 through 2 CFR 200-309 for more information.

For more information about allowable costs, see 24 CFR Part 570 and the HUD's State Community Development Block Grant Program: Guide to National Objectives and Eligible Activities, December 2014.

12.11 Reasonable Costs

Reasonable costs are described in 2 CFR 200.404: "A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost." In determining reasonableness of a given cost, consideration must be given to the following:

- Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-federal entity or the proper and efficient performance of the federal award
- Restraints or requirements imposed by such factors as sound business practices; arm's-length bargaining; federal, state, local, tribal, and other laws and regulations; and terms and conditions of the federal award
- Market prices for comparable goods or services for the geographic area
- Whether individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-federal entity, its employees, its students or membership (where applicable), the public at large, and the federal government
- Whether the non-federal entity significantly deviates from its established practices and policies regarding incurrence of costs, which may unjustifiably increase the federal award's cost.

12.12 Allocable Costs

Allocable costs are described in 2 CFR 200.405: "A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received." This standard is met if the cost:

- Is incurred specifically for the federal award;
- Benefits both the federal award and other work of the non-federal entity and can be distributed in proportions that may be approximated using reasonable methods; and
- Is necessary to the overall operation of the non-federal entity and is assignable in part to the federal award in accordance with the principles in this subpart (2 CFR 200, Subpart E, Cost Principles).

12.12.1 Program Income

Program income means gross income received by a state, a unit of general local government, or a subrecipient of a UGLG that was generated from use of CDBG-DR funds that exceeds \$35,000 received in a single year (24 CFR 570.489(e)2). Examples of program income include the following:

- Proceeds from the sale or long-term lease of real property purchased or improved with CDBG-DR funds
- Proceeds from disposition of equipment purchased with CDBG-DR funds
- Gross income from use or rental of property acquired by the subrecipient or its subrecipient with CDBG-DR funds, less the costs incidental to the generation of such income
- Gross income from use or rental of property owned by the subrecipient or other entity that was constructed or improved with CDBG-DR funds, less any costs incidental to the generation of such income
- Payments of principal and interest on loans made using CDBG-DR funds
- Proceeds from the sale of loans made with CDBG-DR funds
- Proceeds from the sale of obligations secured by loans made with CDBG-DR funds
- Interest earned on program income, pending the disposition of such program income
- Funds collected through special assessments made against nonresidential properties owned and occupied by households not of low and moderate income, where such assessments are used to recover all or part of the CDBG-DR portion of a public improvement

Program income received by a subrecipient must be recorded in the subrecipient's financial records system and must be recorded in the same activity line item as generated the program income. Program income must be spent first on subsequent expenditures; remaining program income after closeout or generated after closeout is returned to FloridaCommerce.

12.13 Common Deficiencies

The most common record-keeping deficiencies that are encountered during program audits are as follows:

- Inadequate financial records
- Inadequate source documentation
- Inadequate procedures for verification of cost allowability
- Inadequate procedures for certifying operating agencies' financial systems
- Delays between drawdown and expenditure of funds
- Inadequate process to prevent overpayment of an activity budget line item
- Inadequate accounting of program income
- Inadequate or untimely financial reports

12.14 Contract Funding Process

Prior to transmission of contract funds, the subrecipient must complete and submit to the CDBG-DR program a SERAAccess Authorization Form. This form is used to inform FloridaCommerce of the names of persons permitted to sign Requests for Funds. Requests for Funds forms must be signed by one or more of the authorized individuals identified on the form. The Signature Authorization must identify the financial institution, its mailing address, telephone number, and the account number to which CDBG-DR funds should be transmitted.

There cannot be any erasures or corrections on the SERA Access Authorization Form. Should it be necessary to change or update information on the Signature Authorization Form, the same instructions apply.

The local government must use a separate non-interest-bearing bank account for CDBG-DR funds. Any interest paid on the account must be remitted to FloridaCommerce by the local government for return to the U.S. Treasury.

A subrecipient cannot expend more than \$5,000 for administration, prior to receiving a Release of Funds from the CDBG-DR program. The release will clearly state that environmental conditions have been removed and funds have been released for expenditure. Furthermore, a subrecipient cannot draw funds for any activity that has been conditioned in the contract agreement until a Removal of Special Conditions is granted by FloridaCommerce. Subrecipients should check their contract award agreement for special conditions prior to obligating or requesting funds.

12.15 Record Keeping

In the simplest terms, CDBG-DR financial transactions involve receiving cash (such as contract funds from FloridaCommerce's CDBG-DR program or program income) and spending cash for eligible activities. Every CDBG-DR financial transaction must be recorded in the accounting records as soon as possible. To do this, there must be appropriate source documents, files, and accounting records. Records must be maintained for 3 years from the date of the receipt of the audit for the year in which the grant was closed out (2 CFR 200.333).

13.0 Civil Rights

Recipients of CDBG-DR funds must comply with federal and state civil rights, fair housing, equal opportunity, and equal employment opportunity regulations and requirements. These laws are designed to ensure that members of protected groups are treated fairly by avoiding discrimination, providing equal opportunity, and taking affirmative action to correct past discrimination based on race, color, religion, gender, national origin, age, disability, and/or family status,

By signing the assurances in the CDBG-DR application and the subrecipient award agreement, the subrecipient agrees to the following:

- Comply with civil rights laws and conduct the CDBG-DR program in a non-discriminatory manner.
- Take affirmative action where discrimination has been found in the past to overcome the effects of discrimination.
- Ensure equal opportunity in employment and contracting opportunities connected with the CDBG-DR program.
- Maximize choice within the community's total housing supply; lessen racial, ethnic, and economic concentrations of housing; and administer the CDBG-DR program in a manner that affirmatively furthers fair housing.
- Develop and maintain records of efforts undertaken to ensure fair housing and conduct four quarterly activities. each year to further fair housing.
- Facilitate desegregation and racially inclusive patterns of occupancy and use of public facilities.

The Civil Rights Checklist is used to monitor subrecipients for compliance with civil rights issues discussed in this section.

13.1 Fair Housing Requirements

The first step in developing a fair housing program is to determine the needs of the community. This can be done by preparing the HUD-required Analysis of Impediments to Fair Housing Choice. The State of Florida prepared an Analysis of Impediments to Fair Housing Choice that is currently in effect. The analysis identified potential impediments to fair housing choice and includes actions to be undertaken to help overcome these impediments. These potential impediments include the following:

- Local planning and zoning and land-use controls
- Lending practices of financial institutions serving the community
- Real estate sales and rental practices within the community
- Areas of minority population concentrations
- Quality of services provided to areas with high concentrations of minority persons

Fair housing activities that can be taken by the subrecipient depend on the type and the fair housing needs in an area, but consideration should be given to the following:

- Adopting a local fair housing ordinance that is equivalent to the federal fair housing law and
- Revising formal and informal policies and practices of the local housing authority
- Modifying local planning, zoning, and land-use laws to permit construction of multi-family housing and less expensive single-family housing
- Revising zoning ordinances and comprehensive plans to insure they promote deconcentration of assisted housing units
- Creating a local housing authority

- Advertise the community as a "fair housing community"
- Developing a public information and education program to promote fair housing and a fair housing assistance program for special needs populations such as minorities, single women, persons with disabilities, and large family households
- Provide information concerning housing services and activities that can be disseminated through agencies and organizations that routinely provide services for protected groups
- Meeting with community financial institutions to encourage broad lending practices
- Working with developers and residents to ensure that new assisted housing is located outside areas of minority or low-income concentrations
- Assisting local housing developers in developing outreach programs to attract minorities and woman-owned businesses
- Working with real estate brokers to promote non-discriminatory practices in real estate transactions
- Include a "fair housing" logo on community stationary
- Sponsoring housing-seminars and campaigns

Recipients of CDBG-DR grants will be required to undertake at least four fair housing activities each year (one activity per quarter) to affirmatively further fair housing within the community during the time the subrecipient agreement is open. The subrecipient will need to carefully document these activities because documentation will be required to demonstrate these activities were undertaken during monitoring visits include enforcement provisions.

13.2 Equal Employment Opportunity Requirements

Local governments should strive to set a high community standard for providing equal employment opportunities. Suggested actions for furthering such opportunities at the local level include the following:

- Preparing accurate job descriptions for basing all employment-selection and testing criteria
- Establishing a network of contacts, including workforce boards, newspapers, and radio and television stations, and notifying them of all CDBG-DR-related position openings and requesting assistance in the recruitment process
- Distributing recruitment literature to women and minority organizations and organizations that assist persons with disabilities and older workers and where appropriate, translating materials into other languages
- Identifying minority, women, and staff persons with disabilities to assist with applicant interviews and providing these staff persons with training in proper interviewing techniques
- Encouraging employees to refer qualified minority and women candidates for job openings, training, promotions, and transfers
- Evaluating local recruitment, hiring, and other personnel policies and materials to ensure that they do not contain or perpetuate discriminatory intent, practices, or procedures
- Reviewing job turnover to determine vacancy patterns and plan appropriate recruiting efforts
- Establishing entry-level professional positions to provide career opportunities for employees, particularly for minorities and women
- Working with the private sector to fill job openings that result from economic development activities and establishing procedures that facilitate nondiscrimination and increased opportunities for women, minorities, persons with disabilities, and lower-income residents
- Taking affirmative action to overcome the effect of past discrimination
- Advertising as an equal opportunity employer in bid solicitations
- Soliciting bids from minority, women, and locally owned businesses

- Maintaining a list of locally owned businesses that were awarded contracts
- Informing contractors of equal opportunity requirements at the pre-construction conference or through other means of notification
- Monitoring contractor compliance at work sites

13.3 Section 3 Requirements

Section 3 of the Housing and Urban Development Act of 1968 requires recipients, to the maximum extent feasible, to ensure that area Section 3 residents and businesses receive priority for employment and contracts generated by CDBG-DR projects. Suggested actions include the following:

- Developing lists of minority-owned, women-owned, and local businesses in construction trades, business services, and professional services
- Contacting minority-owned, women-owned, and contractor associations to obtain information on skill and resource capabilities
- Establishing an action plan and goals for the use of minority-owned, women-owned, and local businesses, including opportunities for subcontracting in procurement and construction contracting-related activities
- Establishing goals and taking steps to provide opportunities for minority equity investments in funded projects
- Notifying minority-owned and women-owned firms of contract opportunities, including the date Request for Proposal or bid packages will be available or when Statements of Interest and Qualifications are due
- Requiring a Section 3 of the HUD Act of 1968 clause in all contracts

13.4 Section 3 Documentation and Record Keeping

Local governments must maintain records documenting compliance with fair housing, equal opportunity, and civil rights requirements. Documentation must be obtained concerning the following:

- Employment in each local government operating unit that performs CDBG-funded projects.
- The local government's affirmative actions to further fair housing
- For direct benefit activities, records relating to persons who have participated in any CDBG-funded program
- For area-wide activities, information on the area and the services provided and the race and ethnic character of the service area
- Race, ethnic character, age, disability status, gender of heads of households, and number of elderly benefiting from the project
- Race and ethnic character of households and disability stats of persons displaced as a result of CDBG-DR activities
- Actions undertaken to meet Section 3 requirements and the written Section 3 Plan
- Information on the racial and/or ethnic character of each business that receives a contract or subcontract of \$10,000 more paid with CDBG-DR funds, including identification of women-owned businesses
- Affirmative actions the local government has taken to overcome the effects of prior discrimination in administering a CDBG-funded program

13.5 Reporting

Following a grant award to a local government, FloridaCommerce is required to review recipient performance relating to civil rights requirements. The areas of the review include the following:

- Current employment and personnel policy
- Civil rights profile
- Job advertisements
- Employment discrimination complaints
- Employment data that indicates that persons are not being denied benefits or treated differently because of their race, color, sex, national origin, or disability status
- Documentation of steps taken to further fair housing during the year and the annual fair housing activity
- Housing discrimination complaints and documentation describing the process used to handle such complaints
- Board minutes indicating when the local fair housing ordinance was adopted
- The title of the civil rights compliance officer

14.0 Anti-Fraud, Waste and Abuse

Rebuild Florida constituents, employees and contractors may report suspected fraud, waste, or abuse by contacting Constituent Management Services staff, submitting information via the Report Fraud, Waste or Abuse online form (<http://floridajobs.org/rebuildflorida/report>); (all contact information fields are optional to allow for anonymity) or by sending an e-mail to cdbg-dr_antifraudwasteabuse@Commerce.fl.gov.

All suspected cases of fraud will be taken seriously, and complaints will be reported to FloridaCommerce's Compliance and Reporting Manager and FloridaCommerce's Office of the Inspector General at OIG@Commerce.fl.gov. If FloridaCommerce's OIG determines that it is appropriate, it will coordinate its investigation with agencies such as the Florida Office of the Inspector General, the Florida Office of the Attorney General, or the Florida Department of Business and Professional Regulation.

All substantiated cases of fraud, waste, or abuse of government funds will be forwarded to the United States Department of Housing and Urban Development (HUD), Office of Inspector General (OIG) Fraud Hotline (phone: 1-800-347-3735 or email: hotline@hudoig.gov) and FloridaCommerce's HUD Community Planning and Development (CPD) Representative. *FloridaCommerce must provide a timely response within 15 working days of the receipt of a complaint, as stated in 84 FR 169.*

Office of Long-Term Resiliency's comprehensive Anti-Fraud Waste and Abuse Policy can be found [here](#).

15.0 Procurement of Professional Services and Contract Requirements

This section establishes standards and guidelines for procurement of supplies, equipment, construction, engineering, architectural, consulting, and other professional services. These standards are provided to ensure that such goods and services are obtained efficiently and economically and in compliance with the provisions of applicable federal and state laws and executive orders.

This section provides an overview of the following federal and state requirements. These regulations should be reviewed for more detailed information:

- 2 CFR 200, Subpart D (federal procurement-regulations)
- 24 CFR 135 (Section 3 of the Housing and Urban Development Act to guide economic development to low- and very-low income local residents and the businesses that hire them)
- Minority and Woman-Owned Business Enterprises reporting requirements
- Section 255.0525, Florida Statutes (advertising for competitive bids or proposals)
- Section 287.055, Florida Statutes (Consultants Competitive Negotiations Act)
- Section 287.133, Florida Statutes (public entity crimes)

These standards do not relieve the subrecipient of any contractual responsibilities under its contracts. The subrecipient is responsible, in accordance with good administrative practice and sound business judgment, for settlement of all contractual and administrative issues arising out of procurement for goods and services entered into in support of the subrecipient. These include, but are not limited to, sole source evaluations, protests, disputes, and claims.

FloridaCommerce will ensure compliance with federal requirements of Section 3 and minority- and woman- owned businesses.

15.1 Procurement

Disaster recovery grant managers are responsible for monitoring of subrecipients to ensure procurement methods and contractual requirements and other reporting requirements are met. Plans and specifications, procurement for professional services, and construction procurement will be monitored by the disaster recovery grant manager.

Subrecipients are required to adopt local procurement procedures that meet local, state, and tribal laws (as applicable) and conform to the minimum federal requirements outlined in 2 CFR 200.318 if CDBG-DR funds will be used to procure for goods or services. These procurement procedures must be submitted by FloridaCommerce program staff. The requirements in 2 CFR 200.318 that must be addressed in subrecipient procurement procedures are as follows:

- Written standards of conduct must be in place covering conflicts of interest that prohibit employees, officers, or agents from participating in selection, award, or administration of a contract if the individual has a real or apparent conflict of interest due to the individual or the individual's immediate family, partner, or an organization that employs or is about to employ any of the individuals has a financial or other interest in or a tangible benefit from a firm considered for a contract. The policy should prohibit solicitation or acceptance of gratuities, favors, or anything of monetary value from contractors or parties to subcontractors. Disciplinary actions must be included for violations of these standards of conduct.
- In situations where a non-federal entity has a parent, affiliate, or subsidiary organization that is not a state or local government or tribe, procurement procedures must include written standards of conduct covering organizational conflicts of interest.

- Procedures must be in place to avoid acquisition of unnecessary duplicative items. Consideration should be given to requiring consolidation or division of procurements for more economical purchases, lease-versus-purchase alternatives, and value-engineering clauses.
- Contracts should be awarded only to responsible contractors able to successfully meet the terms and conditions in the contract. Consideration will be given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Also applicable is 24 CFR 200.213, which restricts awards, subawards, and contracts with parties that are disbarred, suspended, or otherwise prohibited from participation in federal assistance programs or activities.
- Records should be maintained to detail the history of the procurement, including the rationale for the procurement method, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- Procedures should be developed to handle and resolve disputes relating to the subrecipient's procurement actions.

See 2 CFR 200.318.

15.2 Competition

All procurement transactions must ensure fair and open competition. Examples of practices that limit competition that are to be avoided include the following:

- Establishing unreasonable requirements that would favor one firm over others
- Requiring unnecessary experience and excessive bonding
- Noncompetitive pricing practices between firms or between affiliated companies
- Noncompetitive contracts to consultants on retainer contracts
- Organizational conflicts of interest
- Requiring use of "brand name" products instead of allowing products that are as good and more economical
- Any arbitrary action in the procurement process

Geographical preference requirements are not allowed unless federal statutes mandate or encourage geographic preference. In contracting for architectural and engineering services, geographical location may be used as a selection criterion provided there are a sufficient number of qualified firms to compete for the contract.

Written procedures for procurement must ensure that solicitations include clear and accurate descriptions for the goods and services to be procured and ensure that all requirements that must be fulfilled and factors to be used in the evaluation process are identified.

Prequalified lists of persons, firms, or products must be current and include a sufficient number of sources to ensure open and free competition.

See 2 CFR 200.319.

15.3 Methods of Procurement

- **Micro-purchases:** This method encompasses procurement of supplies or services where the aggregate dollar amount does not exceed the micro-purchase threshold established in 2 CFR 200.67, which at the date of this manual is \$10,000:
- **Small purchases:** This method refers to procurement of services, supplies, or other property that does not exceed the Simplified Acquisition Threshold, currently set at \$250,000.

- **Sealed bid:** Bids are solicited through formal advertising, and the fixed price contract is awarded to the lowest, responsive, responsible- bidder. This procurement method is the method of choice for construction contracts. Any and all bids can be rejected based on justified documentation.
- **Competitive proposals:** This method is used if the sealed bid process cannot be used. The fixed price or reimbursement contract is awarded to the firm whose proposal is the most advantageous to the program and includes consideration of price and other factors.
- **Noncompetitive proposals:** This method can be used when there is no other feasible procurement method available to select a vendor. This "single-source" or "sole-source" contract is permitted when the item is only available from a single vendor; public exigency or emergency will not allow a delay resulting from a competitive solicitation; or after solicitation from a number of sources, competition is determined inadequate. Note: Any sole-source, single-source, or noncompetitive contract exceeding \$25,000 must be approved by FloridaCommerce staff. For contracts below \$25,000, the subrecipient must document the justification for the award and maintain it in the grant file for review during the next FloridaCommerce onsite monitoring visit.

Advertisement requirements for construction procurements are found in Section 255.0525, Florida Statutes, Florida Administrative Code.

See 2 CFR 200.320.

15.4 Methods of Procurement for Professional Services

Required procurement of professional services must comply with Rule 73C-23.0051(3) of the Florida Administrative Code and federal procurement regulations (2 CFR 200.320(d)(5)). This federal statute allows use of competitive proposal procedures for selection of architectural or engineering professional services based on qualifications, subject to negotiation of fair and reasonable compensation.

Procurement of professional services must also comply with Florida Statutes Chapter 287.055, also known as the "Consultant's Competitive Negotiation Act." Procurement of grant administration services must be a separate process from any other procurement process for services and must comply with all program requirements if CDBG-DR reimbursement for these services will be requested.

15.5 Contracting with Small and Minority Businesses, Women Business Enterprises and Labor Surplus Area Firms

Subrecipients must take affirmative actions to assure the use of minority businesses, women business enterprises, and labor surplus area firms when possible. Affirmative actions include the following:

- Placing small and minority businesses and women-business enterprises on solicitation lists
- Solicit small and minority businesses and women-business enterprises when they are potential sources
- When economically feasible, divide requirements into smaller tasks or quantities to encourage participation
- When possible, establish delivery schedules that encourage participation
- Use services and assistance of organizations such as the SBA and the Minority Business Development Agency of the U.S. Department of Commerce
- Require prime contractors to take affirmative steps, such as those described above, when subcontractors will be used

See 2 CFR 200.321.

15.6 Debarment and Public Entity Crimes

Florida Statutes Section 287.133 defines "Public Entity" as the State of Florida, any of its departments or agencies, or any political subdivision. It defines "Public Entity Crime" as a violation of any state or federal law by a person with respect to and directly related to transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States-including to any bid, proposal, reply, or contract for goods or services; any lease for real property; or any contract for the construction or repair of a public building or public work-involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

The System for Award Management (SAM) is a federal search tool located at www.sam.gov/portal/SAM/##11. A Convicted Vendor List, maintained by the Florida Department of Management Services, includes names of persons or affiliates (including firms) convicted of a public entity crime. The Florida Department of Management Services also publishes a quarterly of convicted vendors in the Florida Administrative Register.

All invitations to bid, requests for proposals, and contract documents for procurements exceeding the threshold for Category Two (presently \$35,000) (Section 287.017, Florida Statutes) must contain a statement that no person or affiliate on the Convicted Vendors List, for a period of up to 36 months after being placed on the list, may submit a bid on a contract or request for proposals or be awarded or perform work as a contractor, supplier, subcontractor, or consultant.

16.0 Lead-based Paint, Asbestos, and Mold

Lead-based paint, asbestos, and mold are factors that affect the environmental review and contracting process. Lead-based paint has clear rules and regulations, whereas asbestos and mold are less codified. Nonetheless, these are requirements pertaining to the health and well-being of families and children that must be evaluated in conjunction with building rehabilitation or repair and demolition projects. Key among them is the evaluation for the presence of lead-based paint, which is discussed in this section.

Also, of importance is determining the presence of asbestos and mold and effectively removing these environmental and health issues.

16.1 Lead-Based Paint

The presence of lead-based paint in housing units constructed prior to January 1, 1978, is a concern in any housing rehabilitation or demolition project and must be addressed in any activity receiving CDBG-DR funds. Housing units assisted with disaster recovery funding must comply with the federal regulations in 24 CFR Part 35 and be addressed as part of the environmental review of the project. Subrecipients are required to include an assessment of the presence of lead-based paint in their environmental documentation submitted to FloridaCommerce. If lead-based paint is present, its safe removal and disposal must be addressed.

The subparts of 24 CFR 35 that apply to the disaster recovery program are as follows:

- Subpart A-Disclosure of Known Lead-based Paint and/or Lead-based Paint Hazards Upon Sale or Lease of Residential Property
- Subpart B-General Requirements and Definitions
- Subpart J-Rehabilitation
- Subpart K-Acquisition, Leasing, Support Services, or Operation
- Subpart R-Methods and Standards for Lead-based Paint Hazard Evaluation and Reduction Activities

Exemptions to 24 CFR 35 Subparts B, L, K, and R are described in 24 CFR 35.115 and include the following:

- Residential construction completed on or after January 1, 1978
- Zero-bedroom dwelling units, including single-room-occupancy dwelling units
- Housing exclusively for elderly or persons with disabilities, unless a child under the age of six resides or is expected to reside in the dwelling unit
- Residential property in which all lead-based paint has been identified, removed, and clearance has been achieved in accordance with requirements outlined in 24 CFR 115(5)
- Unoccupied dwelling units or residential properties pending demolition that will remain unoccupied until demolition
- Property or a part of a property that will not be used for human residential habitation
- Entryways, hallways, corridors, passageways, or stairwells serving both residential and nonresidential uses in a mixed-use property shall not be exempt.
- Any rehabilitation that does not disturb painted surfaces
- Emergency actions immediately necessary to safeguard against imminent danger to human life, health, or safety, or to protect property from further damage
- Occupants must be protected from exposure to lead in dust and debris generated from the emergency actions to the extent practical.
- Property seized by a federal law enforcement agency that the agency has owned for fewer than

- 270 days
- Required evaluation or lead-based paint hazard reduction or lead-based paint abatement on an exterior painted surface is delayed due to weather conditions or unsuitable conventional construction activities.
- If requested by the State Historic Preservation Office, property is listed or has been determined to be eligible for listing on the National Register of Historic Places or contributing to a National Register Historic District
- Interim controls and maintenance and reevaluation must be conducted as required in 24
- CFR 35.115(13).

In addition, Subpart K does not apply if assistance being provided is for emergency rental assistance or foreclosure prevention assistance. This exemption expires no later than 100 days after initial payment or assistance.

For more information, see 24 CFR 35.115.

Subparts B, J, K, and R is referred to as the Lead Safe Housing Rule and require different approaches to addressing lead-based paint hazards in different housing rehabilitation projects based on the amount of funding assistance. The funding levels are up to and including \$5,000 per unit; more than \$5,000 up to and including \$25,000 per unit; and more than \$25,000 per unit. The method for calculating these threshold amounts can be found in 24 CFR 35.915, and applicable evaluation and hazard reduction requirements are located in 24 CFR 35.930.

Monitoring for lead-based paint is included in the Housing Rehabilitation Monitoring Checklist.

16.2 Asbestos

The subrecipient is required to address asbestos in its environmental evaluation of a housing rehabilitation or demolition project in the environmental documentation submitted to FloridaCommerce.

HUD does not have a specific regulation related to asbestos as it does for lead-based paint. Nonetheless, to ensure housing units are decent, safe, and sanitary, which is a HUD requirement, housing rehabilitation and demolition projects need to determine if asbestos is present, especially in structures built before 1978. Federal requirements that apply to asbestos removal and safe disposal of asbestos containing materials can be found in the U.S. Environmental Protection Agency's air pollution standards, particularly the Clean Air Act and Occupational Safety and Health Act requirements.

In addition to federal regulations discussed above, asbestos-abatement requirements are located in Florida Statutes Chapter 469. A qualified asbestos inspector must be used to undertake a comprehensive evaluation of the housing unit for the presence of asbestos.

16.3 Mold

HUD does not have a specific regulation related to mold. Nonetheless, to ensure housing units are decent, safe, and sanitary, which is a HUD requirement, housing rehabilitation projects need to determine if mold is present. Mold can be a significant problem in homes that receive water damage due to a qualifying storm event. The U.S. Environmental Protection Agency has published two useful guides on mold and cleanup: "A Brief Guide to Mold, Moisture and Your Home" and "Mold Remediation in Schools and Commercial Buildings."

Additional information can be found at: <http://archives.hud.gov/news/2004/pr04-087.cfm>

Florida Statutes Chapter 468 addresses licensing and qualifications for individuals conducting mold assessments.

17.0 Environmental Review

The purpose of the environmental review is to analyze the effect the proposed project will have on the people and the natural environment within the project area. This process examines a project relative to the National Environmental Policy Act of 1969 (NEPA), which was established to ensure environmental protection for federally funded projects. All CDBG-DR funds are subject to provisions of HUD regulations implementing NEPA.

This section covers environmental regulations that must be followed on all CDBG-DR-funded projects. The environmental review must be completed prior to submission of the Environmental Review Record to FloridaCommerce. The type of project a Responsible Entity is completing will determine the level of review and the necessary documentation that will be required.

Three basic steps environmental reviews must follow to correctly complete the review process are as follows:

- **Project Aggregation:** The Responsible Entity should evaluate the entire scope of the project and include all funding sources that may be used in conjunction with the project. The project scope should include any related activities necessary to accomplish the project.
- **Determine the Level of Review:** The Responsible Entity must determine which level of environmental review is appropriate for each identified activity within the project scope.
- **Documentation:** The Responsible Entity must complete all documents necessary for the appropriate level of environmental review as the process is comprehensive and detailed. The amount of information needed to complete the review depends on the type of project the Responsible Entity is proposing.

17.1 Project Aggregation

The Responsible Entity is responsible for the environmental review. Typically, the Responsible Entity designates a Grant Administrator to complete the environmental review process.

The Grant Administrator should evaluate the entire scope of the project and include all funding sources that may be used in conjunction with the project. Defining the project should include determining all integrally related activities designed to accomplish a specific objective. The project should be described fully and include all details, including all infrastructure being developed in conjunction with the project, regardless of whether additional portions of the project are funded with CDBG-DR funds.

Most projects funded under the CDBG-DR program entail more than one activity. For example, updates to a wastewater treatment plant would have both administration and construction-related activities. The administrative activities are considered exempt from funding, whereas the construction-related activities require an environmental review.

17.2 Determine the Level of Review

The Responsible Entity must ensure the level of environmental review is appropriate for the project in order to correctly complete the necessary documentation. Determining the activity classification is the responsibility of the Responsible Entity. To do this, the Grant Administrator must list all activities associated with the project and match the activities to the appropriate classification.

Each level of environmental review is defined by HUD. The five environmental classifications are:

- Exempt;
- Categorically Excluded Not Subject to 24 CFR §58.5 (CENST);

- Categorically Excluded Subject to 24 CFR § 58.5 (CEST);
- Environmental Assessment (EA); and
- Environmental Impact Statement (EIS).

The EIS is a comprehensive review for those projects that are larger in scope and will have a significant environmental impact.

Regardless of the number of activities associated with the project, it is only necessary to complete one environmental review due to project tiering. However, if activities have separate classifications, the Responsible Entity must follow the review steps listed under the most stringent classification.

17.3 Exempt Activities

An activity is exempt and will not require an environmental review when there are no effects on the physical environment. Project activities that fall under this classification include the following:

- Environmental and other studies, resource identification, and development of plans and strategies
- Information and financial services
- Administrative and management activities
- Public services that will not have a physical impact or result in any physical changes, including services concerned with employment, crime prevention, childcare, health, drug abuse, education, counseling, energy conservation, and welfare or recreational needs
- Inspections and testing properties for hazards or defects
- Purchase of insurance
- Purchase of tools
- Engineering or design costs
- Technical assistance and training
- Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deteriorations
- Payment of principal and interest on loans made or obligations guaranteed by HUD
- Any of the categorical exclusions listed in § 58.35(a) provided that there are no circumstances which require compliance with any other federal laws and authorities cited in § 58.5

If the proposed project only entails exempt activities, the Responsible Entity will not have to publish a Notice of Intent/Request for Release of Funds (NOI/RROF).

For exempt activities, the Responsible Entity is required to submit the following:

- Certificate of Exemption for HUD-funded projects
- Documentation of compliance with 24 CFR Part 58.6 (a-d) Form
- Request for Release of Funds and Certification (7015.15) form (a state requirement to track funding)

17.4 Categorically Excluded Activities Not Subject to § 58.5

A project classified as CENST requires a limited environmental review. Activities that qualify under this classification include the following:

- (1) Tenant-based rental assistance

- (2) Supportive services, including healthcare and housing services; permanent housing placement; daycare; nutritional services; short-term payments for rent, mortgage, and utility costs; and assistance in gaining access to local, state, and federal government benefits and services
- (3) Operating costs, including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs
- (4) Economic development activities, including equipment purchase, inventory financing, interest subsidy, operating expenses, and similar costs not associated with construction or expansion of existing operations.
- (5) Activities to assist homebuyers to purchase existing dwelling units or dwelling -unit construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in transfer of title
- (6) Affordable housing pre-development costs, including legal, consulting, developer, and other cost related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities that do not have a physical impact
- (7) Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under § 58.47.

If the proposed project is determined to be CENST, the Responsible Entity will not have to publish a NOI/RROF.

For CENST activities, the Responsible Entity is required to submit the following:

- Certificate of Categorically Excluded and Not Subject to 24 CFR Part 58.5
- Documentation of Compliance with 24 CFR Part 58.6 (a-d) form
- Request for Release of Funds and Certification (RROF) Form (this is a state requirement to track funding)

17.5 Categorically Excluded Activities Subject to 24 CFR §58.5

A project that is considered CEST requires a limited environmental review. Activities that qualify under this classification include the following:

Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when facilities and improvements are in place and will be retained in the same use without change in size and capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and side-walks, repaving of streets)

- (1) Special projects directed to removal of material and architectural barriers that restrict mobility of and accessibility to elderly and handicapped persons
- (2) Rehabilitation of buildings and improvements when the following conditions are met:
 - (i) In the case of a building for residential use (with one to four units):
 - (A) Density is not increased beyond four units and land use is not changed.
 - (ii) In the case of multifamily residential buildings:

- (A) Unity density is not changed more than 20 percent;
 - (B) The project does not involve changes in land use from residential to non-residential; and
 - (C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
- (iii) In the case of non-residential structures, including commercial, industrial, and public buildings:
- (A) Facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - (B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- (3) The following:
- (i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
 - (ii) An individual action on a project for five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
 - (iii) Paragraphs (4)(i) and (ii) immediately above do not apply to rehabilitation of a building for residential use (with one to four units) see paragraph (3)(i) above
- (4) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use
- (5) Combinations of the above activities

17.6 Environmental Assessment Activities

A project that cannot be classified as exempt or categorically excluded (either CENST or CEST) will require completion of an EA under 24 CFR 58.36. These activities are usually those that have a greater potential for a direct impact on the physical environment. Activities that require an EA include the following:

- Change in use
- Any new construction
- Major rehabilitation
- A change in size or capacity by more than 20 percent
- New single-family housing in which 5 or more homes are located within 2,000 feet of one another

If the proposed project entails an EA activity, the Responsible Entity must prepare and maintain a written record of the environmental review undertaken for the project. This written record is called the Environmental Review Record (ERR).

17.7 Environment Review Process

For CEST and EA activities, the Responsible Entity is required to accomplish the following:

- Determine the appropriate level of review based on effects or activities of the project.
- Contact appropriate federal, state, and local agencies.
 - Provide a minimum 30 days from the date of receipt for agency comments or concerns. Some agencies may require 45--60 days.
 - It is suggested letters mailed are sent by "certified mail, return receipt;"
 - Letters included in an email should request a delivery and read receipt.
 - Only the Responsible Entity may formally contact and consult with the State Historic Preservation Office (SHPO) and Native American Indian Tribes. Letters sent to these agencies must be on the Responsible Entity's official letterhead and signed by the Responsible Entity (e.g., by the mayor).
 - If a response regarding a project raises concerns or requires further documentation and/or study, it is the Responsible Entity's responsibility to address the issue and to obtain necessary documentation, clearances, and/or permits prior to submitting the ERR to FloridaCommerce.
 - Example: SHPO may require a Cultural Resource Survey to be performed in an undisturbed area where construction is proposed. In this event, the Responsible Entity must complete the survey and receive clearance from SHPO.
- Complete all requirements of Part 58 associated with the project or activity; (e.g., conduct the 8-Step Decision Making Process under 24 CFR Part 55 for projects located in a floodplain and/or wetland}.
- Include color maps of the project location; (e.g., FIRM or floodplain map).
- Provide a detailed scope of work. This should include all HUD- and non-HUD-funded portions of a project or activity.
- At the conclusion of the environmental review, the Responsible Entity will certify the project meets the appropriate level of review (e.g., CEST or EA). The signature of the Responsible Entity must occur prior to publication or posting of the NOI/RROF or concurrent public notice.
- Provide the appropriate public notice based on the review conducted.
- The RROF (7015.15) form is signed by the Responsible Entity
- Submit the ERR.

17.8 Public Notices

The required public notice affords the public the opportunity to be informed of the upcoming project or activity. Notices that are published must be in a news medium that reaches the local community in which the project will be located. The publication of notices shall be followed by a comment period counted in calendar days. A comment period may not end on a weekend or holiday. If this occurs, the official last day to comment is moved to the next weekday. The following public notices are required:

- Early Notice and Public; Review of a Proposed Activity in a 100-year Floodplain or Wetland
 - Public comment period: 15 days (publication required)
- Final Notice and Public Review Explanation of a Proposed Activity in a 100-year Floodplain or Wetland
 - Public comment period: 7 days (publication required)
- Notice of Intent to Request Release of Funds (NOI/RROF)
 - Public comment period: 7 days (published); 10 days (posted)
- Concurrent Notice-Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds

- Public comment period: 15 days (published); 18 days (posted)

The ERR is to include a copy of the public notice and a notarized statement from the news medium verifying date of publication. Notices that are posted must be located in multiple locations (e.g., post office, community center, government offices) and include a notarized statement verifying posting locations.

17.9 Environmental Impact Statement

If the proposed project is determined to have a potentially significant impact on the physical and/or human environment, an Environmental Impact Statement (EIS) is required. This determination is based upon environmental responses collected from applicable agencies.

In the event this situation does occur, the Responsible Entity must use recommended format of Council on Environmental Quality regulations (40 CFR 1502.10).

17.10 Procedures for Making Determinations on Floodplain and Wetland Management

Projects located within a floodplain or within a designated wetland are. subject to Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands) respectively. HUD regulations describe measures for protecting floodplains and wetlands. The required eight-step process is explained below:

- Determine whether the proposed action is located in a 100-year floodplain and/or wetland. This is determined by looking at wetland maps and FEMA floodplain maps. If no maps are available, use the best available information. If the proposed action would not be conducted in one of those locations, then no further compliance with this part is required. Categorically excluded (CENST and CEST) projects are not excluded from this process.
- Notify the public at the earliest possible time of a proposal to consider an action in a floodplain and/or wetland and involve the affected and interested public in the decision-making process. This is accomplished by publishing the Early Public Review Notice.
- Public notices required in this section may be combined with other project notices wherever appropriate. All notices must be published in an appropriate local printed news medium.
- A minimum of 15 calendar days shall be allowed for comment on the public notice.
- A notice under this paragraph shall state the name, proposed location, and description of the activity; the total number of acres of floodplain and/or wetlands involved; and the name of the chief elected official and phone number to contact for information. The notice shall indicate hours and address of the UGLG's main office at which a full description of the proposed action may be reviewed.
- Identify and evaluate practical alternatives to locating the proposed action within the floodplain and/or wetland.
- Consideration of practical alternatives to the proposed site or method may include:
 - Locations outside the floodplain and/or wetlands;
 - Alternative methods to serve the identical project objective; and
 - A determination not to approve any action.
- In reviewing practical alternatives, the Responsible Entity shall consider feasible technological alternatives, hazard-reduction methods and related mitigation costs, and environmental impacts.

- Identify the potential direct and indirect impacts associated with the occupancy or modification of the floodplain and/or wetland.
- Where practical, design or modify the proposed action to minimize potential adverse impacts within the floodplain and/or wetland and to restore and preserve its natural and beneficial values.
- Re-evaluate the proposed action to determine:
 - Whether it is still practical in light of its exposure to flood hazards in the floodplain, the extent to which it will aggravate the current hazards to other floodplains and/or wetlands, and its potential to disrupt floodplain and/or wetland values; and
 - Whether alternatives preliminarily rejected at Step 3 of this section are practical in light of the information gathered in Steps 4 and 5 of this section.
- Publish the Final Notice of Explanation.
- If the re-evaluation results in a determination that there is no practical alternative to locating the proposed project in the floodplain and/or wetland, the Responsible Entity shall publish the Final Notice of Explanation that includes"
 - The reasons why the project must be located in the floodplain and/or wetland;
 - A list of the alternatives considered; and
 - All mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values.
- In addition, a minimum of 7 calendar days shall be provided for public comment before the approval of the proposed action. This notice may be run concurrent with either the Finding of No Significant Impact (FONSI)/RROF or the NOI/RROF.
- Upon completion of the decision-making process in Steps 1 through 7, implementation of the proposed action may proceed. There is a continuing responsibility to ensure that mitigating measures identified in Step 7 are implemented.

See 24 CFR 55.20.

17.11 Re-evaluation of Previously Cleared Projects

Sometimes projects are revised, delayed, or otherwise changed such that a re-evaluation of the environmental review is necessary. The purpose of the re-evaluation is to determine if the original findings are still valid. If the original findings are still valid but the data and conditions upon which they were based have changed, the Responsible Entity must update its ERR by including this re-evaluation and its determination based on the changed circumstances. The re-evaluation is to be submitted to the state for clearance and should include the following:

- A written statement on the Responsible Entity's letterhead explaining why the re-evaluation must occur and how it was conducted
- Reference to the original ERR and the issuance of funds (7015.16)
- Description of both old and new project activities
- Maps delineating both old and new project areas
- All correspondence when agencies are contacted
- Cost of the project and funding source(s)
- Determination if the original FONSI is still valid
- Indications whether comments or concerns were received during the initial environmental review

The written statement is signed and dated by the Responsible Entity.

If it is determined that the original findings are no longer valid and the re-evaluation indicates potentially significant impacts, the Responsible Entity must prepare an EA or EIS.

18.0 Construction Bids and Contract- Administration Requirements

A critical responsibility of subrecipients is the bid and contracting process for construction. FloridaCommerce will assist subrecipients with these requirements. The primary responsibility for compliance with federal and state requirements is, however, the subrecipient's.

- **Advertisements:** Bids should be advertised to garner interest from a pool of qualified contractors, and the process must be fair and open. To that end, the subrecipient may advertise via the means that best suits its needs, generates an adequate pool of contractors, and is in accordance with local policy and federal and state procurement guidelines.
- **Required Bid Documents:** Bid document must include the scope of work, a bid form, required federal conditions (standard language and wage decisions, if applicable), bidding instructions, basic bid information (time, place, due date, etc.).
- **Scope and Cost Estimates:** The subrecipient will prepare scope and cost estimates prior to issuance of the bid. The scope is necessary to develop the bid documents, and cost estimates are a guide for evaluation of bids received. Cost estimates are the basis for the rejection of bids that are deemed to be non-responsive (i.e., too low).
- **Pre-construction Conference:** A preconstruction conference may be held to discuss the project and field questions. All questions will be answered and everyone in attendance at the pre- construction conference will be provided with the answers.
- **Bid Bond:** Bid bonds are required for bids in excess of \$150,000 or according to local policy.
- **Bid Submission and Bid Opening:** Sealed bids are submitted by a certain time and to a certain place and are opened in public: Vendors and the public may be present at bid openings.
- **Bid Tabulation and Award:** Bids are tabulated and awarded according to the procurement policy of the subrecipient and in accordance with federal and state guidelines. Awards are to the lowest bidder unless a valid reason is provided.
- **Payment and Performance Bond:** Payment and performance bonds are required for contracts in excess of the simplified purchase threshold of \$150,000, or local policy, whichever limit is lowest. In some cases, FloridaCommerce may approve alternative bonding, but this requires advance notification and planning. Not all vendors or subrecipients may be approved for alternative bonding.

18.1 Required Contract Clauses

The following contract language must be included on all construction contracts by reference. Please note that the wage decision, if applicable, must be included into the contract document.

18.1.1 Laws and Regulations

The CDBG-DR allocation to the State of Florida is governed by the following laws and regulations:

- The Housing and Community Development Act of 1974
- Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C.5155), as amended
- Section 18 of the Small Business Act, as amended (14A U.S.C. 647) 44 CFR 206.191 Duplication of Benefit
- Duplication of Benefits Federal Register, Vol. 76, No.221, November 16, 2011 (76 FR 71060) Public Law 113-2
- Disaster Relief Appropriations Act, 2013 (at HR 152-34)

- The HUD Federal Register Notice at 78 FR 14329 published March 5, 2013
- HUD Federal Register Notice at 78 FR 23578 published April 19, 2013
- HUD Federal Register Notice at 78 FR 76154 published December 16, 2013
- The applicable laws of the State of Florida
- By laws and regulations promulgated by the State of Florida for the CDBG-DR program

In addition to the citations noted, the CDBG-DR allocation is also subject to "cross-cutting" federal requirements referenced herein and contained in 2 CFR 200 Sub-part F.

18.1.2 Federal Changes

The subrecipient shall at all times comply with all applicable federal regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in this contract between the State of Florida FloridaCommerce and the subrecipient, as such federal regulations, policies, procedures, and directives may be amended or promulgated from time to time during the term of this contract. The subrecipient's failure to so comply shall constitute a material breach of this contract.

Reference: 49 CFR Part 18

18.1.3 Assignability

The subrecipient will not assign or transfer any interest in this agreement without prior written consent of the FloridaCommerce, provided, however, that claims for money due or to become due to the subrecipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

18.1.4 Access to Records

The subrecipient agrees that the federal awarding agency, Inspectors General, the Comptroller General of the United States, the State of Florida, or any of their authorized representatives have the right of access to any documents, papers, or other records of the subrecipient that are pertinent to the federal award in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the subrecipient's personnel for the purpose of interview and discussion related to such documents.

Reference 2 CFR 200.336

18.1.5 Record-retention Requirements

The subrecipient agrees that financial records, supporting documents, statistical records, and all other subrecipient records pertinent to a Federal award shall be retained for a period of 6 years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or the State of Florida in the case of a subrecipient. Federal awarding agencies and the State of Florida may not impose any other record retention requirements upon the subrecipient. The only exceptions are the following:

- If any litigation, claim, or audit is started before the expiration of the 6-year period, records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken
- When the subrecipient is notified in writing by the federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or the State of Florida to extend the retention period

- Records for real property and equipment acquired with federal funds must be retained for 3 years after final disposition.
- When records are transferred to or maintained by the federal awarding agency or the State of Florida, the 3-year retention requirement is not applicable to the subrecipient.

Reference: 2 CFR 200.333

18.1.6 Remedies for Noncompliance

If a subrecipient fails to comply with federal statutes, regulations, or terms and conditions of a federal award, the federal awarding agency or the State of Florida may impose additional conditions, as described in 2 CFR 200.207 Specific Conditions. If the federal awarding agency or the State of Florida determines that noncompliance cannot be remedied by imposing additional conditions, the federal awarding agency or the State of Florida may take one or more of the following actions, as appropriate in the circumstances:

- Temporarily withhold cash payments pending correction of the deficiency by the subrecipient or more severe enforcement action by the federal awarding agency or State of Florida.
- Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- Wholly or partly suspend or terminate the Federal award.
- Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and federal awarding agency regulations (or, in the case of the State of Florida, recommend such a proceeding be initiated by a federal awarding agency).
- Withhold further federal awards for the project or program.
- Take other remedies that may be legally available.

Reference: 2 CFR 200.338

18.1.7 Breaches and Dispute Resolution

- **Disputes:** Disputes arising in the performance of the contract that are not resolved by agreement of the parties will be decided in writing by the FloridaCommerce Administrator's authorized representative or designee. This decision is final and conclusive unless, within 10 calendar days from the date of receipt of its copy, the subrecipient mails or otherwise furnishes a written appeal to the Administrator or designee. In connection with any such appeal, the subrecipient shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Administrator or designee will be binding upon the subrecipient, and the subrecipient will abide by the decision.
- **Performance During Dispute:** Unless otherwise directed by the State of Florida Department of Capital Planning and Resiliency, the subrecipient shall continue performance under the contract while matters in dispute are being resolved.
- **Claims for Damages:** Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents, or others for whose acts he is legally liable, a claim for such damages will be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
- **Remedies:** Unless the contract provides otherwise, all claims, counterclaims, disputes, and other matters in question between FloridaCommerce and the subrecipient arising out of or relating to this agreement or its breach will be decided by arbitration in the State of Florida FloridaCommerce, if the parties mutually agree, or in a court of competent jurisdiction within the state in which the FloridaCommerce is located.
- **Rights and Remedies:** Duties and obligations imposed by contract documents and rights and remedies available under the contracts shall be in addition to and not a limitation of any duties,

obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by the State of Florida Department of Capital Planning and Resiliency, the subrecipient shall constitute a waiver of any right or duty afforded any of them under the contract, nor will any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

References: 49 CFR Part 18

18.1.8 Termination

The federal award may be terminated in whole or in part as follows:

- By the federal awarding agency or the State of Florida, if a subrecipient fails to comply with the terms and conditions of a Federal award
- By the federal awarding agency or the State of Florida for cause
- By the federal awarding agency or the State of Florida with the consent of the subrecipient, in which case the two parties must agree upon termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated
- By the subrecipient upon sending to the federal awarding agency or the State of Florida written notification detailing the reasons for such termination, the effective date and in the case of partial termination, the portion to be terminated. However, if the federal awarding agency or the State of Florida determines in the case of partial termination that the reduced or modified portion of the federal award or sub-award will not accomplish the purposes for which the federal award was made, the federal awarding agency or the State of Florida may terminate the federal award in its entirety.

When a federal awarding agency terminates a federal award prior to the end of the period of performance due to the subrecipient's material failure to comply with the federal award terms and conditions, the federal awarding agency must report the termination to the integrity and performance system designated by the Office of Management and Budget accessible through SAM.

- The information required under the immediately preceding paragraph is not to be reported to designated integrity and performance system until the subrecipient either:
 - Has exhausted its opportunities to object or challenge the decision (see §200.341 Opportunities to object, hearings and appeal's); or
 - Has not, within 30 calendar days after being notified of the termination, informed the federal awarding agency that it intends to appeal the Federal awarding agency's decision to terminate.
- If a federal awarding agency, after entering information into the designated integrity and performance system about a termination, subsequently learns that any of that information is erroneous, the federal awarding agency must correct the information in the system within 3 business days.
- If a federal awarding agency, after entering information into the designated integrity and performance system about a termination, subsequently obtains an update to that information that could be helpful to other federal awarding agencies, the federal awarding agency is strongly encouraged to amend the information in the system to incorporate the update in a timely way.
- Federal awarding agencies shall not post any information that will be made publicly available in the non-public segment of designated integrity and performance system that is covered by a disclosure exemption under the Freedom of Information Act. If the subrecipient asserts within 7 calendar days to the federal awarding agency who posted the information that some of the information made publicly available is covered by a disclosure exemption under the Freedom of Information Act, the federal awarding agency who posted the information must remove the posting within 7 calendar days of receiving the assertion. Prior to reposting the releasable

information, the federal agency must resolve the issue in accordance with the agency's Freedom of Information Act procedures.

When a federal award is terminated or partially terminated, both the federal awarding agency or the State of Florida and the subrecipient remain responsible for compliance with requirements in 2 CFR

200.343 Closeout and 2 CFR 200.344 Post-closeout Adjustments and Continuing Responsibilities. References: 2 CFR 200.339; 78 FR 78608, Dec. 26, 2013, as amended at 80 FR 43309, July 22, 2015)

18.1.9 Insurance Requirements

The subrecipient assumes all risks incident to or in connection with its purpose to be conducted herein under and shall indemnify, defend, and save the State of Florida harmless from damage or injuries of whatever nature or kind to persons or property arising directly or indirectly out of the subrecipient's operations and arising from acts or omissions of its employee and shall indemnify, defend, and save harmless the State of Florida from any penalties for violation of any law ordinance, or regulation affecting or having application to said operation or resulting from the carelessness, negligence, or improper conduct of Contractor or any of its agents or employees.

In this connection, the subrecipient shall carry Insurances in the following amounts:

Contact your FloridaCommerce representative when this section needs to be used. In most cases you will use local requirements.

The State of Florida shall be furnished with a certificate of insurance that shall provide that such insurance shall not be changed or canceled without 10 days prior written notice to the State of Florida. Certificates of Insurance shall be delivered to the State of Florida prior to the commencement of the agreement. The policy shall list the State of Florida as .co-insured or additional insured.

The 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, the Subrecipient shall comply with 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. For additional reference, see 24 CFR 55.2(b)(1).

When any structure being rehabilitated or reconstructed with federal disaster assistance is located in a Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, then the property owner is required to maintain flood insurance in perpetuity, and any successive purchaser of the property must also maintain flood insurance. Structures constructed, reconstructed, or substantially improved in a SFHA are required to be elevated or floodproofed.

18.1.10 Equal Opportunity

The following equal employment opportunity requirements apply to the underlying contract:

- **Race, Color, Creed, National Origin, Sex:** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the subrecipient

agrees to comply with applicable equal employment opportunity requirements of U.S. Department of Labor regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the project. The subcontractor agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the subrecipient agrees to comply with any implementing requirements HUD may issue.

- **Age:** In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and federal transit law at 49 U.S.C. § 5332, the subrecipient agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the subrecipient agrees to comply with any implementing requirements HUD may issue.
- **Disabilities:** In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the subrecipient agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R Part 1630, pertaining to employment of persons with disabilities. In addition, the subrecipient agrees to comply with any implementing requirements HUD may issue.

References: Executive Order 11246 September 24, 1965 as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations 41 CFR Chapter 60.

18.1.11 Civil Rights

- **Nondiscrimination:** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and federal transit law at 49 U.S.C. § 5332, the subrecipient agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the subrecipient agrees to comply with applicable federal implementing regulations and other implementing requirements HUD may issue,
- The subrecipient agrees to comply with nondiscrimination policies in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. Applicable nondiscrimination provisions in Section 109 of the Housing and Community Development Act of 1974 are still applicable.
- The subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

References: 29 U.S.C. § 623, 42 U.S.C. § 2000, 42 U.S.C. § 6102, 42 U.S.C. § 12112, 42 U.S.C. § 12132, 49

U.S.C. § 5332, 29 CFR Part 1630, 41 CFR Parts 60 et seq.

18.1.12 Conflict of Interest

Any person who is an employee, agent, consultant, officer, or elected official or appointed official of the State of Florida or of any of its subsidiaries who exercises or has exercised any functions or responsibilities with respect to CDBG-DR activities assisted or who is in a position to participate in a decision-making process or gain inside information with regard to such activities may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for him or herself or those with whom he or she has business or immediate family ties, during his or her tenure or for 1 year after such decision-making responsibilities have ended.

Reference: 2 CFR 200.112

18.1.13 Copyrights

The State of Florida FloridaCommerce reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for Federal Government purposes the copyright in any work developed under the contract and to any rights off copyright to which a subrecipient purchases ownership with grant support.

Reference: 24 CFR Subtitle A. 85.34 Copyrights

18.1.14 Lobbying

Subrecipients who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on 'lobbying.'" 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 office or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to that federal contract, grant, or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier, up to the State of Florida Department of Capital Planning and Resiliency.

References: 31 U.S.C. 1352 as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65; 49 CFR Part

19, 49 CFR Part 20

18.1.15 Intellectual Property

This section of the CFR ([2 CFR 200.488](#)) outlines payment of patents and royalties associates with intellectual property. While this is not a common occurrence in the CDBG-DR program, it is a required citation for contracts.

18.2 Subcontractor Documentation

Any subcontractors not identified in bid documents should provide the data or necessary information to verify eligibility, sign required certifications, provide assurance to comply with Section 3 of the Housing and Community Development Act of 1968, as amended, and other responsibilities outlined in the prime contract.

18.3 Notice to Proceed

Onsite work cannot proceed until the environmental review is completed and a notice of release of funds is issued by FloridaCommerce.

18.4 Monitoring Contractor Progress

The purpose of this task is to monitor construction contracts to ensure compliance with technical specifications and state and federal requirements, maintain adequate cost and budget controls, and process necessary contract changes to bring the construction project to completion on time.

18.4.1 Change Orders

The following activities must occur for change orders:

- Change orders must be prepared and recommended by the architect or engineer overseeing the project.
- Costs associated with change orders must be assessed for "cost reasonableness."
- A supporting statement that describes why the proposed change is deemed necessary must accompany each change order.
- The fully executed change order must contain the signatures of the architect or engineer, contractor, and subrecipient representative authorized to sign change orders.
- A copy of the fully executed change order must be maintained within the project file.

18.4.2 Inspecting and Accepting the Work and Final Payment

When construction work has been completed, the following steps must be taken:

- The contractor must certify completion of work to the subrecipient and submit a final request for payment.
- The subrecipient must then arrange for a final inspection by its project manager.
- The subrecipient and the subrecipient's architect or engineer should attend the final inspection and prepare a written report of the inspection prior to the subrecipient's issuance of a final certificate of payment.
- An engineer's certification that the construction work is final, complete and in substantial conformance with approved plans and specifications and a certificate of occupancy for housing units and other buildings are required to be submitted before final payment.

Before making final payment (less retainage), the subrecipient must ensure the following:

- All weekly payrolls and statements of compliance have been received and checked and any discrepancies have been resolved.
- All discrepancies identified via onsite interviews have been resolved.
- All other required equal employment opportunity and labor standards provisions have been satisfied.
- All subrecipient agreement conditions, terms, reports and other submission requirements have been received.
- All claims and disputes involving the contractor have been resolved.
- All files are complete.
- As-built information has been provided to the engineer.
- A Final Wage Compliance Report is drafted and placed in the Labor Standards Compliance file.

18.4.3 Inspections

When construction work has been completed; an inspection is required:

- The contractor must certify completion of work to the subrecipient and submit a final request for payment.
- The subrecipient must then arrange for a final inspection by its project manager.
- The subrecipient and the subrecipient's architect or engineer should attend the final inspection and prepare a written report of the inspection prior to the subrecipient's issuance of a final certificate of payment.
- An engineer's certification that the construction work is final, complete, and in substantial conformance with the approved plans and specifications and a certificate of occupancy for housing units and other buildings are required to be submitted before final payment.

18.4.4 Record Keeping

The subrecipient is responsible for keeping accurate construction records. The files should include complete invoicing backup, labor standards, Equal Employment Opportunity compliance, excluded parties compliance, a current and executed contract with all executed change orders, notice to proceed, purchase orders, inspection reports, final inspections, warranties, and correspondence.

19.0 Davis-Bacon Act Labor Standards

The Davis-Bacon Act (DBA) applies to all construction contracts greater than \$2,000 unless the program's authorizing legislation contains exceptions. It requires that all workers or mechanics working on projects covered by the act be paid minimum hourly wages and fringe benefits according to the wage decision(s) applicable to that contract. If any portion of a contract requires DBA, then all work performed under the contract is subject to DBA. In the CDBG-DR program, only rehabilitation of residential property containing less than eight housing units is exempt from DBA. Work done by a local government's employees (force account) is not subject to DBA.

Additionally, contractors must comply with the Contract Work Hours and Safety Standards Act (CWHSSA) and the Copeland Anti-Kickback Act (Copeland Act). CWHSSA requires that, for any project in which the prime contract exceeds \$100,000, workers must be paid one-and-one-half their normal hourly rate for any hours worked in excess of 40 hours weekly, based on a workweek of 7 consecutive days.

The Copeland Act prohibits any person from inducing a worker on a federally funded project to give up any part of the compensation to which the worker is entitled. No payroll deductions are permitted that are not specifically listed in the Copeland Act unless the contractor has obtained written permission from the employee as specified in 29 CFR 3.5 for otherwise permissible payroll deductions.

19.1 Construction Categories

Under DBA, construction work is categorized as residential, building, heavy, or highway work. Wage decisions are based on the category or categories of work to be performed. Each construction contract to which DBA applies must contain the wage decision(s) for the appropriate category or categories of work. A separate wage decision for a Category is not required if the value of work (as bid) in that category does not exceed 20 percent of the total "as bid" construction cost. The actual bid cost, not the estimated project cost, determines whether a separate wage decision is used. If more than one wage decision is used, payrolls must reflect which wage decision is applicable unless all workers are paid at least the highest hourly rate possible under either wage decision.

19.2 Wage Decisions

Subrecipients are required to determine which wage decision applies to their project. To find a wage decision, subrecipients should go to the U.S. Department of Labor's Wage Determinations Online site <https://beta.sam.gov/>. After determining the correct wage decision, the document should be included in bid and contract documents.

The contract, the wage decision number and version used for each project, the date of bid opening, and the date of award must be uploaded into SERA.

19.3 Certified Payroll Review

During project construction, the local government must monitor compliance with DBA, CWHSSA, and the Copeland Act by reviewing contractor and subcontractor payrolls. DBA applies to laborers and mechanics working on any project when the primary contract exceeds \$2,000. It does not apply to supervisory staff if 80 percent of their time during the workweek is spent performing supervisory duties. Supervisory personnel who fall below the 80-percent threshold are subject to DBA for non-supervisory hours worked during that particular work week.

Self-employed owners are not exempt from DBA and must submit a payroll report reflecting the hours worked on the project, the type of work performed, and that they are the owner of their business.

Hourly rates need not be reported if this information is not known, but the amount of the subcontract should be indicated.

Supply contracts are not subject to the DBA. A supply contract is one that furnishes equipment, materials, or supplies with no (or only "incidental") construction activities performed at the project site. Construction is "incidental" if it does not exceed 13 percent of the contract or subcontract price. There must be documentation to support this percentage.

19.4 HUD Form 11 and Onsite Posters

During project construction, the local government must also conduct interviews with the contractors' and subcontractors' workers to verify the accuracy of payroll information. Interviews must cover a representative sample of each classification used by the contractor or subcontractor. Onsite interviews should be conducted whenever possible, but mail interviews are acceptable if onsite interviews cannot be performed. Discrepancies between information gained in the interviews and payroll data must be resolved in a timely manner. Additionally, interviews and resolution of discrepancies should be conducted in such a manner as to shield the identity of the worker(s). The form used is HUD Form 11 "Record of Employee Interview," which can be found online at the HUD website.

If a contractor or subcontractor is required to pay a cumulative total of more than \$100 in back wages during the contract period, the local government must submit an enforcement report to FloridaCommerce. Any corrective actions by a contractor must be documented in the project files. For back wages greater than \$10, there must be a copy of the front of the wage-restitution check and a signed acknowledgment from the worker stating the amount of that check and that it was received. If there are overtime violations, the local government must assess contractor-liquidated damages of \$10 per day per worker for those who should have received overtime. Restitution is also required. The contractor may request waiver of liquidated damages through FloridaCommerce.

The contractor must also post the wage decision on site and a Labor Standards poster that outlines the requirements of labor standards. The poster and wage decision should be in an area protected from the weather as much as possible, such as inside of a job box or in a construction trailer.

FloridaCommerce will monitor compliance with labor standards until the project is complete. During monitoring visits, special attention will be given to the following:

- Ensuring payroll information is being submitted and reviewed in a timely manner.
- Ensuring all labor classifications are included in the wage decision or have been confirmed and/or added with FloridaCommerce approval.
- Ensuring *trainee* and *apprentice* labor classifications are applied in accordance with regulations for those titles.
 - The Florida Office of Apprenticeship and Training must certify the helper, trainee, or apprentice program. If trainees or apprentices are used, the contractor must provide a copy of the state certification to the subrecipient and the FloridaCommerce Disaster Recovery grant manager.
- Ensuring signed authorizations are on file for any employees with "other" payroll deductions.
- Ensuring interviews have been conducted with the prime contractor's and any subcontractor's employees.
 - HUD Form 11 can be used for interviews.
- In the case of multiple wage decisions, investigating payrolls to ensure that they distinguish which wage was applied to each worker.

- Posting of the wage-rate decision in a conspicuous location the project site and posting a copy of "Notice to All Employees Working on Federal or Federally Financed Construction Projects." A copy of this poster and other required posters are available at <http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>.

Typical findings from past monitoring activities include the following:

- Inappropriate use of the *apprentice* and *trainee* classifications
- Use of a classification that is not in the wage decision or is vague (i.e., "operator")
- Failure to obtain subcontractor payrolls
- Lack of signed authorizations from workers with "other" deductions
- Lack of interviews, including not covering enough classifications or not interviewing subcontractors
- "Salaried" workers covered by DBA not treated as hourly workers for regular and overtime purposes
- Using one wage decision when two are required based on the type of work in each category
- Payrolls failing to reflect which wage decision(s) is applicable to which worker, particularly if two wage decisions are used, and workers are not paid the highest hourly rate possible for that classification

19.5 Reporting

Every 6 months, FloridaCommerce must report to HUD on all covered contracts awarded and on all enforcement actions taken. The Semi-Annual Report form (HUD-4710) and instructions for the form (HUD-4710i) are available on HUD's website: <https://www.hudexchange.info/resources/documents/HUD-Form-4710-Semi-Annual-Labor-Standards-Enforcement-Report.pdf>

Additional labor standards information can be found in these HUD publications:

- Making Davis-Bacon Work: A Contractor's Guide to Prevailing Wage Requirements for Federally- Assisted Construction Projects (<http://portal.hud.gov/hudportal/documents/huddoc?id=4812-LRguide.pdf>)
- *Making Davis-Bacon Work: A Practical Guide for States, Indian Tribes and Local Governments* (<https://www.hudexchange.info/resources/documents/Making-Davis-Bacon-Work-Guide-States-Indian-Tribes-Local-Agencies.pdf>)
- Basically CDBG for States (<https://www.hudexchange.info/resource/269/basically-cdbg-for-states/>)
- Community Development Block Grant Toolkit on Crosscutting Issues, Module 3: Federal labor Standards (<http://portal.hud.gov/hudportal/documents/huddoc?id=DOC15953.pdf>)

20.0 Acquisition and Relocation

In undertaking disaster recovery CDBG-DR projects, subrecipients may need to acquire real property to complete specific activities. Use of federal funds involving the acquisition, rehabilitation, or demolition of real property, the Uniform Relocation Assistance (URA) and Real Property Acquisition Act of 1970 (as amended) may apply. Section 104(d) of the Housing and Community Development Act of 1974 may be applicable if CDBG disaster funds are involved in demolition or conversion of lower-income dwelling units.

It is the responsibility of the subrecipient to ensure that any activities undertaken meet applicable URA requirements. FloridaCommerce will provide technical assistance as needed for acquisition and relocation activities.

URA requirements are in 49 CFR Part 24, and Section 104(d) requirements are found in 24 CFR part 42 Subpart C. Additional regulations are found in 24 CFR 570.606. A useful guide to these requirements and their applicability is HUD's "Tenant Assistance, Relocation and Real Property Acquisition Handbook (1378.0)", located at:

<https://www.hudexchange.info/resource/310/hud-handbook-1378-tenant-assistance-relocation-and-real-property-acquisition/>.

21.0 Duplication of Benefit

Duplication of Benefit is a component of the Stafford Act, which governs disaster recovery. Essentially, Duplication of Benefit prohibits recipients of federal disaster funds from being paid twice for the same activity (i.e., for repairs). Disaster recovery subrecipients who have already received funds from private insurance, flood insurance, or other sources for disaster repairs may not also receive CDBG-DR funds for the same repairs. Please refer to the Michael Duplication of Benefits document on the Office of Long-Term Resiliency webpage.

22.0 Uniform Relocation Act Requirements

22.1 Requirements under 24 CFR 570.606

Some of the activities identified in Hurricane Michael CDBG-DR may trigger requirements of the Uniform Relocation Assistance Act (URA), a government-wide law that governs acquisition of real property and displacement of tenants, businesses, and property owners. This regulation establishes HUD's policy that efforts are to be taken to minimize displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) because of activities undertaken with CDBG-DR funds. It also provides that relocation assistance will be provided to a displaced person based on requirements in 49 CFR 24. In the discussion that follows, it is important to remember that the grantee is the State of Florida CDBG-DR program and the subrecipient is the local government that receives a subrecipient agreement from the state under the disaster recovery program.

A displaced person is defined in 24 CFR 570.606(2) as "any person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently and involuntarily, as a direct result of rehabilitation, demolition, acquisition for any activity assisted under this part."

URA requirements are complex, and HUD has excellent resources to assist in the URA process.

Handbook 1378 is available on the HUD website at

https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/13780.

Subrecipients should consult this comprehensive resource for detailed guidance. In addition, FloridaCommerce staff are a resource for assistance prior to undertaking acquisition and relocation activities.

22.2 Requirements under 49 CFR 24

The Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs is established in Title 49 CFR Part 24. It consists of Subparts A through G. Subpart A establishes that the purpose of the regulations is to ensure owners of real property acquired for federal or federally assisted projects and persons displaced because of these projects are treated fairly and consistently. In addition, the purpose of the regulations is to ensure that agencies that implement the regulations do so in a manner that is efficient and cost effective.

22.2.1 Subpart A: General Requirements

In addition to the purpose above, this subpart includes the following elements:

- Definitions and acronyms
- Prohibition of a person from receiving URA payments if payments are received under federal, state, or local laws or insurance that are determined to have the same purpose and effect as a URA payment
- Requirements that the state must provide assurances that it will comply with URA if a project is undertaken with federal assistance that will result in acquisition of real property or displacement and is subject to monitoring by HUD and must take measures to minimize fraud, waste, and mismanagement
- Requirements for information to be contained in notices and how those notices are to be written and delivered

- Guidelines for administration of jointly funded projects when two or more federal agencies provide financial assistance to a non-federal agency
- Authority for a federal agency to waive regulations
- Lists of other federal laws and regulations with which the implementation of the URA must ensure compliance
- Requirements for record keeping in sufficient detail to demonstrate compliance with the URA requirements, 3-year retention, confidentiality of records, and submitting reports every 3 years or as URA requires on real-property acquisition *and* displacement activities
 - NOTE: OLTR requires records retention for 6 years.
- Appeal procedures

22.2.2 Subpart B: Real Property Acquisition Requirements

Subpart B encompasses the following:

- Applicability of acquisition requirements
- Basic acquisition policies
- Criteria for appraisals
- Review of appraisals
- Acquisition of tenant-owned improvements
- Expenses incidental to transfer of title to the subrecipient
- Certain litigation expenses
- Donations

22.3 Requirements under 24 CFR Part 42

Requirements of 24 CFR 42 are applicable to CDBG-funded programs or activities when lower-income (LMI) housing units, whether occupied or vacant and occupiable, are demolished or converted to a use other than LMI dwelling units. The requirements include the following:

- Demolished or converted units must be replaced on a one-for-one basis with comparable lower-income dwelling units.
 - Replacement units must be in the subrecipient's jurisdiction and, to the extent possible, within the same neighborhood.
 - Replacement units must be of sufficient number and size to house the number of occupants that could have occupied the units being demolished or converted. Replacement housing cannot be smaller than the units they are replacing (i.e., replacing two-bedroom units with one-bedroom units) unless it is demonstrated that the smaller units are consistent with the needs assessment in the HUD-approved consolidated plan. Non-entitlement local governments that do not have a consolidated plan must make available public information demonstrating that the replacement housing is consistent with the housing needs of lower-income households in its jurisdiction.
 - Units must be in standard condition. Replacement housing can be obtained from substandard units improved to standard condition provided no person was displaced from the unit and the unit was vacant for 3 months before an agreement was executed with the property owner.
 - Units must initially be made available for occupancy at any time during the period beginning 1 year before the subrecipient makes public the information demonstrating that replacement housing is not required, (see above) and ending 3 years after the completion of the demolition or rehabilitation related to the conversion.

- Units must remain lower-income dwelling units for at least 10 years from the date of initial occupancy. Replacement housing may include public housing or existing housing receiving Section 8 project-based assistance.
- Before the subrecipient enters into a contract to provide funds to demolish or convert lower-income dwelling units, the subrecipient must make the following available to the CDBG-DR program:
 - A description of the proposed assisted activity
 - A map of the location identifying the number of dwelling units by size (number of bedrooms) that will be demolished or converted
 - A time schedule for commencement and completion of the demolition or conversion
 - A map of the location and the number of dwelling units by size (i.e., number of bedrooms) that will be provided as replacement units
 - If the information is not available, include the general location on a map, identify the approximate number of dwelling units by size, and provide information as to when the specific location and number of units by size will be submitted and disclosed to the public.
 - The source of funding and the time schedule for providing the replacement units
 - The basis for concluding the replacement units will be available to lower-income households for at least 10 years from the date of initial occupancy
 - Information demonstrating that any proposed smaller units used as replacement units are consistent with the needs assessment in the HUD-approved consolidated plan.
 - For non-entitlement local governments that do not have a consolidated plan, information should be made available to the public demonstrating that the replacement housing is consistent with the housing needs of lower-income households in its jurisdiction.
- Replacement housing is not required if the HUD field office determines, based on objective data, that there is an adequate supply of vacant lower-income units in standard condition and available on a non-discriminatory basis within the area. The subrecipient must submit the required information to the CDBG-DR program staff to support the conclusion the replacement housing is not required. The submitted information must be made public and inform interested parties that they have 30 days from the date of submission to provide the state opposing information. If the state agrees with the request, the state must provide its recommendation and supporting information to the field office. Similar requirements must be met if the state intends to demonstrate that replacement housing is not required.
- Anyone who disagrees with a displaced-person determination or the amount of relocation assistance received can file a written appeal with the subrecipient. If the appeal is not resolved with the subrecipient, the appealing individual may submit a written request for the state to review the determination. Similarly, in the instance where the state has directly undertaken an activity that results in an individual that disagrees with the state's displaced-person determination or the amount of relocation assistance provided, a written appeal can be filed with the state. If the appeal is not resolved with the state, the appealing individual may submit a written request for HUD to review the determination. If full relief is not granted, the individual must be advised, by the subrecipient or the state, as appropriate, of his or her right to seek judicial review.

23.0 Compliance Monitoring Plan, CDBG-DR Programs

23.1 Introduction

Per CDBG regulations at 24 C.F.R. 570.501(b), grantees of CDBG-DR funds are responsible for carrying out their programs in compliance with CDBG-DR program, statutory, and regulatory requirements, including monitoring their project administrators, contractors, and subcontractors.

Additionally, 2 CFR 200.328 states that the non-federal entity is responsible for the oversight of the operations of federal award supported activities and that such monitoring must cover each program, function, or activity.

As such, throughout the application, planning, design, and implementation phase of the program(s), FloridaCommerce's OLTR will conduct monitoring of processes, procedures, policy, applications, planning, design, construction, and other applicable phases. FloridaCommerce will work to ensure that programs are operating efficiently and effectively and that CDBG-DR funds are being used appropriately. Conducting effective monitoring of program compliance with program guidelines, requirements, and procedures is important for identifying areas of strong performance and areas that need improvement and/or corrective action.

FloridaCommerce has established the Compliance Monitoring Plan (CMP) to:

- Gauge the overall progress and effectiveness of program implementation.
- Identify and resolve compliance issues that may compromise program integrity, funding, and service delivery.
- Identify areas that would benefit from technical assistance and/or training.

The CMP will allow FloridaCommerce's Compliance Unit to carry out activities uniformly, efficiently, and effectively. The CMP may be updated as needed based on program design and any applicable changes to federal and local requirements over the life of the grant.

Specific information regarding monitoring procedures and requirements is in the Hurricane Michael Policy Manual, which can be located on the Hurricane Michael CDBG-DR website at <https://floridajobs.org/CDBG-DR/Hurricane-Michael>.

24.0 Closeout

Subrecipients are responsible for timely submission of closeout documents. A subrecipient agreement cannot be closed out until all activities associated with the project have been completed and the National Objective has been met. For example, a project that provides funds for a new sewage collection and treatment system cannot be closed out until the households are connected to the system and the system is fully functional.

FloridaCommerce staff coordinate with the subrecipient to ensure appropriate closeout documents are submitted. There are two stages in the closeout process: *Administrative Closeout* and *Final Closeout*. Administrative closeout means that the subrecipient has received notice from CDBG-DR staff that all applicable administrative actions and all required work in the subrecipient agreement have been completed, with the exception of the submission and approval of the final audit required under 2 CFR Part 200. Final

closeout means that the subrecipient has received notice from CDBG-DR staff that the final audit has been submitted and that there are no outstanding audit issues to resolve or an attestation statement has been submitted that a 2 CFR Part 200 audit is not required.

To complete necessary closeout documents, subrecipients and their subcontractors must closeout any subcontracts or subrecipient agreements associated with the funded activities and settle any outstanding financial claims. Subcontractor(s) should be advised to prepare claims or invoices and submit them to the subrecipient within 30 days of the completion of the project to ensure payment requests are made before the closeout process begins.

The subrecipient's Administrative Closeout package must be submitted within 45 days after termination date of the subrecipient agreement or as soon as the project is completed. The closeout package includes data regarding accomplishments and beneficiaries served and documents how federal and local resources were expended in accordance with the current approved budget. The closeout package must be signed by the subrecipient's chief elected official or by the individual with a designation of signature authority signed by the chief elected official.

After the subrecipient is final closed, the subrecipient must keep all records related to the grant award for a minimum of 6 years after final closeout has been approved or from the end of any audit or legal proceedings involving the subrecipient award.

24.1 Closeout Process

The subrecipient must submit a subrecipient agreement closeout report and documentation to FloridaCommerce in a timely manner following payment of the final reimbursement request. It is best practice for the subrecipient to do so within 45 days of the termination of the contract or within 45 days of the completion of all activities.

Upon completion of activities contained in the subrecipient agreement, including any amendments, the subrecipient shall submit to FloridaCommerce a closeout report and documentation (closeout package) that includes the following:

- Final statement of costs and copies of the final construction invoices;
- Certification that all construction has been completed, inspected, and approved by all parties prior to the subrecipient end date and submission of the administrative closeout;
- Photographs of project activities, maps, documentation of fair-housing activities, documentation of resolution of citizen complaints, and any outstanding monitoring issues;
- Certification that all costs have been paid, including those reflected on the closeout report;

- Documentation of expenditure of any leverage;
- A report of final beneficiary data and final accomplishments;
- A list of the homes receiving direct benefit; and,
- Certification that each housing unit assisted was within the-local government's jurisdiction for housing rehabilitation.

In addition:

- All funds drawn from the subrecipient award and not expended must be returned to FloridaCommerce prior to submission of the closeout report.
- The closeout report must contain original signatures.
- If a subrecipient fails to meet contractual requirements, on time, FloridaCommerce shall require them to financially (not administratively) close out a subrecipient to meet federal requirements for the timely distribution of funds set by HUD.
- If an audit report is past due, the subrecipient cannot be administratively closed until the past due audit is received. If an audit report is owed but not past due, the administrative closeout can proceed. Final closeout will not occur until all required audits are received.

Upon receipt of a closeout, the staff will complete an examination of closeout documents:

- Audit findings
 - There can be no open audit findings.
- CDBG-DR funds on hand
 - Funds cannot exceed \$5,000 and must be properly reflected in the closeout documents.
- Monitoring
 - There can be no open findings.
- Program income (if funds were returned)
 - Unless otherwise authorized, all program income must be returned to the FloridaCommerce's OLTR.
- Proper disposition acquired property
- Meeting all special requirements (i.e., map and certification statement)
- Final engineering certification
 - Certification is required for all public infrastructure activities paid for with CDBG-DR funds. The Certification of Completion must be executed by a licensed professional engineer and must state that the activity meets design specifications as may have been modified by change orders.

FloridaCommerce will respond to a closeout request by notifying the subrecipient in writing, identifying any issues that must be resolved before FloridaCommerce will send the Notice of Outstanding Closeout Issues letter identifying these issues and the actions needed to resolve them.

Upon receipt and acceptance of the subrecipient's final audit required under 2 CFR Part 200, for a subrecipient that has already been administratively closed, FloridaCommerce will send the subrecipient a Notice of Final Closeout letter. All audits must conform to the provisions of 2 CFR Part 200 and the subrecipient requirements to be accepted by FloridaCommerce. If there are any audit findings related to the CDBG-DR subrecipient, these findings must be resolved before the subrecipient can be final closed.

24.2 Procedure: Final Closeout

An important part of the final closeout procedure is reviewing the subrecipient's audit. The subrecipient is responsible for mailing the audit to FloridaCommerce. Once the audit is received, OLTR and

FloridaCommerce staff will review the audit for findings and concerns related to the CDBG-DR program. If there are none, final grant closeout will proceed.

If unresolved findings and concerns are noted in the audit review, FloridaCommerce will contact the subrecipient and coordinate the resolution of the findings and concerns. Only after all findings and concerns are resolved may the final closeout be processed.

24.3 Grant Closeout

After all the activities are completed and all subrecipient agreements are final closed, FloridaCommerce can close out the grant with HUD. The Grant Accounting Office completes and signs Standard Form 424 (Federal Financial Report) and completes HUD Form 40153 (State CDBG-DR Closeout Checklist). The FloridaCommerce Secretary or authorized designee signs Form 40153. These forms and all attachments are mailed to:

Director, Community Planning and Development Division, 4HD
Charles Bennett Federal Building
U.S. Department of Housing and Urban Development
400 West Bay Street, Suite 1015
Jacksonville, FL 32202
or as specified by HUD.

Appendix A: Acronyms

AGI	Adjusted Gross Income
CDBG	Community Development Block Grant
CDBG -DR	Community Development Block Grant - Disaster Recovery
CENST	Categorically Excluded Not Subject to 24 CFR Part § 58.5
CEST	Categorically Excluded Subject to 24 CFR Part § 58.5
CFR	Code of Federal Regulations
CWHSSA	Contract Work Hours and Safety Standards Act
DBA	Davis-Bacon Act
FloridaCom merce	Department of Commerce (Florida)
DR	Disaster Recovery
EA	Environmental Assessment
EIS	Environmental Impact Statement
ERR	Environmental Review Record
FEMA	Federal Emergency Management Agency
FONSI	Finding of No Significant Impact
HUD	U.S. Department of Housing and Urban Development
LMI	Low- to Moderate-Income
NEPA	National Environmental Policy Act of 1969
NFIP	National Flood Insurance Program
NOI	Notice of Intent
OLTR	Office of Long-Term Resiliency
RROF	Request for Release of Funds
SAM	System for Award Management
SBA	Small Business Administration
SERA	Subrecipient Enterprise Resource Application
SHPO	State Historic Preservation Office
UGLG	Unit of General Local Government
URA	Uniform Relocation Assistance

Appendix B: Subrecipient Agreement Template

State of Florida
Department of Commerce

Federally-Funded
Community Development Block Grant
Disaster Recovery (CDBG-DR) (insert Program)
Subrecipient Agreement

THIS AGREEMENT is entered into by the State of Florida, Department of Commerce, (hereinafter referred to as “FloridaCommerce”) and **Insert Subrecipient Name**, hereinafter referred to as the “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 Supplemental Appropriations for Disaster Relief Act, 2018 Public Law (P.L.) **P.L. 115-254, approved October 5, 2018, and the Additional Supplemental Appropriations for Disaster Relief Act, 2019 P.L 116-20, approved June 6, 2019 (together referred to as “the 2018 and 2019 Appropriations Acts”)**. The requirements of the 2018 and 2019 Appropriations Acts and implementing regulations at 24 CFR part 570, and the requirements of the January 27, 2020 Federal Register notice (hereinafter referred to as 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 FloridaCommerce 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 State of Florida Action Plan for Disaster Recovery 2018 (hereinafter referred to as the “Action Plan”). FloridaCommerce is hereinafter referred to from time to time as “Grantee”.

WHEREAS, CDBG-DR funds made available for use by the 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 FloridaCommerce’s Federal award.

WHEREAS, the Subrecipient has legal authority to enter into this Agreement and by signing this Agreement, the Subrecipient represents and warrants to FloridaCommerce 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, FloridaCommerce and the 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, ~~the~~ Subrecipient shall submit to FloridaCommerce 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 FloridaCommerce’s decisions with respect to same shall prevail, at FloridaCommerce’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, including but not necessarily limited to, the Federal laws and regulations set forth at 24 CFR 570 and the State’s Action Plan.

(3) Period of Agreement. This Agreement begins upon execution by both Parties (the “Effective Date”) and ends thirty-six (36) months after execution by FloridaCommerce, unless otherwise terminated as provided in this Agreement. FloridaCommerce shall not grant any extension of this Agreement unless Subrecipient provides justification satisfactory to FloridaCommerce in its sole discretion and FloridaCommerce’s Director of the Division of Community Development approves such extension.

(4) Renewal and Extension. This Agreement shall not be renewed. FloridaCommerce shall not grant any extension of this Agreement unless ~~the~~ Subrecipient provides justification satisfactory to FloridaCommerce in its sole discretion and FloridaCommerce’s Director of the Office of Disaster Recovery Division of Community Development approves such extension in writing.

(5) 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. FloridaCommerce may accept or reject any proposed modification based on FloridaCommerce’s sole determination and absolute discretion, that any such acceptance or rejection is in the State’s best interest.

(6) Records.

(a) Subrecipient’s performance under this Agreement shall be subject to 2 C.F.R. part 200 – Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.

(b) Representatives of FloridaCommerce, 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 FloridaCommerce under this Agreement.

(d) Subrecipient will provide to FloridaCommerce 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 FloridaCommerce issues the final closeout for this award. Subrecipient shall also comply with the provisions of 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 FloridaCommerce issues the final closeout of this Agreement, unless extended in writing by FloridaCommerce. 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 the 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. FloridaCommerce may, in its sole discretion, disallow costs made with commingled funds and require reimbursement for such costs as described herein, Subparagraph (22)(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 FloridaCommerce, 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.

(7) Audit Requirements

(a) Subrecipient shall conduct a single or program-specific audit in accordance with the provisions of 2 C.F.R. 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, the Subrecipient shall electronically submit a completed Audit Compliance Certification to audit@deo.myflorida.com, and FloridaCommerce'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 FloridaCommerce and Subrecipient.

(c) In addition to the submission requirements listed in Attachment I, Audit Requirements, the Subrecipient shall send an electronic copy of its audit report to FloridaCommerce'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 C.F.R 200.512, when such provisions are applicable to this Agreement.

- (8) Reports.** Subrecipient shall provide FloridaCommerce with all reports and information set forth in Attachment G, Reports. The monthly reports and administrative closeout reports must include the current status and progress of Subrecipient and all subcontractors in completing the work described in Attachment A and the expenditure of funds under this Agreement. As soon as is practical, but in all cases within [time_frame] of a request by FloridaCommerce, Subrecipient shall provide additional program updates or information. Without limiting any other remedy available to FloridaCommerce, all required reports and copies are not sent to FloridaCommerce or are not completed in a manner acceptable to FloridaCommerce, payments may be withheld until the reports are completed to FloridaCommerce's satisfaction.

(9) Inspections and Monitoring

(a) Subrecipient shall cooperate and comply FloridaCommerce, HUD, and auditors with any inspections and will immediately provide access to records and financial statements as deemed necessary by FloridaCommerce, HUD, and their respective auditors at least in accordance with requirements of 2 C.F.R. part 200 and 24 C.F.R. 570.489.

(b) Subrecipient shall cooperate and comply with monitoring of its activities as deemed necessary to ensure that the subaward is used for authorized purposes in compliance with federal statutes, regulations, of this Agreement.

(c) Without limiting the actions FloridaCommerce, 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 C.F.R. §200.521.

(d) Corrective Actions: FloridaCommerce may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits FloridaCommerce 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, FloridaCommerce 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.

- (10) 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 FloridaCommerce's procedures to prevent duplication of benefits.

Subrecipient shall sign a Subrogation Agreement (See Attachment M)

(11) 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. The subrecipient shall hold FloridaCommerce harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement.

(c) If Subrecipient is a state agency or subdivision, as defined in Section 768.28, F.S., then Subrecipient agrees to be fully responsible for its negligent or tortious acts or omissions, which result in claims or suits against FloridaCommerce. The 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 FloridaCommerce 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 FloridaCommerce or the Subrecipient.

(12) Events of Default. If any of the following events occur ("Events of Default"), FloridaCommerce may, in its sole and absolute discretion, elect to terminate any obligation to make any further payment of funds, exercise any of the remedies available through this Agreement or pursue any remedy at law or in equity, without limitation:

(a) Any warranty or representation is made by Subrecipient, in this Agreement or any previous agreement with FloridaCommerce, 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 FloridaCommerce 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 the 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 FloridaCommerce;

(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 FloridaCommerce;

(d) If Subrecipient fails to perform or timely complete any of its obligations under this Agreement, including participating in FloridaCommerce's Implementation Workshop.

The Parties agree that in the event FloridaCommerce 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 the Subrecipient believes is excusable under this paragraph, Subrecipient shall notify FloridaCommerce 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. FloridaCommerce, 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 FloridaCommerce. Subrecipient shall not be entitled to an increase in the Agreement price or payment of any kind from FloridaCommerce 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 FloridaCommerce determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to FloridaCommerce or the State, in which case, FloridaCommerce may do any or all of the following: (1) accept allocated performance or deliveries from Subrecipient, provided that Subrecipient grants preferential treatment to FloridaCommerce 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.

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

- (a) Terminate this Agreement upon written notice by FloridaCommerce sent in conformity with Paragraph (17) 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 FloridaCommerce 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 ~~the~~ 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 ~~the~~ 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 FloridaCommerce 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 FloridaCommerce 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 FloridaCommerce for any other default by the Subrecipient.

(14) Dispute Resolution. FloridaCommerce shall decide disputes concerning the performance of the Agreement, and document dispute decisions in writing and serve a copy of same on the Subrecipient. All decisions are final and conclusive unless Subrecipient files a petition for administrative hearing with FloridaCommerce 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 ~~the~~ 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.

(15) Citizen Complaints. The goal of FloridaCommerce is to provide an opportunity to resolve 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.

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

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

Citizens may file a written complaint or appeal through the Office of Disaster Recovery email at CDBG-DR@Commerce.fl.gov or submit by postal mail to the following address:

Attention: Office of Disaster Recovery
Florida Department of Commerce
107 East Madison Street
The Caldwell Building, MSC 160
Tallahassee, Florida 32399

The subrecipient will handle citizen complaints by conducting:

- (a) Investigations as necessary,
- (b) Resolution, and ~~or~~
- (c) Follow-up actions.

If the complainant is not satisfied by the Subrecipient's determination, then the complainant may file a written appeal by following the instructions issued in the letter of response. If, at the conclusion of the appeals process, the complainant has not been satisfied with the response, a formal complaint may then be addressed directly to the FloridaCommerce at:

Department of Commerce
Caldwell Building, MSC-400
107 E Madison Street
Tallahassee, FL 32399

The Florida Office of Disaster Recovery 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.

(16) Termination.

- (a) FloridaCommerce may immediately suspend or terminate this Agreement for cause by providing written notice, from the date notice is sent by FloridaCommerce. Cause includes, but is not limited to; an Event of Default as set for 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 the 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 FloridaCommerce's sole and absolute discretion with respect to FloridaCommerce'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) FloridaCommerce may unilaterally terminate this Agreement, in whole or in part, for convenience by providing the Subrecipient fourteen (14) days written notice from the date notice is sent by FloridaCommerce, 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, FloridaCommerce determines that the remaining portion of the award will not accomplish the purpose for which the award was made, FloridaCommerce may terminate the portion of the award which will not accomplish the purpose for which the award was made. The Subrecipient shall continue to perform any work not terminated. In the event of termination for convenience, the 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 the Subrecipient has received the notification of termination. Subrecipient shall cancel as many outstanding obligations as possible. FloridaCommerce shall disallow all costs incurred after Subrecipient's receipt of the termination notice. FloridaCommerce 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 FloridaCommerce from the Subrecipient is determined.

- (e) Upon expiration or termination of this Agreement ~~the~~ Subrecipient shall transfer to FloridaCommerce 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 ~~the~~ 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 FloridaCommerce 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.

(17) 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 FloridaCommerce's Agreement Manager for this Agreement is:

Insert FloridaCommerce's Agreement Manager's name here

Insert street address

Insert City, State, Zip

Insert telephone #

Insert email address

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

Insert Subrecipient's Grant Manager name here

Insert street address

City, state, zip

Insert telephone #

Insert email address

- (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 for in this Agreement

(18) Contracts. If ~~the~~ Subrecipient contracts any of the work required under this Agreement, a copy of the proposed contract template and any proposed amendments, extensions, revisions or other changes thereto,

must be forwarded to the FloridaCommerce agreement manager for prior written approval. For each contract, ~~the~~ Subrecipient shall report to FloridaCommerce 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 C.F.R. §200.318 - §200.326 when procuring property and services under this Agreement (refer to Attachment D).

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 FloridaCommerce and ~~the~~ Subrecipient harmless against all claims of whatever nature arising out of the contractor's performance of work under this Agreement;
- (f) the obligation of ~~the~~ 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 C.F.R. 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.

~~The~~ 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.

(19) 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 FloridaCommerce may be effective unless made in writing by an authorized FloridaCommerce official.

(20) 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

(21) Funding/Consideration.

(a) The funding for this Agreement shall not exceed [insert \$ amount both numerically and spelled out] subject to the availability of funds. The State of Florida and FloridaCommerce’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) FloridaCommerce will provide funds to Subrecipient by issuing a Notice of Subgrant Award/Fund Availability (“NFA”) through FloridaCommerce’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 FloridaCommerce. 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 FloridaCommerce. 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 FloridaCommerce, 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 (23), Mandated Conditions of this Agreement, all obligations on the part of FloridaCommerce to make any further payment of funds will terminate and the Subrecipient shall submit its administrative closeout report and subgrant agreement closeout package as directed by FloridaCommerce within thirty (30) calendar days from receipt of notice from FloridaCommerce.

(h) Subrecipient is ultimately responsible for the administration of this Agreement, including monitoring and oversight of any person or entity retained or hired by the Subrecipient.

(22) 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.

(b) In accordance with Section 215.971, F.S., Subrecipient shall refund to FloridaCommerce any unobligated funds which have been advanced or paid.

(c) Subrecipient shall refund to FloridaCommerce any funds paid in excess of the amount to which ~~the~~ Subrecipient or its contractors, subcontractors or consultants are entitled under the terms and conditions of this Agreement.

(d) Subrecipient shall refund to FloridaCommerce any funds received for an activity if the activity does not meet one of the three National Objectives listed in 24 C.F.R. § 570.483(b), (c) and (d); provided, however, ~~the~~ Subrecipient is not required to repay funds for subgrant administration unless FloridaCommerce, in its sole discretion, determines Subrecipient is at fault for the ineligibility of the activity in question.

(e) Subrecipient shall refund to FloridaCommerce any funds not spent in accordance with the conditions of this Agreement or applicable law. Such reimbursement shall be sent to FloridaCommerce, 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 FloridaCommerce for collection, Subrecipient shall pay to FloridaCommerce 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 FloridaCommerce under this Agreement are to be made payable to the order of "Department of Commerce" and mailed directly to FloridaCommerce at the following address:

Department of Commerce
Community Development Block Grant Programs Cashier
107 East Madison Street – MSC 400
Tallahassee, Florida 32399-6508

(23) 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 FloridaCommerce 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 FloridaCommerce 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; 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 FloridaCommerce, any bills for travel expenses shall be submitted and reimbursed in accordance with Section 112.061, F.S., the rules promulgated thereunder and 2 C.F.R. § 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 FloridaCommerce or be applied against FloridaCommerce'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.

(24) Lobbying Prohibition.

(a) No funds or other resources received from FloridaCommerce 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 ~~the~~ 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.

(25) 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, ~~the~~ Subrecipient shall refer the discovery or invention to FloridaCommerce 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, ~~the~~ Subrecipient shall notify FloridaCommerce. 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 FloridaCommerce

shall have the right to all patents and copyrights which accrue during performance of the Agreement.

(26) 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. FloridaCommerce 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 the Subrecipient's ability to satisfy its obligations. Subrecipient shall immediately notify FloridaCommerce in writing if its ability to perform is compromised in any manner during the term of the Agreement.

(27) 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, the Subrecipient shall notify FloridaCommerce 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 FloridaCommerce to perform Subrecipient's responsibilities hereunder. Subrecipient shall, upon request from FloridaCommerce's custodian of public records, provide FloridaCommerce 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 FloridaCommerce 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 FloridaCommerce, at no cost to FloridaCommerce, all public records upon completion including termination, of this Agreement or keep and maintain public records required by FloridaCommerce 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 FloridaCommerce, upon request from FloridaCommerce's custodian of public records, in a format that is compatible with the information technology systems of FloridaCommerce.

(e) If FloridaCommerce does not possess a record requested through a public records request, FloridaCommerce shall notify Subrecipient-contractor of the request as soon as practicable, and Subrecipient-contractor must provide the records to FloridaCommerce 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 FloridaCommerce's request for records, FloridaCommerce shall enforce the provisions set forth in this Agreement. If Subrecipient-contractor who fails to provide public records to FloridaCommerce within a reasonable time may be subject to penalties under Section 119.10, F.S.

(f) Subrecipient shall notify FloridaCommerce verbally within twenty-four (24) hours and in writing within seventy-two (72) hours if any data in ~~the~~ 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 FloridaCommerce. Subrecipient shall cooperate with FloridaCommerce, in taking all steps as FloridaCommerce deems advisable, to prevent misuse, regain possession or otherwise protect the State's rights and the data subject's privacy.

(g) Subrecipient acknowledges that FloridaCommerce is subject to the provisions of Chapter 119, F.S., relating to public records and that reports, invoices and other documents Subrecipient submits to FloridaCommerce under this Agreement constitute public records under Florida Statutes. Subrecipient shall cooperate with FloridaCommerce regarding FloridaCommerce's efforts to comply with the requirements of Chapter 119, F.S.

(h) If Subrecipient submits records to FloridaCommerce 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 FloridaCommerce. Failure to identify the legal basis for each exemption from the requirements of Chapter 119, F.S., prior to submittal of the record to FloridaCommerce serves as ~~the~~ 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 FloridaCommerce 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 FloridaCommerce, 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 FloridaCommerce. FloridaCommerce, in its sole discretion, has the right, but not the obligation, to enforce this indemnification provision.

(k) FloridaCommerce 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 FloridaCommerce, including, but not limited to, mentioning this Agreement in a press release or other promotional material, identifying FloridaCommerce or the State as a reference, or otherwise linking Subrecipient's name and either a description of the Agreement or the name of FloridaCommerce 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. FloridaCommerce may terminate this Agreement if the Subrecipient does not comply with this provision.

(28) 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 after the effective date of the required Memorandum of Understanding (MOU); the responsibilities and elections of Federal contractors, however, may vary, as stated in Article II.D.1.c. of the MOU. There is no charge to employers to use E-Verify. The Department of Homeland Security's E-Verify system can be found at: <http://www.e-verify.gov>

(b) In accordance with 448.095, F.S., the State of Florida expressly requires the following:

1. Every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.
2. A private employer shall, after making an offer of employment which has been accepted by a person, verify such person's employment eligibility. A private employers is not required to verify the employment eligibility of a continuing employee hired before January 1, 2021. However, if a person is a contract employee retained by a private employer, the private employer must verify the employee's employment eligibility upon the renewal or extension of his or her contract.

(c) If Subrecipient does not have an E-Verify Memo of Understanding (MOU) in effect, Subrecipient must enroll in the E-Verify system prior to hiring any new employee after the effective date of this Agreement.

(29) Program Income.

(a) Subrecipient shall report to FloridaCommerce all program income (as defined at 24 C.F.R. § 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 C.F.R. part 200, 24 C.F.R. part 570.504, and the terms of this Agreement.

(b) Program income generated after closeout shall be returned to FloridaCommerce. Program income generated prior to closeout shall be returned to FloridaCommerce 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.

(30) 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).

(31) 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 FloridaCommerce, 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. FloridaCommerce 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 ~~the~~ Subrecipient, and agreed to by FloridaCommerce in the Scope of Work, FloridaCommerce 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) FloridaCommerce shall not be responsible for withholding taxes with respect to ~~the~~ Subrecipient's use of funds under this Agreement. Subrecipient shall have no claim against FloridaCommerce 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) FloridaCommerce shall not be responsible for provide 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; FloridaCommerce may provide training in the form of an Implementation Workshop in keeping with implementation

~ Remainder of this page is intentionally left blank ~

**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.

INSERT SUBRECIPIENT NAME

**DEPARTMENT OF ECONOMIC
OPPORTUNITY**

By _____
Signature
Insert Authorizing Official Name

By _____
Signature

Title _____
Insert Authorizing Official Title

Title _____

Date _____

Date _____

Federal _____

Tax ID # _____

DUNS # _____

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

**OFFICE OF GENERAL COUNSEL
DEPARTMENT OF ECONOMIC OPPORTUNITY**

By: _____

Approved Date: _____

Attachment A – Scope of Work

COMPLETE SCOPE OF WORK AS APPLICABLE

1. **PROJECT DESCRIPTION:** This is a general description of the project based on your RFA or project guidelines.

2. **SUBRECIPIENT RESPONSIBILITIES:** Include all of the responsibilities of the Grantee in this section.

A. TITLE

1.

2.

3.

2.A. list the things you will **not** pay for. For example, in this section list all responsibilities of the grantee that are not payable responsibilities such as org charts, position descriptions, marketing plans, policy and procedures, activity work plan, project plan, detailed budget, etc. And give a deadline, such as “provided to FloridaCommerce within 2 weeks or 30 days of execution. Whatever time frame you need to see the information. It’s up to you. You will NOT refer to Section 2.A. in your deliverable table as the grantee will not be paid for these tasks.

B. TITLE

1.

2.

3.

2.B.. and so on will be where you list all tasks that FloridaCommerce will reimburse the grantee for and you will refer to these tasks in the deliverable table in Section 3 below.

3. **DELIVERABLES:** Please keep in mind that this information will be entered into FACTS.

Grantee agrees to provide the following services as specified:

Deliverable No. 1 – Briefly title what the general deliverable entails		
Tasks	Minimum Level of Service	Financial Consequences
<i>Title the task and then reference the subsection of section 2 where that task has already been described. If this is a fixed-unit deliverable, provide the price per unit to be paid.)</i>	This section explains what will trigger a payment, which is not necessarily the same thing as the first column. Include a detailed description of how the State	(Detailed description of how the State will apply monetary consequences for failure to complete the deliverable) Financial consequences are mandatory pursuant to Section

Hurricane Michael Infrastructure Policies and Procedures

<p>Create a separate section for reporting requirements. Reports are not deliverables.</p> <p>Remember 2A will be task you are not paying for, therefore, do not refer to 2A in your Deliverable table. Start with section 2B.</p>	<p>will measure the performance of the deliverables. Do not put that they must do the entire deliverable to get paid, unless you want them to have to wait until they complete the entire deliverable before invoicing. The outcomes and outputs must be measurable and expressed in mathematical terms (e.g., percentages, ratios, averages, units). DO NOT USE PERCENTAGE OF COMPLETION UNLESS YOU EXPLAIN EXACTLY HOW IT WILL BE MEASURED AND BY WHOM.</p>	<p>215.971, F.S., and should provide a meaningful incentive to complete work in the manner that FloridaCommerce expects.</p>
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Deliverable 1 - \$Cost

Deliverable No. 2 – Briefly title what the general deliverable entails

Tasks	Minimum Level of Service	Financial Consequences
<p><i>Title the task and then reference the subsection of section 2 where that task has already been described. If this is a fixed-unit deliverable, provide the price per unit to be paid.)</i></p> <p>Create a separate section for reporting requirements. Reports are not deliverables.</p> <p>Remember 2A will be task you are not paying for, therefore, do not refer to 2A in your Deliverable table. Start with section 2B.</p>	<p>This section explains what will trigger a payment, which is not necessarily the same thing as the first column. Include a detailed description of how the State will measure the performance of the deliverables. Do not put that they must do the entire deliverable to get paid, unless you want them to have to wait until they complete the entire deliverable before invoicing. The outcomes and outputs must be measurable and expressed in mathematical terms (e.g., percentages, ratios, averages, units). DO NOT USE PERCENTAGE OF</p>	<p>(Detailed description of how the State will apply monetary consequences for failure to complete the deliverable) Financial consequences are mandatory pursuant to Section 215.971, F.S., and should provide a meaningful incentive to complete work in the manner that FloridaCommerce expects.</p>

	<p align="center">COMPLETION UNLESS YOU EXPLAIN EXACTLY HOW IT WILL BE MEASURED AND BY WHOM.</p>	
Deliverable 2 - \$Cost		

ADD AS MANY DELIVERABLE SECTIONS AS NEEDED

(If Applicable) COST SHIFTING: The deliverable amounts specified within the Deliverables section 4 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 FloridaCommerce’s ability to approve and reimburse allowable costs Grantee incurred providing the deliverables herein. Prior written approval from FloridaCommerce’s Agreement Manager is required for changes to the above Deliverable amounts that do not exceed **10%** of each deliverable total funding amount. Changes that exceed **10%** of each deliverable total funding amount will require a formal written amendment request from Grantee, as described in **MODIFICATION** section of the Agreement. Regardless, in no event shall FloridaCommerce reimburse costs of more than the total amount of this Agreement.

4. INVOICE SUBMITTAL

FloridaCommerce shall reimburse the Subrecipient in accordance with Section 3, above. In accordance with the Funding Requirements of s. 215.971(1), F.S. and Section 5 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 (http://www.myfloridacfo.com/aadir/reference_guide/).

1. Subrecipient shall provide one invoice 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.
2. The following documents shall be submitted with the itemized invoice:
 - a. 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 3, DELIVERABLES, of this SCOPE OF WORK; (3) have been paid; and (4) were incurred during this Agreement.
 - b. Subrecipient’s invoices shall include the date, period in which work was performed, amount of reimbursement, and work completed to date;
 - c. 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. **Include if applicable to your program**
- d. **Photographs of the project in progress and completed work; If applicable to your program**
 - e. A copy of all supporting documentation for vendor payments;
 - f. 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.
3. The Subrecipient's invoice and all documentation necessary to support payment requests must be submitted into FloridaCommerce's Subrecipient Management Reporting Application (SERA). Further instruction on SERA invoicing and reporting, along with a copy of the invoice template, will be provided upon execution of the agreement.

ATTACHMENTS: Please review all attachments and delete any that does not apply to your program.

Attachment B – Project Budget (Example)

Subrecipient: _____

Contract Number: _____

Modification Number: _____

Activity/Project		National Objective			Beneficiaries					Budget			
Activity	Description	LMI	Slum & Blight	Urgent Need	VLI	LI	MI	Non-LMI	Total	CDBG-DR Amount	Other Funds	Source*	Total Funds
1. Housing Program - Homeowner Service Project <i>(Example Activities)</i>													
	Home Repair												
	Reconstruction												
	Replacement of Manufactured Homes												
	Temporary Rental and Mortgage Assistance												
	Buyout / Acquisition for Redevelopment												
2. Housing Program - Supportive Housing Initiative PUD Rental Housing Project <i>(Example Activities)</i>													
3. Public Facilities Program – Unified Service Center <i>(Example Activities)</i>													
4. Infrastructure Program <i>(Example Activities)</i>													
	Armstrong Drainage Project												
	Hastings Phase I Sewer												
	Hastings Phase II Sewer												
	Oyster Creek Basin Improvements												
	Orange Street Drainage												
	Avenue D Drainage												

Hurricane Michael Infrastructure Policies and Procedures

	St. Augustine - Lake Maria Sanchez HMGP Match Drainage												
	St. Augustine Blvd & Cypress Rd Drainage												
5.	Administration												
6.	Planning												
	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 D – Program and Special Conditions

Program

Conditions

1. The Subrecipient shall demonstrate that progress is being made in completing project activities in a timely fashion pursuant to the activity work plan. If the 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 FloridaCommerce within 21 calendar days of receiving FloridaCommerce’s request for justification for the delay. Any project for which the Subrecipient has not completed the activities listed in the Activity Work Plan may be rescinded unless FloridaCommerce agrees that the Subrecipient has provided adequate justification for the delay.
2. The 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 Detail Budget and Activity Work Plan.
3. The Subrecipient shall request FloridaCommerce’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 FloridaCommerce 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. FloridaCommerce will either approve the procurement or notify the Subrecipient that the procurement cannot be approved because it violates State, Federal or local procurement guidelines. The Subrecipient shall notify FloridaCommerce 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 \$5000, the Subrecipient shall complete the following:
 - a. Submit for FloridaCommerce’s approval the documentation required in paragraph 3 above for any professional services contract. The Subrecipient proceeds at its own risk if more than the specified amount is incurred before FloridaCommerce approves the procurement. If FloridaCommerce 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 C.F.R. part 58 and the regulations implementing the National Environmental Policy Act, 40 C.F.R. §§ 1500-1508. When the Subrecipient has completed the environmental review process, it shall submit a Request for Release of Funds and Certification. FloridaCommerce will issue an Authority to Use Grant Funds (form HUD-7015.16) when this condition has been fulfilled to the satisfaction of FloridaCommerce. **If FloridaCommerce has not issued an Authority to use Grant Funds within 15 days of Subrecipient’s submission of the required documentation, FloridaCommerce shall provide the Subrecipient a written update regarding the status of the review process. SUBRECIPIENT SHALL NOT BEGIN CONSTRUCTION BEFORE FloridaCommerce HAS ISSUED THE “AUTHORITY TO USE GRANT FUNDS.”**

5. The 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 C.F.R. part 42, 49 C.F.R. part 24 and 24 C.F.R. § 570.606(b), the requirements of 24 C.F.R. § 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 C.F.R. § 570.606(d), governing optional relocation assistance policies.
6. If the Subrecipient undertakes any activity subject to the URA, the 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, waiver of rights (for donations), as applicable. The documentation shall be submitted prior to completing the acquisition (closing) so that FloridaCommerce can determine whether remedial action may be needed. The Subrecipient shall provide relocation assistance to displaced persons as defined by 24 C.F.R. § 570.606(b)(2), that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project.
7. The Subrecipient shall timely submit completed forms for all prime and subcontractors as required by this Agreement, FloridaCommerce, 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);
 - 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, the 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 FloridaCommerce, signed by the contractor and inspection engineer, and a copy of form G703, Continuation Sheet, or a comparable form approved by FloridaCommerce. For each RFF that includes construction costs, the Subrecipient shall provide a copy of AIA form G702, or a comparable form approved by FloridaCommerce, 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 FloridaCommerce, if applicable.
10. For each project, when the Subrecipient issues the Notice to Proceed to the contractor(s), copies of the following documents shall be sent to FloridaCommerce:
 - 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. The Subrecipient shall undertake an activity each quarter to affirmatively further fair housing pursuant to 24 C.F.R. § 570.487(b)(4).
 13. The 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 the 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 C.F.R. § 570.505. Any future change of use of real property shall be in accordance with 24 C.F.R. § 570.489(j).
 14. The Subrecipient shall comply with the historic preservation requirements of the National Historic Preservation Act of 1966, as amended, the procedures set forth in 36 C.F.R. part 800, and the Secretary of the Interior's Standards for Rehabilitation, codified at 36 C.F.R. 67, and Guidelines for Rehabilitating Historic Buildings.
 15. Pursuant to section 102(b), Public Law 101-235, 42 U.S.C. § 3545, the Subrecipient shall update and submit Form HUD 2880 to FloridaCommerce within thirty (30) calendar days of the Subrecipient's knowledge of changes in situations which would require that updates be prepared. The 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.
 16. If required, the Subrecipient shall submit a final Form HUD 2880, to FloridaCommerce with the Subrecipient's request for administrative closeout, and its absence or incompleteness shall be cause for rejection of the administrative closeout.
 17. Conflicts of interest relating to procurement shall be addressed pursuant to 24 C.F.R. § 570.489(g). Title 24 C.F.R. § 570.489(h) shall apply in all conflicts of interest not governed by 24 C.F.R. § 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, the Subrecipient agrees to comply with, and this Agreement is subject to, Chapter 112 F.S.
 18. Any payment by the 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 FloridaCommerce prior to distribution of the funds. Should the Recipient fail to obtain FloridaCommerce pre-approval, any portion of the cost of the acquisition exceeding Fair Market Value shall not be paid or reimbursed with CDBG-DR funds.
 19. The 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 FloridaCommerce with the administrative closeout package for this Agreement.

20. 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 the 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 the Subrecipient and the Subrecipient agrees to carry out its obligations in compliance with all of the obligations described in this agreement.

The 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 Guidance Vol. 83, No. 28/Friday, February 9, 2018/Notices and Vol. 83, No. 157/Tuesday, August 14, 2018/Notices. Notwithstanding the foregoing, (1) the Subrecipient does not assume any of Grantee's responsibilities for environmental review, decision-making and action, described in 24 CFR part 58 and (2) the Subrecipient does not assume any of the Grantee's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. The Subrecipient shall also comply with all other applicable Federal, state and local laws, regulations and policies 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 the Subrecipient on an advance or reimbursement basis.

The Subrecipient also agrees to use funds available under this Agreement to supplement rather than supplant funds otherwise available. The 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

The Subrecipient must be audited as required by 2 CFR part 200, subpart F when it is expected that the 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

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

The 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 the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the 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 the Subrecipient from the Grantee as required by 2 CFR §200.521.

3. Corrective Actions

The Subrecipient shall be subject to reviews and audits by the Grantee, including onsite reviews of the 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 the 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

The Subrecipient shall comply with the procurement standards in 2 CFR §200.318 - §200.326 when procuring property and services under this agreement. The 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.

The 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.

The 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 the Subrecipient under this agreement shall be subject to 24 CFR 570.489(j) and 24 CFR 570.200(j). The Subrecipient shall also comply with the Property Standards at 2 CFR 200.310, 2 CFR 200.312, 2 CFR 200.314 through 2 CFR 200.316. The 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 the 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.

The Subrecipient shall also comply with the Property Standards in 2 CFR 200.310 through 2 CFR 200.316, 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)

The Subrecipient shall comply with the requirements of 2 CFR part 25 Universal Identifier and System for Award Management (SAM). The 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 Data Universal Numbering System (DUNS) number <https://fedgov.dnb.com/webform/> The 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

The 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

The 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. The 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, the 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

The 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 insure 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

The 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)

(i) General Compliance:

The 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. The 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 he 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 2 CFR part 1, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

(ii) Assurances and Real Property Covenants:

As a condition to the approval of this Agreement and the extension of any Federal financial assistance, the 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, the Subrecipient's assurance herein shall obligate the 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 the 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 the Subrecipient Under this Agreement, the instrument effecting any disposition by the 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 the 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

(iii) Approved Plan

The 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, 1966, as amended, and implementing regulations at 42 CFR 60. The Grantee shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program. The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the release of funds under this agreement.

(iv) Women- and Minority-Owned Businesses (W/MBE)

The 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 the Subrecipient procures property or services under this agreement.

(v) Notifications

The 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 the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(vi) Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

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

IX. Labor and Employment

1. Labor Standards

The 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.

The 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. The 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. 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, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher and 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 (ii) A very low-income person, as this term is defined in Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437 a(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

The 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 135. The Subrecipient shall include the following “Section 3 clause” at 24 CFR 135.38 in every “Section 3 covered contract” (as defined in 24 CFR 135.5).

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 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.

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 135, 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 135. 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 135.

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 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

F. Noncompliance with HUD's regulations in 24 CFR part 135 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. Recipients of HUD federal financial assistance shall meet the following hiring and contract numerical goals to achieve compliance with Section 3 as found at 24 CFR 135.30 (Numerical goals for meeting the greatest extent feasible requirement.)

(3) Recipients of Section 3 covered community development assistance, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in Section 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to employ Section 3 residents as:

- (i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;
 - (ii) 20 percent of the aggregate number of new hires for the one year period beginning in 1996; and
 - (iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter.
- (c) Contracts. Numerical goals set forth in paragraph (c) of this section apply to contracts awarded in connection with all Section 3 covered projects and Section 3 covered activities. Each recipient and contractor and subcontractor (unless the contract or subcontract awards do not meet threshold specified in Section 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to award to Section 3 business concerns:

- (1) At least 10 percent of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and
- (2) At least three
- (3) percent of the total dollar amount of all other Section 3 covered contracts.

XI. Conduct

1. Hatch Act

The 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, the 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, the Subrecipient shall comply with the conflict of interest provisions in 24 CFR 570.489(h).

3. Lobbying Certification

The Subrecipient hereby certifies that:

- (i) 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;
- (ii) 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;
- (iii) 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
- (iv) 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

The 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.

XIII. Environmental Conditions

1. Prohibition on Choice Limiting Activities Prior to Environmental Review

The Subrecipient must comply with the limitations in 24 CFR 58.22 even though the Subrecipient is not delegated the requirement under Section 104(g) of the HCD Act for environmental review, decision-making and action (see 24 CFR part 58) and is not delegated the Grantee's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. 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 FloridaCommerce has not issued an Authority to Use Grant Funds within 15 days of Subrecipient's submission of the required documentation, FloridaCommerce shall provide the Subrecipient a written update regarding the status of the review process.

2. Air and Water

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

- 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
- 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.

3. Flood Disaster Protection

The 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, the Subrecipient shall comply with 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 Grantee 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.

5. Historic Preservation

The 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.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state or local historic property list.

When subrecipient named herein is in non-compliance with federal or state program requirements, the State

may impose the criteria outlined in 2 CFR 200 § 200.207.

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 the Subrecipient's jurisdiction so that people know who to call to ask fair housing questions or register a complaint. Alternatively, the 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:
 - a) The nature of the call,
 - b) The actions taken in response to the call,
 - 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.)

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

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

Examples of fair housing activities include the following:

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

Printing a fair housing notice on a utility bill is no longer accepted as a fair housing activity; however, mailing a FloridaCommerce-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.

The 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 the Subrecipient's jurisdiction so that people know who to call to ask EEO questions or register a complaint. Alternatively, the Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website; and
- 4) Establish a system to record the following for each EEO call:
 - a) The nature of the call,
 - b) The actions taken in response to the call and
 - c) The results of the actions taken;

Each Subrecipient shall maintain a list of certified minority-owned business enterprises (MBE) and women-owned business enterprises (WBE) that operate in its region. The 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 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>.

Section 504 and the Americans with Disabilities Act (ADA)

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

The 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 the Subrecipient's jurisdiction so that people know who to call to ask Section 504/ADA questions or register a complaint. Alternatively, the Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website; and
- 4) Establish a system to record the following for each Section 504/ADA call:

- a) The nature of the call,
- b) The actions taken in response to the call and
- c) The results of the actions taken.

Section 504 prohibitions against discrimination (see 45 C.F.R. 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 C.F.R. part 35, and Title III, 28 C.F.R. 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. The Subrecipient and its contractors shall keep records to document the number of low- and moderate-income people who are hired to work on CDBG-DR-funded projects. The number of low- and moderate-income residents who are hired to work of the project shall be reported in the comment section of the quarterly report.

The following clause from 24 C.F.R. § 135.38 is required to be included in CDBG-DR-funded contracts of \$100,000 or more.

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 C.F.R. part 135, 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 135 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 C.F.R. part 135, 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 C.F.R. part 135. 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 C.F.R. part 135.
- 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 C.F.R. part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. part 135.
- F. Noncompliance with HUD's regulations in 24 C.F.R. part 135 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 C.F.R. § 570.487(b) – Affirmatively Furthering Fair Housing;
5. 24 C.F.R. § 570.490(b) – Unit of general local government's record;
6. 24 C.F.R. § 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 C.F.R. 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 _____ shall comply with all of the provisions and Federal regulations listed in this attachment.

By: _____

Date: _____

Name: _____

Title: _____

Attachment G – Reports

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

1. **Monthly Progress Report** must be submitted to FloridaCommerce ten (10) calendar days after the end of each month.
2. A **Quarterly Progress Report** must be submitted to FloridaCommerce on forms to be provided by FloridaCommerce no later than the 10th of every April, July, October and January.
3. A **Contract and Subcontract Activity** form, Form HUD-2516, currently available at https://www.hud.gov/sites/documents/DOC_36660; which is incorporated herein by reference, must be submitted by April 15 and October 15 each year through the FloridaCommerce’s SERA reporting system. The form must reflect all contractual activity for the period, including Minority Business Enterprise and Woman Business Enterprise participation. If no activity has taken place during the reporting period, the form must indicate “no activity”.

The 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 § 200.343. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances and accounts receivable to the Grantee) and determining the custodianship of records.

Notwithstanding the terms of 2 CFR 200.343, upon the expiration of this Agreement, the 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 the Subrecipient's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the Subrecipient in the form of a loan) shall be treated in accordance with 24 CFR 570.503(b)(7).

4. In accordance with 2 C.F.R. part 200, should the Subrecipient meet the threshold for submission of a single or program specific audit, the audit must be conducted in accordance with 2 C.F.R. part 200 and submitted to FloridaCommerce no later than nine months from the end of the Subrecipient’s fiscal year. If the Subrecipient did not meet the audit threshold, an **Audit Certification Memo** must be provided to FloridaCommerce no later than nine months from the end of the Subrecipient’s fiscal year.
5. A copy of the **Audit Compliance Certification** form, Attachment J, must be emailed to audit@Commerce.fl.gov within sixty (60) calendar days of the end of each fiscal year in which this subgrant was open.
6. The **Section 3 Summary Report**, form HUD-60002, must be completed and submitted through FloridaCommerce’s SERA reporting system by July 31, annually. The form must be used to report annual accomplishments regarding employment and other economic opportunities provided to persons and businesses that meet Section 3 requirements.
7. Request for Funds must be submitted as required by FloridaCommerce and in accordance with the **Project Description and Deliverables, Project Detail Budget and Activity Work Plan**.
8. All forms referenced herein are available online or upon request from FloridaCommerce’s grant

manager for this Agreement.

Attachment H – Warranties and Representations

Financial Management

The Subrecipient’s financial management system must comply with the provisions of 2 C.F.R. 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. The 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 C.F.R. part 200 (and particularly 2 C.F.R. 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 C.F.R. §§ 200.318-200.326 and be conducted in a manner providing full and open competition. The 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 the Subrecipient. Any and all bids or offers may be rejected if there is a sound, documented reason.

Codes of Conduct

The 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 the 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 C.F.R. § 200.318(c)(1).)

Business Hours

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

Attachment I – Audit Requirements

The administration of resources awarded by FloridaCommerce to the Subrecipient may be subject to audits and/or monitoring by FloridaCommerce 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 FloridaCommerce staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this Agreement, the Subrecipient agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by FloridaCommerce. In the event FloridaCommerce determines that a limited scope audit of the Subrecipient is appropriate, the Subrecipient agrees to comply with any additional instructions provided by FloridaCommerce staff to the Subrecipient regarding such audit. The 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 the Subrecipient is a state or local government or nonprofit organization as defined in 2 CFR §200.90, §200.64, and §200.70.

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 FloridaCommerce by this agreement. In determining the federal awards expended in its fiscal year, the Subrecipient shall consider all sources of federal awards, including federal resources received from FloridaCommerce. 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, the 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 the 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 the Subrecipient is a non-state entity as defined by Section 215.97(2), F.S.

1. In the event that the 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), the 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 FloridaCommerce by this agreement. In determining the state financial assistance expended

in its fiscal year, the Subrecipient shall consider all sources of state financial assistance, including state financial assistance received from FloridaCommerce, 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, the 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 the 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 the 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 the 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 the Subrecipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR §200.36 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 the Subrecipient directly to each of the following:
 - a. FloridaCommerce at each of the following addresses:

Electronic copies (preferred): or Paper (hard copy):
Audit@Commerce.fl.gov Department Commerce

MSC # 130, 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 the Subrecipient directly to:

Electronic copies (preferred): or Paper (hard copy):

Audit@Commerce.fl.gov Department Commerce

MSC # 130, Caldwell Building
107 East Madison Street
Tallahassee, FL. 32399-4126

4. Any reports, management letters, or other information required to be submitted FloridaCommerce 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 FloridaCommerce 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 the Subrecipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION. The 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 FloridaCommerce, or its designee, CFO, or Auditor General access to such records upon request. The Subrecipient shall ensure that audit working papers are made available to FloridaCommerce, 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 FloridaCommerce. 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: *(Enter amount)*

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: *Funding is being provided for needed infrastructure improvements to benefit low- and moderate-income persons residing in the Subrecipient's jurisdiction.*

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. The Subrecipient shall perform its obligations in accordance with Sections 290.0401- 290.048, F.S.
2. The Subrecipient shall perform its obligations in accordance with 24 C.F.R. §§ 570.480 – 570.497.
3. The Subrecipient shall perform the obligations as set forth in this Agreement, including any attachments or exhibits thereto.
4. The Subrecipient shall perform the obligations in accordance with chapter 73C-23.0051(1) and (3), F.A.C.
5. The 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 the 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 C.F.R. § 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@deo.myflorida.com.</i>	
Subrecipient:	
FEIN:	Subrecipient's Fiscal Year:
Contact Name:	Contact's Phone:
Contact's Email:	
<p>1. Did the 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 the Subrecipient and the Department of Commerce (FloridaCommerce)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the above answer is yes, answer the following before proceeding to item 2.</p> <p>Did the Subrecipient expend \$750,000 or more of state financial assistance (from FloridaCommerce and all other sources of state financial assistance combined) during its fiscal year? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, the 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.</p>	
<p>2. Did the 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 the Subrecipient and FloridaCommerce? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the above answer is yes, also answer the following before proceeding to execution of this certification:</p> <p>Did the Subrecipient expend \$750,000 or more in federal awards (from FloridaCommerce and all other sources of federal awards combined) during its fiscal year? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, the Subrecipient certifies that it will timely comply with all applicable single or program-specific audit requirements of 2 C.F.R. part 200, subpart F, as revised.</p>	
By signing below, I certify, on behalf of the 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 currently set at \$150,000, 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 ([40 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 [§ 200.322](#) Procurement of recovered materials. [[78 FR 78608](#), Dec. 26, 2013, as amended at [79 FR 75888](#), Dec. 19, 2014]

Attachment M – Subrogation Agreement

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 “FloridaCommerce”).

In consideration of Subrecipient’s receipt of funds or the commitment by FloridaCommerce to evaluate Subrecipient’s application for the receipt of funds (collectively, the “Grant Proceeds”) under the FloridaCommerce Community Development Block Grant-Disaster Recovery Program (the “CDBG-DR Program”) administered by FloridaCommerce, Subrecipient hereby assigns to FloridaCommerce 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 FloridaCommerce 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 FloridaCommerce 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 FloridaCommerce, to be retained and/or disbursed as provided in this Agreement. The amount of DOB determined to be paid to FloridaCommerce shall not exceed the amount received from the CDBG-DR Program.

Subrecipient agrees to assist and cooperate with FloridaCommerce 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 FloridaCommerce. Subrecipient further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that the Subrecipient would be entitled to under any applicable Disaster Program.

If requested by FloridaCommerce, Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better assign to FloridaCommerce, 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 FloridaCommerce to consummate and make effective the purposes of this Agreement.

Subrecipient explicitly allows FloridaCommerce 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 FloridaCommerce 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 FloridaCommerce.

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 FloridaCommerce, 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 the Subrecipient receives or is scheduled to receive any subsequent Proceeds, Subrecipient shall pay such subsequent Proceeds directly to FloridaCommerce, and FloridaCommerce 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 the Subrecipient. Subsequent DOB Proceeds shall be disbursed as follows:

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

Once FloridaCommerce has recovered an amount equal to the Grant Proceeds paid to Subrecipient, FloridaCommerce will reassign to Subrecipient any rights assigned to FloridaCommerce 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.

The person executing this Agreement on behalf of the 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, FloridaCommerce shall be entitled to recover all costs of enforcement, including actual attorney's fees.

INSERT SUBRECIPIENT NAME

**DEPARTMENT OF ECONOMIC
OPPORTUNITY**

By _____
Signature
Insert Authorizing Official Name

By _____
Signature

Title _____
Insert Authorizing Official Title

Title _____

Date _____

Date _____